Financial Administration

Certified Government Finance Officer (CGFO)
Combined Study Guide

PowerPoint Review Presentations

Financial Administration

Certified Government Finance Officer (CGFO)
Review Session

Exam Topics

Risk Management - 10%

Information Systems – 10%

Grant Administration and Audit Selection – 25%

Pension Benefits – 30%

Management Principles – 10%

Purchasing / Procurement – 15%

Risk Management

Learning Objectives

Recall the types of risk

Recognize the purpose of risk management

Identify tools to manage risks

Recall the components of a risk management program

Learning Objectives

Define the roles and responsibilities of a risk management committee

Recall the purpose of a risk pool

Risk Management

GASB 10

Types of Risks

- Torts
- Theft of, damage to, or destruction of assets
- Business interruption
- Errors or omissions
- Job-related illnesses or injuries to employees

Risk Management

GASB 10

Types of Risks (continued)

Acts of God
Any other risks of loss assumed under a policy or participation contract issued by a public entity risk pool
Risks of loss resulting when an entity agrees to provide accident and health, dental, and other medical benefits to its employees

- ❑ Process of managing an organization's activities to minimize adverse effects of certain types of losses
- ❑ Can seek to mitigate risk or purchase insurance

Why manage Risk?

- Create a safe workplace
- Prevent financial losses
- Provide stability (budget)

Enterprise Risk Management

Approach to managing operational and financial risk

- Investment portfolio policies (long-term and short-term)
- Diversification strategies (spread risk)
- Custody of assets (procedures)

Identify and evaluate Risk

Understand environment and determine source of risk:

- Physical
- Legal
- Operational
- Political
- Social
- Economic
- Cognitive

Tools to minimize Risk

Risk transfer

- Shift burden to another, purchase insurance or risk pool, level premiums for budget

Risk retention

- Assume risk responsibilities internally

Risk avoidance

- Do not provide service

Risk Management Program

- Risk identification
- Risk evaluation
- Risk treatment
- Implementation

Risk Retention

Claims > Premiums = Loss

Claims < Premiums = Gain

Role of Risk Retention

- Lower premiums
- Align incentives
- Create safer work environment

Sometimes unintentional as a result of being unaware of exposure and failing to insure for risks

Risk Pool

- Vehicle for government to pool funds
- Affordable cost through economies of scale
- Provide services to reduce risk

Risk Pool

- ❑ **Premium = Revenue**
  - ❑ Catastrophic losses minus revenue plus reserve pool equity
- ❑ **IBNR** – Incurred but not reported claims

IBNR

Record when event triggers coverage under policy

Based on estimate to settle claim

Accrue based on probable loss that can be reasonably estimated, record expense/liability

Claims Liability

- Use **experience factors**
- Impact of inflation and other economic factors
- Claim in dispute and probable claims
- Allowed to discount to present value a fixed amount on structured or contract settlements with fixed dates
- Should be reported at full value

Tools to minimize Risk

Loss prevention and control to reduce probability of loss and minimize damages

- Provide safety in workplace
- Inspect building
- Install extinguishers, sprinklers, smoke detectors
- Training

Risk Manager

Monitor the three largest areas:

- One-time projects
- Geography
- Unique services

Risk Management Committee

- Create risk management policy
- Develop inspection programs
- Design safety
- Create claims investigation system
- Identify safety measures
- Develop disciplinary procedure
- Establish review boards

Risk Management Committee

Why?

- Get staff involved
- Gain employee "buy-in"
- Investigate serious injury and accidents to provide safer environment and reduce risk

Risk Management Committee

- Reduce lost workdays
- Prevent day for accidental losses
- Eliminate concerns associated with future projects

Risk Transfer – Insurer

- Identifies and assumes the risk
- Sets premiums accordingly for employer to purchase

Moral Hazard

Change in behavior due to purchase of insurance

- Burn down house
- Fail to install smoke alarms

Industry has incentive

- Require deductible
- Higher deductible - reduce premium
- Loss control program

Risk Exposures

Property insurance	Damage and loss of property
Liability insurance	Negligence in performance

- Includes elected and appointed officials
- Errors and omissions policy

Workers' compensation	Medical coverage for job-related injuries

Exposure Liability

In delivering public services, governments face numerous risks that could potentially result in a significant financial impact

To lessen the financial impact, a government may purchase an insurance policy. In essence the government is “sharing” the potential risk and associated liability with the provider

Shift Risk to Contractor

- **Protect and indemnify against:**
  - o Direct loss (garbage disposal)
  - o Indirect loss (workers' compensation)

Hold-harmless provision

- Non-insurance risk
- Certain situations in contract
  - Negligence
  - Joint negligence

- **Agreements are not the panacea to transfer risk**

Evaluate Risk Alternatives

Risk finance

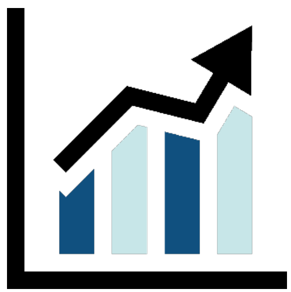
- Pay premiums
- Contribute to pool
- Pay claims (self-insurance)

Risk prevention

- Little on administration
- Evaluate loss control
- Provide safety training

Measure Results

Benchmark or Performance Measurement



- Reliable date
- Relevant benchmarks
- Meaningful comparisons

Types:

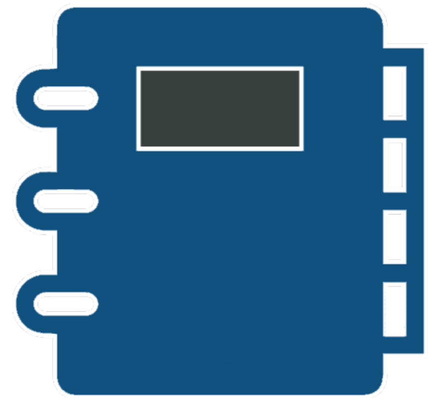
Workload

Efficiency

Effectiveness

Tort Reform

- Legislation that aims to curb the growing number of civil lawsuits and their costs
- Attempt to make the legal environment more favorable (Caps or Limits)



Information Systems

Learning Objectives

Recall key terms and definitions of information systems

Identify the advantages and disadvantages of "cloud computing"

Recall areas of assessment prior to changes to hardware and/or software

Information Systems Definitions

Application

- A program used for a particular application

Database

- A comprehensive collection of related data organized for convenient access, generally in a computer

Firewall

- An integrated collection of security measures designed to prevent unauthorized electronic access to a networked computer system

Information Systems Definitions

Interface

- Equipment or programs designed to communicate information from one system of computing devices or programs to another

Integration

- Combining or coordinating separate elements so as to provide a harmonious, interrelated whole

Integrated system

- Customer located in one address file only

Information Systems Definitions

ERP system

- Provides improved enterprise-wide decision support and operational efficiency through information integration and process improvement

Best of Breed

- Standalone applications that interface to other applications to share info

ASP

- Tool used to create webpages and web technology

Cloud Computing

Advantages

- Can accommodate extra workloads
- Different size customers can use same software
- A la carte software use

Disadvantages

- Loss of control on data and systems
- Downtime/outages

Information Systems

Software as a Service

- Cloud computing providers deliver the entire application to the end user, relieving the government of all hardware and software maintenance.

Open Source

- It's Free
- It's Technology Neutral
- Priced based on volume of use
- Web based
- Form of cloud computing

Linux:
A very popular open source operating system

Information Systems

Decision makers should assess the following before making changes to software and hardware:

- See if software has been upgraded
- Are software applications functional
- Are business practices outdated

Grant Administration and Audit Selection

Learning Objectives

Recall the funding agencies for grants

Identify the types of grants available

Recognize audit requirements for grant funds

Recall Florida Statutes for auditor selection

Identify best practices for an audit committee

Grants

A payment in cash or in kind made to provide assistance for a specified purpose, the acceptance of which creates a legal duty on the part of the grantee to use the funds or property made available in accordance with the conditions of the grant.

- Grants are typically authorized and appropriated by a legislative body.

Funding Agencies

Federal

- Largest number given and by amount
- Have a Catalog of Federal Domestic Assistance (CFDA) number

State

- Have a Catalog of State Financial Assistance (CSFA) number

Other

- Made by Foundations, Corporations, Quasi-Governmental agencies, local governments
- Do not have a CFDA or CSFA number

Funding Agencies

Pass-Through

- Can come from any of the above but generally have CFDA or CSFA numbers

Cognizant Agency

- Provide greatest amount of direct funding to grantee
- Have greatest responsibility for oversight of grantee
- Negotiate indirect cost rates with grantee

Types of Grants

- Block Grants
- Competitive (Discretionary) Grants
- Conditional Grant
- Earmark
- Formula Grants

Grants

Most Common

- Grants
- Contracts
- Loans (Section 108)
- Cooperative Agreements
- Indirect State or Local Transfers of Federal Funds

Less Common

- Insurance
- Direct Appropriations
- Endowments
- Other Non-Cash Assistance
- Loan Guarantees
- Property
- Interest Subsidies

Grant Audits

Audits

- Required if you receive over $750,000 of State financial assistance (s. 215.97, F.S.) or $750,000 of Federal assistance (2 CFR 200.501)
- Costs can be charged to the grant

Program Specific Audit

- An audit of one program
- For those with limited grants

Single Audit

- Used when grantee has multiple audits to assure funds are being used appropriately

Cognizant Agency

- Federal agency responsible for reviewing, negotiating and approving cost allocation plans or indirect cost proposals

Grant Audits

Auditee

- Means any non-Federal entity that expends Federal awards which must be audited.

Auditor

- Means a public accountant or a Federal, State or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS). The term **auditor** does not include internal auditors of non-profit organizations.

External Auditor

Single audit performed by external auditor of financial statements and reporting on **Schedule of Expenditures of Federal Assistance and State Assistance (SEFA)**

Usually additional cost – requires additional testing and reporting	Internal control tests
	Compliance with law and regulations
	Determine audit findings and corrective actions

- Performed annually, if necessary
- Standards of communicating findings established by **American Institute of Certified Public Accountants (AICPA)**

Auditor Selection – s. 218.391, F.S.

Provide consistency to auditor

- Selection process

Legal – Establish committee

- Assist governing body in selecting an auditor

Guidance – Composition

- **County –** One BOCC member
- GFOA recommendation

Duties per s. 218.391, F.S.

Responsible to make recommendation to Governing Body based on RFP process	Selection
	Evaluation
	Ranking

- ❑Selection
- ❑Length of Contract

GFOA Best Practice

Committee Composition

- Basic understanding of financial reporting
- Member of governing body
- **Sufficient members –** good discussion but not impede progress - (no fewer than three members)
- Educated in role and responsibility

GFOA Recommended Practice

Committee Responsibility

- Monitor the audit
- Oversee preparation of the **financial statements**
- Monitor corrective actions taken

Pension Benefits

Learning Objectives

Recall the key terms and definitions for pension benefits

Identify the pension requirements in accordance with Florida Statutes

Recognize the provisions of the pension investment policy

Recall the duties and responsibilities of the Board of Trustees

Define Other Post - Employment Benefits (OPEB)

Pension Benefit Definitions

Alpha

- Measure of risk-adjusted performance

Beta

- The measure of risk for funds or stocks risk in relation to the market or to an alternative benchmark

Gamma

- The ratio of a change in the option delta to a small change in the price of the asset on which the option is written

PERS

- Public Employee Retirement System

Pension Benefit Definitions

CAFR

- Comprehensive Annual Financial Report

Public Employees Retirement System CAFR

- A CAFR for a Public Employees Retirement System (PERS)

Yield

- The percentage rate of return paid on a stock in the form of dividends, or the effective rate of interest paid on a bond or note

Yield Curve

- The graphic depiction of the relationship between the yield on bonds of the same credit quality but different maturities

Pension Benefit Definitions

- **Sharpe Ratio -** A measure of a portfolio's excess return relative to the total variability of the portfolio
- **Small-cap -** A stock with a small capitalization, meaning a total equity value of less than $500 million
- **Actuary –** A Person or company that estimates the value of claims pending and the estimated reserves needed
- **Actuarial Valuation -** Is the process of assessing the viability of a PERS

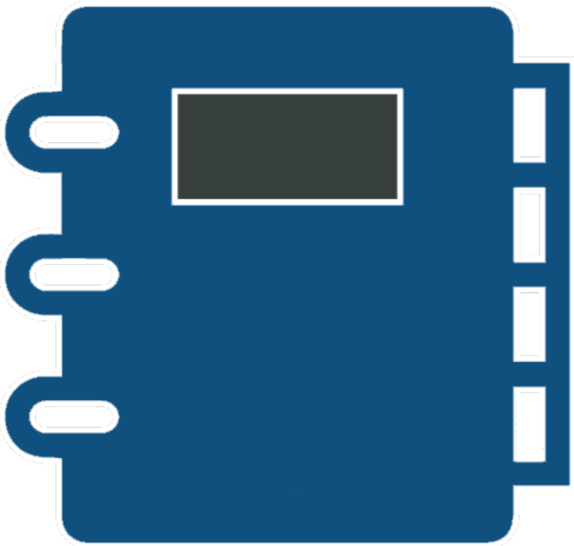
Pension Benefit Definitions

- **Defined Benefit Plan** - A pension plan obliging the sponsor to make specified dollar payments to qualifying employees. The pension obligations are effectively the debt obligation of the plan sponsor
- **Defined Contribution Plan** - A pension plan where a sponsor is responsible only for making specified contributions into the plan on behalf of qualifying participants
- **Jensen Index** - An index that uses the capital asset pricing model to determine whether a money manager outperformed a market index

Pension Benefit Definitions

- **Return on equity (ROE)** – An indicator of profitability. Determined by dividing net income for the past 12 months by common stockholder equity (adjusted for stock splits). Investors use ROE as a measure of how a company is using its money.
- **Return on investment (ROI)** - Generally, book income as a proportion of net book value
- **ARC –** Annual Required Contribution, expense that a government would report in its accrual-based financial statements

Pensions



- **Chapter 175 –** Fire
- **Chapter 185 –** Police

FRS

401 (a)

Why? s. 175.021, F.S.

Cover firefighters that perform state and municipal function

Firefighters entitled to benefits in state

Established minimum benefits and standards for operating and funding (**Pension Trust Fund**)

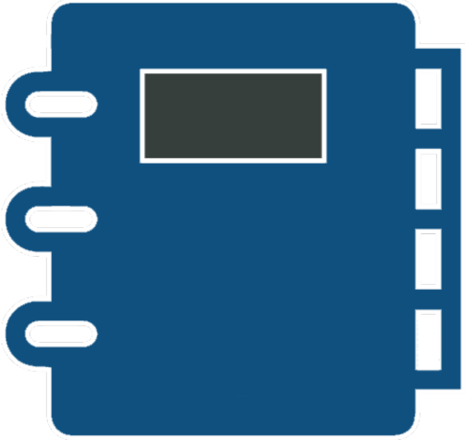
Average Final Compensation

Definition

- One-twelfth **(1/12)** of the average annual compensation of the 5 best years of the last 10 years of creditable service

Local Law Plan

- Local law plan is a **defined benefit pension plan**
- Can override statutes
- Statute can cover public safety officers that include officers responsible for both police and fire
- Described in **s.175.351, F.S.**



Firefighters Pension Trust Fund

- Special Fund
- Record Additions and Deductions

NPL – Net Pension Liability

- Difference between PV of pension benefits earned by plan members and assets accumulated to pay those benefits
- **Covered payroll –** compensation (total salary) paid to employees in the plan - GASB 67 & 68
- **Pensionable payroll –** amount of pay to calculate pension benefit contribution

Board of Trustees – s. 175.061, F.S.

Five Members	
	Two – full-time Firefighters (s. 175.032, F.S.)
	Two – legal residents appointed by a governing body
	One – chosen by majority of the other four members

Each serve a two-year term – may succeed him/herself

- A combined plan has one fire and one police member

Board – Responsibilities

ss. 175.061 & 175.131, F.S.

A legal entity that maintains Retirement Plan Assets

- ❑ **Employer –** deposit quarterly
- ❑ **Employee –** deposit immediately
- ❑ **State –** excise tax (1.85% on real and personal property insurance)
  - Must be deposited with trust within 5 days of receipt
- ❑ **Investment Income**

- **Meet at least quarterly**

Board – Duties

s. 175.071, F.S.

Invest

Not more than 5% in common stock or capital stock from any one company, not more than 5% of aggregate

Not more than 25% in foreign securities

- Hire professional consultants to assist

Trust Fund Professionals

Paid from Trust Fund

- Actuary
- Legal Counsel
- Technical Advisors
- **Performance Review –** at least every 3 years
- **Money Manager –** can have more than one
- **Custodians –** reports, pay retirees

Retirement – s. 175.162, F.S.

- **10 years –** age 55
- **25 years –** age 52

2.75% x years of credited service x average final compensation

- Local law can exceed 2.75%
- If local law is less, no excise tax funds are received by the plan

- ❑ Received first day of the month
  - Begin immediately following retirement date
- ❑ **Early –** special rules

Retirement Income Options

s. 175.171, F.S.

Some options may reduce monthly income

Payable based on option selected

Death before eligible (s. 175.201, F.S.)

- **Contributions –** 100% of employee contributions
- Based on early or normal retirement age (at least 10 years)

Retirement Income Options

s. 175.171, F.S. (continued)

Separation before eligible (s. 175.211, F.S.)

- Prior to 10 years (accumulated aggregate) 100% of employee contributions
- **Greater than 10 years –** after age 50 become eligible based on **s. 175.162, F.S.**

Impairment of health (s. 175.231, F.S.)

- **Disease in line of duty –** presumption
- Accident suffered in the line of duty, tuberculosis, hypertension, heart disease

Annual Report

s. 175.261, F.S.

- Send to Division of Retirement
- Actuarial valuation report – Every 3 years

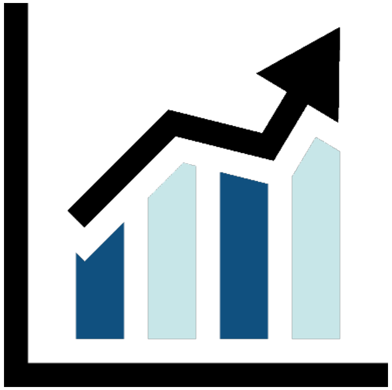
Actuarial impact for plan changes

- Must be presented to State (DMS) before the second and final reading of the ordinance

- **Agree with CAFR –** part of entity or separate report

Pension Investment Policy

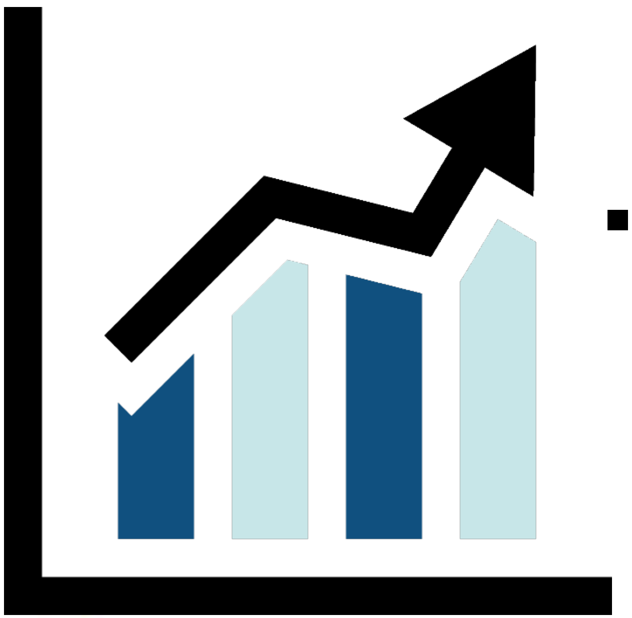
- ❑ Long-term investors
- ❑ Virtually perpetual



Articulate specific goals

- Is plan mature or new?
- Is the plan under funded or fully funded?

Florida Retirement System (FRS)



- Assets are managed by **Florida PRIME**, an Investment Service for Public Funds
- Provides annual **Pension Actuarial Statements** for Net Pension Liability
- When calculating the **Present Value** (PV) of the projected benefit payments, a large discount rate makes the PV number smaller.

Why Policy?

Exercise due diligence

Key risk management tool

- Can respond to sudden legislative changes

Express asset allocation strategy to manage external and internal risks

Need for both **Defined Benefit** and **Defined Contribution Plans**

- Sets Guidelines on investment options (DC Plan)

Policy Provisions

1. Statement of goals, purpose, mission – 100%

2. Identification of decision makers – 100%

3. Performance measurement (benchmark)

4. Manage risk on individual securities

5. Manage risk on overall portfolio

6. Money manager guidelines

Policy Provisions (continued)

7. Guidelines for other investment professionals

8. Legal standards

9. Cost management

10. Transacting or brokering trades

Determine Performance – Actuary Valuation

Asset allocation – overall portfolio

- Assumed rate of return to determine risk to meet plan goals

Manage risk – part of asset allocation

- Strategy
- Level of risk the plan can tolerate
- Single security vs. diversification
- Is it a viable plan?

GFOA Guidelines

1. Purpose
2. Roles/responsibilities
3. Standard of care
4. Asset allocation
5. Rebalancing
6. Investment guidelines
7. Reporting and monitoring
8. Corporate government

Calculate Retirement Income

- Based on age, years of service and compensation

- At a future date, use mortality table

Other Post - Employment Benefits (OPEB)

Similar to pension plan, often provides non-cash benefits

- Health Coverage

Similar to pension plans

- **Actuarial study –** every two years for plans >250
- **ADC –** annual expense recorded for the plan, if not paid, report OPEB obligation

Management Principles

Learning Objectives

Identify the key management functions and associated responsibilities of each function

Recognize attributes of delegation principles

Distinguish between authority and responsibility

Recall the major principles of organizing, planning, staffing, leading and controlling

Define vision and recall characteristics of an effective vision

Management Functions

- Planning
- Organizing
- Staffing
- Leading
- Controlling

❖ **Leaders** are made, not born

Planning

- Decide which **objectives / goals** to pursue
- Decide when they will be achieved
- Decide what resources to devote
- **Logical –** formal or informal
- Can't evaluate results without planning

Decision-making

- Select a course of action from among alternatives
- Attempt to reach goals
- Understand course necessary to reach goal
- Ability to analyze alternatives
- Desire to optimize results

Organizing

Establish structure of roles

- List activities to achieve purpose
- Group activities
- Assign activities
- Delegate authority
- Coordinate communication

- Efficiency will contribute to success

Organization by Department

Authority relationships based on structure

- Departments by function
- Department by territory
- Department by project

- Project organization

Delegation

Results Expected	Goals set, communicated, and understood
Functional Definition	Authority delegated, responsible individuals contribute, activities undertaken
Scalar Principle	Direct authority relationship superior to subordinate
Authority-level Principle	Includes functional definition and scalar principle, responsible person should make decision, not refer upward

Delegation

Unity of Command

- Good reporting relationship with superior reduces conflict and results in personal responsibility

Absoluteness of Responsibility

- Subordinate must accept responsibility from superior
- Superior cannot escape responsibility for subordinate

Parity of Authority and Responsibility

- Authority – the right to carry out task
- Responsibility – is the obligation to accomplish

Authority = Responsibility

Staffing

Manning positions created by organizational structure

- Define manpower
- Inventory candidates
- Select, compensate, and train
- Develop all to accomplish tasks

Directing

Guiding and leading subordinates

Set objectives

Measure results

Success is knowledgeable, well trained people who work efficiently toward objectives

Controlling

Measure and correcting activities of subordinates

- Locate person responsible
- Take steps to improve performance

❑ Control things by controlling what people do

❑ **Process improvements serve**

- Eliminate variation
- Improve flow and speed

Span of Control

Magic number to effectively control

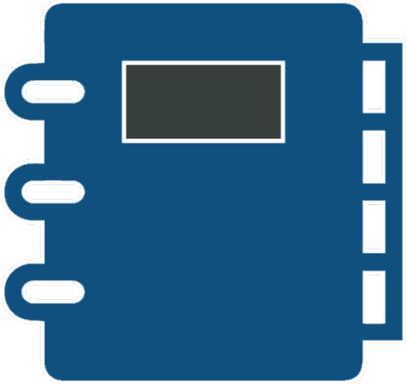
- Upper level – four to eight
- Lower level – eight to fifteen
- Wide variety of practices
- Manager must know limits

❑ Problems with multiple levels

- Expensive
- Complicates communication
- Dilutes planning and control

Types of Plans

- **Objectives –** goal to which activity is aimed
- **Policies –** guide or channel thinking of subordinates
- **Strategies –** competitive plan of action to emphasize and attain comprehensive objectives
- **Procedures –** customary method to handle future activities



Major Principles of Organizing

Cause

- Span of Management

Cement

- Authority

Framework

- Departmentalized Activities

Measure

- Effectiveness

Span of Management

- Number of people an individual can effectively manage that varies based on variable including time requirements to effectively manage
- No limits would result in an unorganized enterprise with only one manager
- Organization utilizes individuals to accomplish objectives at minimal cost for efficiency

Authority

Tool for a manager to create an environment for individual performance

- Scalar
- Delegation
- Absoluteness
- Parity
- Unity
- Authority-level

Departmentalized Activities

- **The framework developed to assign activities**

Division of work

- Structure should reflect tasks necessary to attain goals
  - Design roles to fit individual capabilities

Functional definition

- A clear definition of expectations contributes toward accomplishing objectives

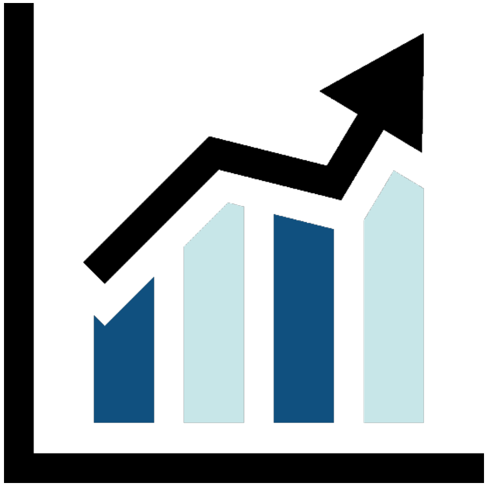
Separation

- Responsible party cannot be separated from individual charged with task

Effectiveness

Apply principles to measure the **total organizational process**

- Balance
- Flexibility
- Leadership



Leadership

Art of inducing subordinates to accomplish assignment with zeal and confidence

- Guide
- Conduct
- Direct
- Precede

- ❑ It may take years of effort and study to be a good leader
- ❑ Contribute to organization with maximum capability
- ❑ Reacts to the situation

Major Ingredients

Ability to:

INVENT	INSPIRE
Satisfy personal goals	Understand subordinates

System

Set of things connected to form a complex unity

A whole composed of parts according to a scheme

- **Open –** constant relationships between and within environment
- **Closed –** all is conducted within environment

ISO 9000 – a quality management system

Management is a System

Composed of many sub-systems

- Characterized by cause and effect **(open – loop)**
- Characterized by feedback to correct errors **(closed – loop)**

Part of a larger system

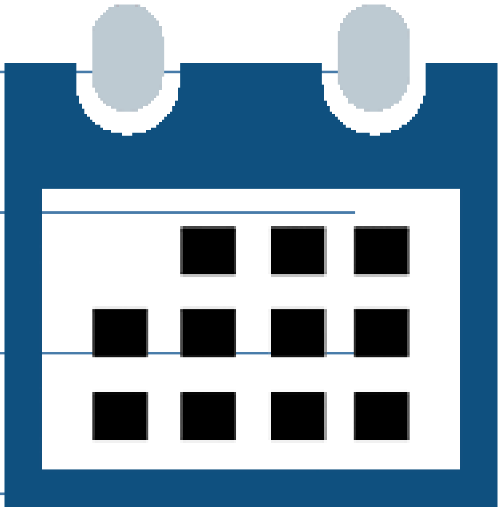
- Industrial system
- Social system
- Government system
- Marketing system

Establish Vision

- Loses value if not adjusted to surroundings
- Revisit Vision **every 5-7 years**
- Involve others to bring to life
- Leadership must explain

Characteristics of Effective Vision

Outcome-based	End results
Vivid	Clear picture
Communicable	Explained in 5 minutes
Inspiring	Appeals to spirit
Challenging	Power to motivate
Unique	One of a kind
Focused	Provide guidance



Performance Management Toolkit

- **Performance Awards** – non-financial recognition

360 Degree Appraisal involves –	Customers
	Peers
	Employees become active

Shared savings

- Organizational gainsharing
- Keep a portion of savings for future use

Purchasing/Procurement

Learning Objectives

Recall key terms and definitions for procurement

Recognize members of the procurement team

Identify the stages of procurement and characteristics of each

Recall areas of importance to include within the purchasing policy

Learning Objectives

Identify essential elements of a competitive process

Recognize objectives of procurement

Identify the benefits of competitive procurement

Recall the functions of a central procurement office

Define a cooperative process and identify advantages and disadvantages of cooperative procurement

Procurement Definitions

- **Privatization –** divestiture of both management and assets of public function to the private sector
- **Outsourcing –** divestiture of only the management of a public function to an outside source
- **Competition –** provide fair opportunities to qualified vendors to vie against each other to offer the best prices, quality, and service

Procurement Definitions

- **Kickback –** accepting something of value to influence award of contract
- **Price fixing –** arrangement between competitors that interfere with the price
- **Bid rigging –** horizontal agreements among competitors to manipulate competitive bidding process
- **Managed competition –** requiring in-house service units to compete with external providers

Procurement Definitions

- **Monopolization –** single firm has control and may charge any price without fear of losing business in the market
- **Bribe –** promise, obligation, gift, or reward in order to secure contract. Attempt to influence outcome, should declare the contract void
- **Blanket order –** arrangement with vendor to provide item(s) or service on an as required/needed basis

Purchasing / Procurement

The Procurement Team

- Budget Office
- Program Manager (or department rep)
- Purchasing Staff
- Legal Staff
- Accounting

Purchasing / Procurement

The Procurement Stages

Planning

↓

Scheduling

↓

Vendor Selection

↓

Contract Administration

Purchasing / Procurement

A good **purchasing policy** has:

- Performance measures
- Vendor selection / preference guidelines
- A defined way to purchase commodities, services and capital items

NASPO

National Association of State Procurement Officials

Procurement Program

- Refer to Principles and Practices
- Provides road map
- Utilize book

- Every program has strengths and weaknesses
- Results depend on laws, rules, management, tradition, and resources

Competitive Process

Essential Elements:

Ordinance

- Formal competition if above a certain dollar amount
- Rules regarding limitations on sole source procurement
- Administrative process to challenge solicitations

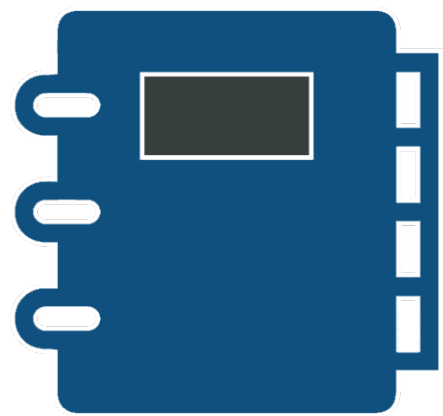
Documents:

- Bidder must file affidavits of non-collusion
- Employees/Government officials disclose interest in competing firms

Competitive Process

Essential Elements:

- Opening bids are part of public record
- Gifts of vendors
- Conditions of long-term contracts
- Anti-competitive practices
- Identical low-bid awards



Procurement Objective

Obtain suitable commodities and services of the highest possible quality at **favorable competitive prices**

“Low-bid” Philosophy

- Cheaper is not better
- Diminishing concept
- Fair and impartial process

“Best Value”

- Balance quality and price
- Reliability
- Past performance

Why Competitive Practices?

Secure sound value

Guard against favoritism

Provide fair opportunities

Promote expertise of private enterprise

Encourages best practices

Ensures price comparison

Another Attribute

Integrity required

- Fairness
- Openness
- Impartiality

- **Essential to generate and maintain an attitude of competition**

Vendor Communications

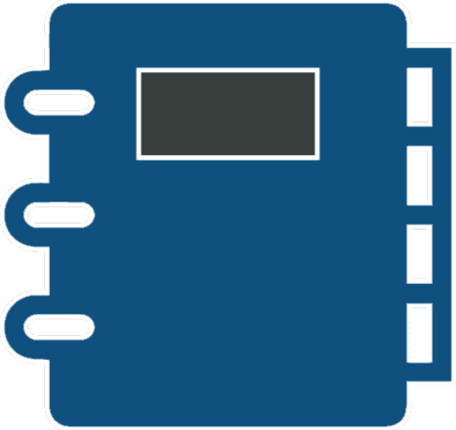
- Fair advantage
- Same information available to all
- Distant relationship
- Open communication

Procurement Objectives

- **Analyze** the market for products and their element
- **Gather** data to understand agency’s need and future use
- **Identify** acceptable production level
- **Know** laws and rules that affect procurement
- **Determine** if technical assistance to write specs is necessary

Standard Specifications

- ❑ **Establish** norm for the item
- ❑ **Limit** needs from broad field
- ❑ **Emphasize** details
- ❑ **Incorporate** performance standards



Central Procurement Office

- ❑ Use standard specifications
- ❑ Examine program periodically

Ensure program is responsive to:

- New concepts
- Improved products
- Advanced applications

- Be concerned about environment

Central Procurement Officer

Develop specs for items purchased under indefinite quantity contracts

Involved with policy enforcement

Promotes product and price competition

Central Procurement Officer

Central procurement office ensures:

- Rules and procedures are followed
- Specifications are competitive and suitable

Standards

Mandatory vs. Voluntary

Mandatory

- Legally binding
- Developed by unilateral government action
- Can yield problems
- May require changes to previously accepted standards

Voluntary

- Use depends on benefits that provide consensus of interested parties

Environmental Issues

Essential Elements - Green

Specs for recyclables

Use of disposable products

Refurbished equipment

Energy consumptions – evaluation factor

Alternative fuel vehicles

Manufacturing with chlorofluorocarbons

Phosphate based detergency

Energy-efficient lighting

Cooperative Procurement

- Use of common delivery points
- Shares warehousing facilities
- Reduces administrative costs
- Shares information and expertise
- Creates demand to encourage production

Cooperative Objectives

❑Lower prices
❑Favorable terms and conditions
❑Lower administrative costs
❑Increased competition through **economies of sale**

Cooperative Process

Identify common needs

Combine requirements into formal solicitation

Utilize legitimate agreement to allow vendor to rely on specific quantities

Cooperative Pitfalls

No cost-savings unless all participants buy

No enforceability invites abuse

Prompt Payment

- **Pay contractor within 30 days**

Slow paying affects competition

- Increased prices
- Slow cash flow
- Reduced participation

Know Laws

Procurement – s. 287.055, F.S. – Consultants Competitive Negotiation Act (CCNA)	Engineers, architects, etc.,
	Price not a determining factor
	No fewer than three firms considered

- **State Contracts – s. 288.705, F.S. –** Florida Small Business Development Center

Reinventing Purchasing

- Managers have **purchasing cards**
- Higher purchasing floor
- Effective information technology
- Choice and customization available
- Best-value vs. low-cost
- Long-term partnership

Questions?

Thank You!

Source Materials

Source Materials

Florida Statutes

- 112.63 Actuarial Reports and Statements of Actuarial Impact
- Chapter 175 Firefighter Pensions
- Chapter 185 Municipal Police Pensions
- 215.97 Florida Single Audit Act
- 218.391 Auditor Selection Procedures

http://www.leg.state.fl.us/Statutes/

Source Materials

Florida Statutes

- 287.055 Acquisition of Professional Architectural, Engineering, Landscape Architectural, or Surveying and Mapping Services
- 288.705 Statewide Contracts Register

http://www.leg.state.fl.us/Statutes/

Source Materials

Government Finance Officers Association (GFOA)

- *An Elected Official's Guide to Risk Management*
- *An Elected Official's Guide to Procurement*
- *The ERP Book*
- Best Practices
  - Accounting and Financial Reporting
  - Financial Policies
  - Pension and Benefit Administration
  - Technology

https://www.gfoa.org/

Source Materials

Governmental Accounting Standards Board (GASB)

Statements of Governmental Accounting Standards

- **Statement No. 10** *Accounting and Financial Reporting for Risk Financing and Related Insurance Issues*
- **Statement No. 68** *Accounting and Financial Reporting for Pensions*
- **Statement No. 75** *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*

https://www.gasb.org/home

Source Materials

- **National Association of State Procurement Officials (NASPO)**
  - Principles and Practices

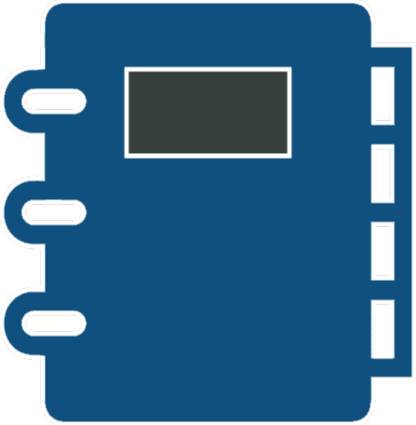
  https://www.naspo.org/

- **Code of Federal Regulations**
  - Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards
    - 2 CFR 200
      - Title II; Code of Federal Regulations; Part 200

  https://gov.ecfr

Source Materials

- **"Essentials of Management"** - Harold Koontz



Florida Statutes

FLORIDA GOVERNMENT FINANCE OFFICERS ASSOCIATION

CERTIFIED GOVERNMENT FINANCE OFFICERS EXAM

REFERENCE MATERIALS GUIDE

FINANCIAL ADMINISTRATION

FLORIDA STATUTES REFERENCES

Public Officers and Employees General Provisions

112.63 Actuarial reports and statements of actuarial impact; review.—

(1) Each retirement system or plan subject to the provisions of this act shall have regularly scheduled actuarial reports prepared and certified by an enrolled actuary. The actuarial report shall consist of, but is not limited to, the following:

(a) Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system 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, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.

(b) A plan to amortize any unfunded liability pursuant to s. 112.64 and a description of actions taken to reduce the unfunded liability.

(c) A description and explanation of actuarial assumptions.

(d) A schedule illustrating the amortization of unfunded liabilities, if any.

(e) 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.

(f) Effective January 1, 2016, 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. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.

(g) 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 this act.

The actuarial cost methods utilized for establishing the amount of the annual actuarial normal cost to support the promised benefits shall 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.

(2) The frequency of actuarial reports must be at least every 3 years commencing from the last actuarial report of the plan or system or October 1, 1980, if no actuarial report has been issued within the 3-year period prior to October 1, 1979. The results of each actuarial report shall be filed with the plan administrator within 60 days of certification. Thereafter, the results of each actuarial report shall be made available for inspection upon request. Additionally, each retirement system or plan covered by this act which is not administered directly by the Department of Management Services shall furnish a copy of each actuarial report to the Department of Management Services within 60 days after receipt from the actuary. The requirements of this section are supplemental to actuarial valuations necessary to comply with the requirements of s. 218.39.

(3) No unit of local government shall 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, consistent with the actuarial review, and has furnished a copy of such statement to the division. Such statement shall also indicate whether the proposed changes are in compliance with s. 14, Art. X of the State Constitution and with s. 112.64.

(4) Upon receipt, pursuant to subsection (2), of an actuarial report, or, pursuant to subsection (3), of a statement of actuarial impact, the Department of Management Services shall acknowledge such receipt, but shall only review and comment on each retirement system's or plan's actuarial valuations at least on a triennial basis.

(a) If the department finds that the actuarial valuation is not complete, accurate, or based on reasonable assumptions or otherwise materially fails to satisfy the requirements of this part; requires additional material information necessary to complete its review of the actuarial valuation of a system or plan or material information necessary to satisfy the duties of the department pursuant to s. 112.665(1); or does not receive the actuarial report or statement of actuarial impact, the department shall notify the administrator of the affected retirement system or plan and the affected governmental entity and request appropriate adjustment, the additional material information, or the required report or statement. The notification must inform the administrator and the affected governmental entity of the consequences for failing to comply with the requirements of this subsection.

(b) If, after a reasonable period of time, a satisfactory adjustment is not made or the report, statement, or additional material information is not provided, the department may notify the Department of Revenue and the Department of Financial Services of the noncompliance, and the Department of Revenue and the Department of Financial Services shall withhold any funds not pledged for satisfaction of bond debt service which are payable to the affected governmental entity until the adjustment is made or the report, statement, or additional material information is provided to the department. The Department of Management Services shall specify the date such action is to begin and notify the Department of Revenue, the Department of Financial Services, and the affected governmental entity 30 days before the specified date.

(c) Within 21 days after receipt of the notice, the affected governmental entity may petition the Department of Management Services for a hearing under ss. 120.569 and 120.57. The Department of Revenue and the Department of Financial Services may not be parties to the hearing, but may request to intervene if requested by the Department of Management Services or if the Department of Revenue or the Department of Financial Services determines its interests may be adversely affected by the hearing.

1. If the administrative law judge recommends in favor of the department, the department shall perform an actuarial review, prepare the statement of actuarial impact, or collect the requested material information. The cost to the department of performing the actuarial review, preparing the statement, or collecting the requested material information shall be charged to the affected governmental entity whose employees are covered by the retirement system or plan. If payment is not received by the department within 60 days after the affected governmental entity receives the request for payment, the department shall certify to the Department of Revenue and the Department of Financial Services the amount due, and the Department of Revenue and the Department of Financial Services shall pay such amount to the Department of Management Services from funds not pledged for satisfaction of bond debt service which are payable to the affected governmental entity.

2. If the administrative law judge recommends in favor of the affected governmental entity and the department performs an actuarial review, prepares the statement of actuarial impact, or collects the requested material information, the cost to the department shall be paid by the Department of Management Services.

(d) In the case of an affected special district, the Department of Management Services shall also notify the Department of Economic Opportunity. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.067.

1. Failure of a special district to provide a required report or statement, to make appropriate adjustments, or to provide additional material information after the procedures specified in s. 189.067(1) are exhausted shall be deemed final action by the special district.

2. The Department of Management Services may notify the Department of Economic Opportunity of those special districts that failed to come into compliance. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.067(4).

(5) Payments made to the fund as required by this chapter shall be based on the normal and past service costs contained in the most recent actuarial valuation, subject to being state-accepted.

(6) Beginning July 1, 1980, each retirement system or plan of a unit of local government shall maintain, in accurate and accessible form, the following information:

(a) For each active and inactive member of the system, a number or other means of identification; date of birth; sex; date of employment; period of credited service, split, if required, between prior service and current service; and occupational classification.

(b) For each active member, current pay rate, cumulative contributions together with accumulated interest, if credited, age at entry into system, and current rate of contribution.

(c) For each inactive member, average final compensation or equivalent and age at which deferred benefit is to begin.

(d) For each retired member and other beneficiary, a number or other means of identification, date of birth, sex, beginning date of benefit, type of retirement and amount of monthly benefit, and type of survivor benefit.

History.—s. 1, ch. 78-170; s. 15, ch. 79-183; s. 3, ch. 83-37; s. 48, ch. 92-279; s. 55, ch. 92-326; s. 23, ch. 94-249; s. 1418, ch. 95-147; s. 2, ch. 96-324; s. 16, ch. 96-410; s. 21, ch. 99-255; s. 1, ch. 99-392; s. 31, ch. 2001-266; s. 132, ch. 2003-261; s. 8, ch. 2004-305; s. 14, ch. 2005-2; s. 45, ch. 2011-142; s. 3, ch. 2011-144; s. 1, ch. 2011-216; s. 12, ch. 2013-15; s. 1, ch. 2013-100; s. 59, ch. 2014-22; s. 1, ch. 2015-157.

CHAPTER 175 FIREFIGHTER PENSIONS

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175.021 Legislative declaration.—

(1) It is hereby declared by the Legislature that firefighters perform state and municipal functions; that it is their duty to extinguish fires, to protect life, and to protect property at their own risk and peril; that it is their duty to prevent conflagration and to continuously instruct school personnel, public officials, and private citizens in the prevention of fires and fire safety; that they protect both life and property from local emergencies as defined in s. 252.34; and that their activities are vital to the public safety. It is further declared that firefighters employed by special fire control districts serve under the same circumstances and perform the same duties as firefighters employed by municipalities and should therefore be entitled to the benefits available under this chapter. Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of firefighters and intends, in implementing the provisions of s. 14, Art. X of the State Constitution as they relate to municipal and special district firefighters' pension trust fund systems and plans, that such retirement systems or plans be managed, administered, operated, and funded in such manner as to maximize the protection of the firefighters' pension trust funds. Pursuant to s. 18, Art. VII of the State Constitution, the Legislature hereby determines and declares that this act fulfills an important state interest.

(2) This chapter hereby establishes, for all municipal and special district pension plans existing under this chapter, including chapter plans and local law plans, minimum benefits and minimum standards for the operation and funding of such plans, hereinafter referred to

as firefighters' pension trust funds, which must be met as conditions precedent to the plan or plan sponsor's receiving a distribution of insurance premium tax revenues under s. 175.121. Minimum benefits and minimum standards for each plan may not be diminished by local charter, ordinance, or resolution or by special act of the Legislature and may not be reduced or offset by any other local, state, or federal law that includes firefighters in its operation, except as provided under s. 112.65.

History.—s. 1, ch. 63-249; s. 1, ch. 79-380; s. 7, ch. 83-334; s. 1, ch. 86-41; s. 12, ch. 93-193; s. 1, ch. 99-1; s. 65, ch. 99-2; s. 58, ch. 2011-142; s. 1, ch. 2015-39.

175.025 Short title.—This chapter may be cited as the "Marvin B. Clayton Firefighters Pension Trust Fund Act."

History.—s. 1, ch. 2004-21.

175.032 Definitions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the term:

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

(2) "Average final compensation" for:

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

(b) A volunteer firefighter means the average salary of the 5 best years of the last 10 best contributing years before change in status to a permanent full-time firefighter or retirement as a volunteer firefighter or the career average of a volunteer firefighter, since July 1, 1953, whichever is greater.

(3) "Base premium tax revenues" means:

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

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

(4) "Chapter plan" means a separate defined benefit pension plan for firefighters which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality or special district. Except as specifically authorized in this

chapter, the provisions of a chapter plan may not differ from the plan provisions set forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 175.261(1).

(5) “Compensation” or “salary” means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the fixed monthly remuneration paid a firefighter. If remuneration is based on actual services rendered, as in the case of a volunteer firefighter, the term means the total cash remuneration received yearly for such services, prorated on a monthly basis. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

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

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

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

(6) “Creditable service” or “credited service” means the aggregate number of years of service and fractional parts of years of service of any firefighter, omitting intervening years and fractional parts of years when such firefighter may not have been employed by the municipality or special fire control district, subject to the following conditions:

(a) A firefighter may not receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the firefighter repays into the fund the amount he or she has withdrawn, plus interest determined by the board. The member has at least 90 days after his or her reemployment to make repayment.

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

(c) Credited service under this chapter shall be provided only for service as a firefighter or for military service and does not include credit for any other type of service. A municipality, by local ordinance, or a special fire control district, by resolution, may provide for the purchase of credit for military service prior to employment as well as for prior service as a firefighter for some other employer as long as a firefighter is not entitled to receive a benefit for such prior service. For purposes of determining credit for prior service as a firefighter, in addition to service as a firefighter in this state, credit may be given for federal, other state, or county service if the prior service is recognized by the Division of State Fire Marshal as provided in chapter 633, or the firefighter provides proof to the board of trustees that his or her service is equivalent to the service required to meet the definition of a firefighter.

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

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

2. The firefighter is entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act.

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

(7) “Deferred Retirement Option Plan” or “DROP” means a local law plan retirement option in which a firefighter may elect to participate. A firefighter may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with his or her employer. However, a firefighter who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.

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

(9) “Division” means the Division of Retirement of the Department of Management Services.

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

(11)(a) “Firefighter” means a person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with s. 633.408 and whose duty it is to extinguish fires, to protect life, or to protect property. The term includes all certified, supervisory, and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters. However, for purposes of this chapter only, the term also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Chief Financial Officer as participating in this chapter before October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter are considered police officers for retirement purposes and are eligible to participate in chapter 185. Any plan may provide that the fire chief has an option to participate in that plan.

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

(12) “Firefighters’ Pension Trust Fund” means a trust fund, by whatever name known, as provided under s. 175.041, for the purpose of assisting municipalities and special fire control districts in establishing and maintaining a retirement plan for firefighters.

(13) “Local law municipality” means any municipality in which a local law plan exists.

(14) “Local law plan” means a retirement plan that includes both a defined benefit plan component and a defined contribution plan component for firefighters, or for firefighters and police officers if both are included, as described in s. 175.351, established by municipal ordinance, special district resolution, or special act of the Legislature, which enactment sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if minimum benefits and minimum standards are met. However, any such variance must provide a greater benefit for firefighters. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 175.261(2).

(15) “Local law special fire control district” means any special fire control district in which a local law plan exists.

(16) “Minimum benefits” means the benefits specified in ss. 175.021-175.341 and ss. 175.361-175.401.

(17) “Minimum standards” means the standards specified in ss. 175.021-175.401.

(18) “Property insurance” means property insurance as defined in s. 624.604 and covers real and personal property within the corporate limits of a municipality, or within the boundaries of a special fire control district, within the state. The term “multiple peril” means a combination or package policy that includes both property and casualty coverage for a single premium.

(19) “Retiree” or “retired firefighter” means a firefighter who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a firefighter who enters the DROP is considered a retiree for all purposes of the plan. However, a firefighter who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.

(20) “Retirement” means a firefighter’s separation from municipal or fire district employment as a firefighter with immediate eligibility for benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), “retirement” means the date a firefighter enters the DROP.

(21) “Special act plan” means a plan subject to the provisions of this chapter which was created by an act of the Legislature and continues to require an act of the Legislature to alter plan benefits.

(22) “Special benefits” means benefits provided in a defined contribution plan for firefighters.

(23) “Special fire control district” means a special district, as defined in s. 189.012, established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of a county or combination of counties, or within any combination of incorporated and unincorporated portions of a county or combination of counties. The term does not include any dependent or independent special district, as those terms are defined in s. 189.012, the employees of which are members of the Florida Retirement System pursuant to s. 121.051(1) or (2).

(24) “Supplemental plan” means a plan to which deposits are made to provide special benefits for firefighters, or for firefighters and police officers if both are included. Such a plan is an element of a local law plan and exists in conjunction with a defined benefit plan component that meets minimum benefits and minimum standards. Any supplemental plan in existence on March 1, 2015, shall be deemed to be a defined contribution plan in compliance with s. 175.351(6).

(25) “Supplemental plan municipality” means a local law municipality in which any supplemental plan existed as of December 1, 2000.

History.—s. 1, ch. 63-249; s. 2, ch. 79-380; s. 1, ch. 79-388; s. 1, ch. 81-168; s. 2, ch. 86-41; s. 13, ch. 93-193; s. 918, ch. 95-147; s. 13, ch. 95-154; s. 2, ch. 99-1; s. 1, ch. 2000-159; s. 1, ch. 2002-66; s. 160, ch. 2003-261; s. 3, ch. 2009-97; s. 4, ch. 2011-216; s. 126, ch. 2013-183; s. 68, ch. 2014-22; s. 2, ch. 2015-39.

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

(1) There shall be established a special fund exclusively for the purpose of this chapter, which in the case of chapter plans shall be known as the "Firefighters' Pension Trust Fund," in each municipality and each special fire control district of this state heretofore or hereafter created which now has or which may hereafter have a constituted fire department or an authorized volunteer fire department, or any combination thereof.

(2) To qualify as a fire department or volunteer fire department or combination thereof under the provisions of this chapter, the department shall own and use apparatus for the fighting of fires that was in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus at the time of purchase.

(3) The provisions of this chapter shall apply only to municipalities organized and established pursuant to the laws of the state and to special fire control districts, and said provisions shall not apply to the unincorporated areas of any county or counties except with respect to special fire control districts that include unincorporated areas, nor shall the provisions hereof apply to any governmental entity whose firefighters are eligible to participate in the Florida Retirement System.

(a) Special fire control districts that include, or consist exclusively of, unincorporated areas of one or more counties may levy and impose the tax and participate in the retirement programs enabled by this chapter.

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

(c) Any municipality that has entered into an interlocal agreement to provide fire protection services to any other incorporated municipality, in its entirety, for a period of 12 months or more may be eligible to receive the premium taxes reported for such other municipality. In order to be eligible for such premium taxes, the municipality providing the fire services must notify the division that it has entered into an interlocal agreement with another municipality. The municipality receiving the fire services may enact an ordinance levying the tax as provided in s. 175.101. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality receiving the fire services to the participating municipality providing the fire services as long as the interlocal agreement is in effect.

(4) No municipality shall establish more than one retirement plan for public safety officers which is supported in whole or in part by the distribution of premium tax funds as provided by this chapter or chapter 185, nor shall any municipality establish a retirement plan for

public safety officers which receives premium tax funds from both this chapter and chapter 185.

History.—s. 1, ch. 63-249; s. 1, ch. 65-153; ss. 2, 3, ch. 79-380; s. 1, ch. 79-388; s. 14, ch. 93-193; s. 3, ch. 99-1; s. 1, ch. 2002-29; s. 2, ch. 2005-205.

175.051 Actuarial deficits not state obligation.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, actuarial deficits, if any, arising under this chapter shall not be the obligation of the state.

History.—s. 1, ch. 63-249; s. 4, ch. 99-1.

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

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

(a) The membership of the board of trustees for a chapter plan consists of five members, two of whom, unless otherwise prohibited by law, must be legal residents of the municipality or special fire control district and must be appointed by the governing body of the municipality or special fire control district, and two of whom must be full-time firefighters as defined in s. 175.032 who are elected by a majority of the active firefighters who are members of such plan. With respect to any chapter plan or local law plan that, on January 1, 1997, allowed retired firefighters to vote in such elections, retirees may continue to vote in such elections. The fifth member shall be chosen by a majority of the previous four members as provided herein, and such person's name shall be submitted to the governing body of the municipality or special fire control district. Upon receipt of the fifth person's name, the governing body of the municipality or special fire control district shall, as a ministerial duty, appoint such person to the board of trustees. The fifth member shall have the same rights as each of the other four members, shall serve as trustee for a period of 2 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the governing body at whose pleasure he or she serves, and may succeed himself or herself as a trustee. Each firefighter member shall serve as trustee for a period of 2 years, unless he or she sooner leaves the employment of the municipality or special fire control district as a firefighter, whereupon a successor shall be chosen in the same manner as an original appointment. Each firefighter may succeed himself or herself in office. The terms of office of the appointed and elected members may be amended by municipal ordinance, special act of the Legislature, or resolution adopted by the governing body of the special fire control district to extend the terms from 2 years to 4 years. The length of the terms of office shall be the same for all board members.

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

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

2. If a municipality has a pension plan for firefighters and police officers, the provisions of paragraph (a) apply, except that one member of the board must be a firefighter and one member of the board must be a police officer as defined in s. 185.02, respectively elected by a majority of the active firefighters or police officers who are members of the plan.

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

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

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

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

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

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

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

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

(7) The board of trustees may, upon written request of the retiree of the plan, or by a dependent, if authorized by the retiree or the retiree's beneficiary, authorize the plan administrator to withhold from the monthly retirement payment funds that are necessary to pay for the benefits being received through the governmental entity from which the employee retired, to pay the certified bargaining agent of the governmental entity, and to make any payments for child support or alimony. Upon the written request of the retiree of the plan, the board may also authorize the plan administrator to withhold from the retirement payment those funds necessary to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents. A retirement plan does not incur liability for participation in this permissive program if its actions are taken in good faith.

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

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

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

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

History.—s. 1, ch. 63-249; s. 2, ch. 81-168; s. 3, ch. 86-41; s. 15, ch. 93-193; s. 919, ch. 95-147; s. 5, ch. 99-1; s. 3, ch. 2002-66; s. 7, ch. 2004-21; s. 4, ch. 2009-97; s. 5, ch. 2011-216; s. 3, ch. 2015-39.

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

(1) The board of trustees, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11 and the Code of Ethics in ss. 112.311-112.3187, may:

(a) Invest and reinvest the assets of the firefighters' pension trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the firefighters' pension trust fund are entitled under this chapter and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the firefighters' pension trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building, and loan association insured by the Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, if:

a. The corporation is listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service; and

b. The board of trustees may not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor may the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of that company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the assets of the fund.

This paragraph applies to all boards of trustees and participants. However, if a municipality or special fire control district has a duly enacted pension plan pursuant to, and in compliance with, s. 175.351, and the trustees desire to vary the investment procedures, the trustees of such plan must request a variance of the investment procedures as outlined herein only through a municipal ordinance, special act of the Legislature, or resolution by the governing body of the special fire control district; if a special act, or a municipality by ordinance adopted before July 1, 1998, permits a greater than 50-percent equity investment, such municipality is not required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law, this section may not be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. Notwithstanding any other provision of law, the board of trustees may invest up to 25 percent of plan assets in foreign securities on a market-value basis. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.

(c) Issue drafts upon the firefighters' pension trust fund pursuant to this act and rules prescribed by the board of trustees. All such drafts must be consecutively numbered, be signed by the chair and secretary, or by two individuals designated by the board who are subject to the same fiduciary standards as the board of trustees under this subsection, and state upon their faces the purpose for which the drafts are drawn. The treasurer or depository of each municipality or special fire control district shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money may be otherwise drawn from the fund.

(d) Convert into cash any securities of the fund.

(e) Keep a complete record of all receipts and disbursements and the board's acts and proceedings.

(2) Any and all acts and decisions shall be effectuated by vote of a majority of the members of the board; however, no trustee shall take part in any action in connection with the trustee's own participation in the fund, and no unfair discrimination shall be shown to any individual firefighter participating in the fund.

(3) The board's action on all claims for retirement under this act shall be final, provided, however, that the rules and regulations of the board have been complied with.

(4) The secretary of the board of trustees shall keep a record of all persons receiving retirement payments under the provisions of this chapter, in which shall be noted the time when the pension is allowed and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all firefighters employed by the municipality or special fire control district. The record shall show the name, address, and time of employment of such firefighters and when they cease to be employed by the municipality or special fire control district.

(5) The sole and exclusive administration of, and the responsibilities for, the proper operation of the firefighters' pension trust fund and for making effective the provisions of this chapter are vested in the board of trustees; however, nothing herein shall empower a board of trustees to amend the provisions of a retirement plan without the approval of the municipality or special fire control district. The board of trustees shall keep in convenient form such data as shall be necessary for an actuarial valuation of the firefighters' pension trust fund and for checking the actual experience of the fund.

(6)(a) At least once every 3 years, the board of trustees shall retain a professionally qualified independent consultant who shall evaluate the performance of any existing professional money manager and shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in the same manner as for any meeting of the board.

(b) For purposes of this subsection, the term "professionally qualified independent consultant" means a consultant who, based on education and experience, is professionally qualified to evaluate the performance of professional money managers, and who, at a minimum:

1. Provides his or her services on a flat-fee basis.

2. Is not associated in any manner with the money manager for the pension fund.

3. Makes calculations according to the American Banking Institute method of calculating time-weighted rates of return. All calculations must be made net of fees.

4. Has 3 or more years of experience working in the public sector.

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

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

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

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

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

(8) Notwithstanding paragraph (1)(b) and as provided in s. 215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in that section, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed by September 30, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by s. 215.473, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this subsection.

History.—s. 1, ch. 63-249; s. 1, ch. 65-365; ss. 22, 35, ch. 69-106; s. 3, ch. 81-168; s. 4, ch. 86-41; s. 16, ch. 93-193; s. 920, ch. 95-147; s. 1, ch. 98-134; s. 66, ch. 99-2; s. 17, ch. 99-392; s. 27, ch. 2000-151; s. 5, ch. 2009-97; s. 18, ch. 2010-5; s. 4, ch. 2015-39.

175.081 Use of annuity or insurance policies.—When the board of trustees of any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan purchases annuity or life insurance contracts to provide all or any part of the benefits as provided for by this chapter, the following principles shall be observed:

(1) Only those firefighters who have been members of the firefighters' pension trust fund for 1 year or more may participate in the insured plan.

(2) Individual policies shall be purchased only when a group insurance plan is not feasible.

(3) Each application and policy shall designate the firefighters' pension trust fund as owner of the policy.

(4) Policies shall be written on an annual premium basis.

(5) The type of policy shall be one which for the premium paid provides each individual with the maximum retirement benefit at his or her earliest statutory normal retirement age.

(6) Death benefit, if any, should not exceed:

(a) One hundred times the estimated normal retirement income, based on the assumption that the present rate of compensation continues without change to normal retirement date, or

(b) Twice the annual rate of compensation as of the date of termination of service, or

(c) The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service, whichever is greatest.

(7) An insurance plan may provide that the assignment of insurance contract to separating firefighters shall be at least equivalent to the return of the firefighters' contributions used to purchase the contract. An assignment of contract discharges the municipality or special fire control district, as appropriate, from all further obligation to the participant under the plan even though the cash value of such contract may be less than the firefighters' contributions.

(8) Provisions shall be made, either by issuance of separate policies or otherwise, that the separating firefighter does not receive cash value and other benefits under the policies assigned to him or her which exceed the present value of his or her vested interest under the firefighters' pension trust fund, inclusive of his or her contribution to the plan; the contributions by the state shall not be exhausted faster merely because the method of funding adopted was through insurance companies.

(9) The firefighter shall have the right at any time to give the board of trustees written instructions designating the primary and contingent beneficiaries to receive death benefits or proceeds and the method of settlement of the death benefit or proceeds, or requesting a change in the beneficiary designation or method of settlement previously made, subject to the terms of the policy or policies on his or her life. Upon receipt of such written instructions, the board of trustees shall take necessary steps to effectuate the designation or change of beneficiary or settlement option.

History.—s. 1, ch. 63-249; s. 4, ch. 81-168; s. 17, ch. 93-193; s. 921, ch. 95-147; s. 6, ch. 99-1.

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

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

(a) By payment to the fund of the net proceeds of the 1.85-percent excise or other similar tax which may be imposed by the municipality or special fire control district upon fire insurance companies, fire insurance associations, or other property insurers on their gross receipts on premiums from holders of policies, which policies cover real or personal property within the corporate limits of such municipality, in the case of a municipal government, and within the legally defined jurisdiction of the district, in the case of a special fire control district. Whenever a municipality maintains a firefighters’ pension trust fund under the provisions of this chapter but is partially contained within the boundaries of a special fire control district, that portion of the 1.85-percent excise, license, or other similar tax which is collected for insurance policies covering property within the jurisdiction of both the municipality and the special fire control district shall be given to the firefighters’ pension trust fund of the fire service provider. Remaining revenues collected pursuant to this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property.

(b) Except as reduced or increased contributions are authorized by subsection (2), by the payment to the fund of 5 percent of the salary of each uniformed firefighter who is a member or duly enrolled in the fire department of any municipality or special fire control district, which 5 percent shall be deducted by the municipality or special fire control district from the compensation due to the firefighter and paid over to the board of trustees of the firefighters’ pension trust fund wherein such firefighter is employed. No firefighter shall have any right to the money so paid into the fund except as provided in this chapter.

(c) By all fines and forfeitures imposed and collected from any firefighter because of the violation of any rule and regulation promulgated by the board of trustees.

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

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

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

(g) By all other sources or income now or hereafter authorized by law for the augmentation of such firefighters’ pension trust fund.

(2) Member contribution rates may be adjusted as follows:

(a) The employing municipality or special fire control district, by local ordinance or resolution, may elect to make an employee’s contributions. However, under no circumstances may a municipality or special fire control district reduce the member contribution to less than one-half of 1 percent of salary.

(b) Firefighter member contributions may be increased by consent of the members' collective bargaining representative or, if none, by majority consent of firefighter members of the fund.

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

History.—s. 1, ch. 63-249; s. 1, ch. 65-58; s. 1, ch. 67-218; s. 5, ch. 81-168; s. 5, ch. 86-41; s. 18, ch. 93-193; s. 7, ch. 97-96; s. 7, ch. 99-1; s. 6, ch. 2011-216; s. 5, ch. 2015-39.

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

(1) Each municipality or special fire control district in this state described and classified in s. 175.041, having a lawfully established firefighters' pension trust fund or municipal fund or special fire control district fund, by whatever name known, providing pension benefits to firefighters as provided under this chapter, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereinafter engage in or carry on, the business of property insurance as shown by the records of the Office of Insurance Regulation of the Financial Services Commission, an excise tax in addition to any lawful license or excise tax now levied by each of the municipalities or special fire control districts, respectively, amounting to 1.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of such municipalities or within the legally defined boundaries of special fire control districts, respectively. Whenever the boundaries of a special fire control district that has lawfully established a firefighters' pension trust fund encompass a portion of the corporate territory of a municipality that has also lawfully established a firefighters' pension trust fund, that portion of the tax receipts attributable to insurance policies covering property situated both within the municipality and the special fire control district shall be given to the fire service provider. For the purpose of this section, the boundaries of a special fire control district include an area that has been annexed until the completion of the 4-year period provided for in s. 171.093(4), or other agreed-upon extension, or if a special fire control district is providing services under an interlocal agreement executed in accordance with s. 171.093(3). The agent shall identify the fire service provider on the property owner's application for insurance. Remaining revenues collected pursuant to this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property.

(2) In the case of multiple peril policies with a single premium for both the property and casualty coverages in such policies, 70 percent of such premium shall be used as the basis for the 1.85-percent tax.

(3) This excise tax shall be payable annually on March 1 of each year after the passage of an ordinance, in the case of a municipality, or resolution, in the case of a special fire control

district, assessing and imposing the tax authorized by this section. Installments of taxes shall be paid according to the provision of s. 624.5092(2)(a), (b), and (c).

This section also applies to any municipality consisting of a single consolidated government which is made up of a former county and one or more municipalities, consolidated pursuant to the authority in s. 3 or s. 6(e), Art. VIII of the State Constitution, and to property insurance policies covering property within the boundaries of the consolidated government, regardless of whether the properties are located within one or more separately incorporated areas within the consolidated government, provided the properties are being provided fire protection services by the consolidated government. This section also applies to any municipality, as provided in s. 175.041(3)(c), which has entered into an interlocal agreement to receive fire protection services from another municipality participating under this chapter. The excise tax may be levied on all premiums collected on property insurance policies covering property located within the corporate limits of the municipality receiving the fire protection services, but will be available for distribution to the municipality providing the fire protection services.

History.—s. 1, ch. 63-249; s. 2, ch. 67-218; ss. 13, 35, ch. 69-106; s. 6, ch. 81-168; s. 6, ch. 86-41; s. 23, ch. 87-99; s. 14, ch. 88-206; s. 10, ch. 89-167; s. 19, ch. 93-193; s. 8, ch. 99-1; s. 2, ch. 2002-29; s. 161, ch. 2003-261; s. 3, ch. 2005-205; s. 6, ch. 2009-97.

175.1015 Determination of local premium tax situs.—

(1)(a) Any insurance company that is obligated to report and remit the excise tax on property insurance premiums imposed under s. 175.101 shall be held harmless from any liability, including, but not limited to, liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction if the insurance company exercises due diligence in applying an electronic database provided by the Department of Revenue under subsection (2). Insurance companies that do not use the electronic database provided by the Department of Revenue or that do not exercise due diligence in applying the electronic database for tax years on or after January 1, 2006, are subject to a 0.5 percent penalty on the portion of the premium pertaining to any insured risk that is improperly assigned, whether assigned to an improper local taxing jurisdiction, not assigned to a local taxing jurisdiction when it should be assigned to a local taxing jurisdiction, or assigned to a local taxing jurisdiction when it should not be assigned to a local taxing jurisdiction.

(b) Any insurance company that is obligated to report and remit the excise tax on commercial property insurance premiums imposed under s. 175.101 and is unable, after due diligence, to assign an insured property to a specific local taxing jurisdiction for purposes of complying with paragraph (a) shall remit the excise tax on commercial property insurance premiums using a methodology of apportionment in a manner consistent with the remittance for the 2004 calendar year. An insurance company which makes two contacts with the agent responsible for a commercial property insurance application for the purpose of verifying information on the application necessary for the assignment to the appropriate taxing jurisdiction shall be considered to have exercised due diligence. Any insurance company which complies with the provisions of this paragraph shall not be subject to the penalty provided in paragraph (a).

(2)(a) The Department of Revenue shall, subject to legislative appropriation, create as soon as practical and feasible, and thereafter shall maintain, an electronic database that conforms to any format approved by the American National Standards Institute's Accredited Standards Committee X12 and that designates for each street address and address range in the state, including any multiple postal street addresses applicable to one street location, the local taxing jurisdiction in which the street address and address range is located, and the appropriate code for each such participating local taxing jurisdiction, identified by one nationwide standard numeric code. The nationwide standard numeric code must contain the same number of numeric digits, and each digit or combination of digits must refer to the same level of taxing jurisdiction throughout the United States and must be in a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission. Each address or address range must be provided in standard postal format, including the street number, street number range, street name, and zip code. Each year after the creation of the initial database, the Department of Revenue shall annually create and maintain a database for the current tax year. Each annual database must be calendar-year specific.

(b)1. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create the electronic database as soon as practical and feasible. The information furnished to the Department of Revenue must specify an effective date.

2. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create and update the current year's database, including changes in annexations, incorporations, and reorganizations and any other changes in jurisdictional boundaries, as well as changes in eligibility to participate in the excise tax imposed under this chapter. The information must specify an effective date and must be furnished to the Department of Revenue by July 1 of the current year.

3. The Department of Revenue shall create and update the current year's database in accordance with the information furnished by participating local taxing jurisdictions under subparagraph 1. or subparagraph 2., as appropriate. To the extent practicable, the Department of Revenue shall post each new annual database on a website by September 1 of each year. Each participating local taxing jurisdiction shall have access to this website and, within 30 days thereafter, shall provide any corrections to the Department of Revenue. The Department of Revenue shall finalize the current year's database and post it on a website by November 1 of the current year. If a dispute in jurisdictional boundaries cannot be resolved so that changes in boundaries may be included, as appropriate, in the database by November 1, the changes may not be retroactively included in the current year's database and the boundaries will remain the same as in the previous year's database. The finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due on the following March 1 for the tax year 2005. For subsequent tax years, the finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due for the tax year beginning on or after the January 1 following the website posting of the database. Information contained in the electronic database is conclusive for purposes of this chapter. The electronic database is not an order, a rule, or a policy of general applicability.

4. Each annual database must identify the additions, deletions, and other changes to the preceding version of the database.

(3)(a) As used in this section, the term "due diligence" means the care and attention that is expected from and is ordinarily exercised by a reasonable and prudent person under the circumstances.

(b) Notwithstanding any law to the contrary, an insurance company is exercising due diligence if the insurance company complies with the provisions of paragraph (1)(b) or if the insurance company assigns an insured's premium to local taxing jurisdictions in accordance with the Department of Revenue's annual database and with respect to such database:

1. Expends reasonable resources to accurately and reliably implement such method;

2. Maintains adequate internal controls to correctly include in its database of policyholders the location of the property insured, in the proper address format, so that matching with the department's database is accurate; and

3. Corrects errors in the assignment of addresses to local taxing jurisdictions within 120 days after the insurance company discovers the errors.

(4) There is annually appropriated from the moneys collected under this chapter and deposited in the Police and Firefighter's Premium Tax Trust Fund an amount sufficient to pay the expenses of the Department of Revenue in administering this section, but not to exceed $50,000 annually, adjusted annually by the lesser of a 5-percent increase or the percentage of growth in the total collections.

(5) The Department of Revenue shall adopt rules necessary to administer this section, including rules establishing procedures and forms.

(6) Any insurer that is obligated to collect and remit the tax on property insurance imposed under s. 175.101 shall be held harmless from any liability, including, but not limited to, liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction, based on the collection and remission of the tax accruing before January 1, 2005, if the insurer collects and reports this tax consistent with filings for periods before January 1, 2005. Further, any insurer that is obligated to collect and remit the tax on property insurance imposed under this section is not subject to an examination under s. 624.316 or s. 624.3161 which would occur solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction, based on the collection and remission of such tax accruing before January 1, 2005.

History.—s. 2, ch. 2004-21.

175.111 Certified copy of ordinance or resolution filed; insurance companies' annual report of premiums; duplicate files; book of accounts.—

For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, whenever any municipality passes an ordinance or whenever any special fire control district passes a resolution establishing a chapter plan or local law plan assessing and imposing the taxes authorized in s. 175.101, a certified copy of such ordinance or resolution shall be deposited with the division. Thereafter every insurance company, association, corporation, or other insurer carrying on the business of property insurance on real or personal property, on or before the succeeding March 1 after date of the passage of the ordinance or resolution, shall report fully in writing and under oath to the division and the Department of Revenue a just and true account of all premiums by such insurer received for property insurance policies covering or insuring any real or personal property located within the corporate limits of each such municipality or special fire control district during the period of time elapsing between the date of the passage of the ordinance or resolution and the end of the calendar year. The report shall include the code designation as prescribed by the division for each piece of insured property, real or personal, located within the corporate limits of each municipality and within the legally defined boundaries of each special fire control district. The aforesaid insurer shall annually thereafter, on March 1, file with the Department of Revenue a similar report covering the preceding year's premium receipts, and every such insurer at the same time of making such reports shall pay to the Department of Revenue the amount of the tax hereinbefore mentioned. Every insurer engaged in carrying on such insurance business in the state shall keep accurate books of accounts of all such business done by it within the corporate limits of each such municipality and within the legally defined boundaries of each such special fire control district, and in such manner as to be able to comply with the provisions of this chapter. Based on the insurers' reports of premium receipts, the division shall prepare a consolidated premium report and shall furnish to any municipality or special fire control district requesting the same a copy of the relevant section of that report.

History.—s. 1, ch. 63-249; ss. 12, 13, 35, ch. 69-106; s. 1, ch. 75-240; s. 20, ch. 93-193; s. 1, ch. 95-250; s. 9, ch. 99-1; s. 6, ch. 2000-355.

175.121 Department of Revenue and Division of Retirement to keep accounts of deposits; disbursements.—For any municipality or special fire control district having a chapter or local law plan established pursuant to this chapter:

(1) The Department of Revenue shall keep a separate account of all moneys collected for each municipality and each special fire control district under the provisions of this chapter. All moneys so collected must be transferred to the Police and Firefighters' Premium Tax Trust Fund and shall be separately accounted for by the division. The moneys budgeted as necessary to pay the expenses of the division for the daily oversight and monitoring of the firefighters' pension plans under this chapter and for the oversight and actuarial reviews conducted under part VII of chapter 112 are annually appropriated from the interest and investment income earned on the moneys collected for each municipality or special fire control district and deposited in the Police and Firefighters' Premium Tax Trust Fund. Interest and investment income remaining thereafter in the trust fund which is unexpended and otherwise unallocated by law shall revert to the General Revenue Fund on June 30 of each year.

(2) The Chief Financial Officer shall, on or before July 1 of each year, and at such other times as authorized by the division, draw his or her warrants on the full net amount of money then on deposit in the Police and Firefighters' Premium Tax Trust Fund pursuant to this chapter, specifying the municipalities and special fire control districts to which the moneys must be paid and the net amount collected for and to be paid to each municipality or special fire control district, respectively, subject to the limitation on disbursement under

s. 175.122. The sum payable to each municipality or special fire control district is appropriated annually out of the Police and Firefighters' Premium Tax Trust Fund. The warrants of the Chief Financial Officer shall be payable to the respective municipalities and special fire control districts entitled to receive them and shall be remitted annually by the division to the respective municipalities and special fire control districts. In lieu thereof, the municipality or special fire control district may provide authorization to the division for the direct payment of the premium tax to the board of trustees. In order for a municipality or special fire control district and its pension fund to participate in the distribution of premium tax moneys under this chapter, all the provisions shall be complied with annually, including state acceptance pursuant to part VII of chapter 112.

(3)(a) All moneys not distributed to municipalities and special fire control districts under this section as a result of the limitation on disbursement contained in s. 175.122, or as a result of any municipality or special fire control district not having qualified in any given year, or portion thereof, shall be transferred to the Firefighters' Supplemental Compensation Trust Fund administered by the Department of Revenue, as provided in s. 633.422.

(b)1. Moneys transferred under paragraph (a) but not needed to support the supplemental compensation program in a given year shall be redistributed pro rata to those participating municipalities and special fire control districts that transfer any portion of their funds to support the supplemental compensation program in that year. Such additional moneys shall be used to cover or offset costs of the retirement plan.

2. To assist the Department of Revenue, the division shall identify those municipalities and special fire control districts that are eligible for redistribution as provided in s. 633.422(3)(c)2., by listing the municipalities and special fire control districts from which funds were transferred under paragraph (a) and specifying the amount transferred by each.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 1, ch. 74-294; s. 3, ch. 85-61; s. 7, ch. 86-41; s. 21, ch. 93-193; s. 11, ch. 94-259; s. 1449, ch. 95-147; s. 2, ch. 95-250; s. 10, ch. 99-1; s. 162, ch. 2003-261; s. 127, ch. 2013-183.

[1]**175.1215 Police and Firefighters' Premium Tax Trust Fund.**—The Police and Firefighters' Premium Tax Trust Fund is created, to be administered by the Division of Retirement of the Department of Management Services. Funds credited to the trust fund, as provided in chapter 95-250, Laws of Florida, or similar legislation, shall be expended for the purposes set forth in that legislation.

History.—s. 1, ch. 95-249.

[1]Note.—Also published at s. 185.105.

175.122 Limitation of disbursement.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, any municipality or special fire control district participating in the firefighters' pension trust fund pursuant to the provisions of this chapter, whether under a chapter plan or local law plan, shall be limited to receiving any moneys from such fund in excess of that produced by one-half of the excise tax, as provided for in s. 175.101;

however, any such municipality or special fire control district receiving less than 6 percent of its fire department payroll from such fund shall be entitled to receive from such fund the amount determined under s. 175.121, in excess of one-half of the excise tax, not to exceed 6 percent of its fire department payroll. Payroll amounts of members included in the Florida Retirement System shall not be included.

History.—s. 1, ch. 67-217; s. 7, ch. 81-168; s. 22, ch. 93-193; s. 11, ch. 99-1.

175.131 Funds received by municipality or special fire control district; deposit in firefighters' pension trust fund.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, all state and other funds received by any municipality or special fire control district under the provisions of this chapter shall be deposited by such municipality or special fire control district immediately, and under no circumstances more than 5 days after receipt, with the board of trustees. In lieu thereof, the municipality or special fire control district may provide authorization to the division for the direct payment of the premium tax to the board of trustees. The board shall deposit such moneys in the Firefighters' Pension Trust Fund immediately, and under no circumstances more than 5 days after receipt. Employee contributions, however, which are withheld by the employer on behalf of an employee member shall be deposited immediately after each pay period with the board of trustees of the firefighters' pension trust fund. Employer contributions shall be deposited at least quarterly.

History.—s. 1, ch. 63-249; s. 8, ch. 81-168; s. 8, ch. 86-41; s. 23, ch. 93-193; s. 12, ch. 99-1.

175.141 Payment of excise tax credit on similar state excise or license tax.—The tax herein authorized to be imposed by each municipality and each special fire control district shall in nowise be in addition to any similar state excise or license tax imposed by part IV of chapter 624, but the payor of the tax hereby authorized shall receive credit therefor on his or her said state excise or license tax and the balance of said state excise or license tax shall be paid to the Department of Revenue as provided by law.

History.—s. 1, ch. 63-249; s. 9, ch. 86-41; s. 24, ch. 93-193; s. 922, ch. 95-147; s. 13, ch. 99-1.

175.151 Penalty for failure of insurers to comply with this act.—If any insurance company, corporation or other insurer fails to comply with the provisions of this act, on or before March 1 of each year as herein provided, the certificate of authority issued to said insurance company, corporation or other insurer to transact business in this state may be canceled and revoked by the Office of Insurance Regulation of the Financial Services Commission, and it is unlawful for any such insurance company, corporation, or other insurer to transact business thereafter in this state unless such insurance company, corporation, or other insurer shall be granted a new certificate of authority to transact any business in this state, in compliance with provisions of law authorizing such certificate of authority to be issued. The division is responsible for notifying the Office of Insurance Regulation regarding any such failure to comply.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106;

s. 14, ch. 99-1; s. 163, ch. 2003-261.

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

(1) The normal retirement date of each firefighter will be the first day of the month coincident with or next following the date on which he or she has completed 10 or more years of creditable service and attained age 55 or completed 25 years of creditable service and attained age 52.

(2)(a)1. The amount of monthly retirement income payable to a full-time firefighter who retires on or after his or her normal retirement date shall be an amount equal to the number of his or her years of credited service multiplied by 2.75 percent of his or her average final compensation as a full-time firefighter.

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

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

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

(b) The amount of monthly retirement income payable to a volunteer firefighter who retires on or after his or her normal retirement date shall be an amount equal to the number of his or her years of credited service multiplied by 2 percent of his or her average final compensation as a volunteer firefighter.

(3) The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the firefighter's

normal retirement date, or on the first day of the month coincident with or next following his or her actual retirement, if later, and the last payment will be the payment due next preceding the firefighter's death; except that, in the event the firefighter dies after retirement but before he or she has received retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the firefighter for the balance of such 10-year period. If a firefighter continues in the service of the municipality or special fire control district beyond his or her normal retirement date and dies prior to his or her date of actual retirement, without an option made pursuant to s. 175.171 being in effect, monthly retirement income payments will be made for a period of 10 years to a beneficiary (or beneficiaries) designated by the firefighter as if the firefighter had retired on the date on which his or her death occurred.

(4) Early retirement under the plan is retirement from the service of the municipality or special fire control district, with the consent of the municipality or special fire control district, as of the first day of any calendar month which is prior to the firefighter's normal retirement date but subsequent to the date as of which he or she has both attained the age of 50 years and has been a member of this fund for 10 continuous years. In the event of early retirement, payment of retirement income shall be governed as follows: The monthly amount of retirement income payable to a firefighter who retires prior to his or her normal retirement date shall be in the amount computed as described in subsection (2), taking into account the firefighter's credited service to his or her date of actual retirement and final monthly compensation as of such date, such amount of retirement income to be actuarially reduced to take into account the firefighter's younger age and the earlier commencement of retirement income benefits. The amount of monthly income payable in the event of early retirement will be paid in the same manner as in subsection (3). In no event shall the early retirement reduction exceed 3 percent for each year by which the member's age at retirement preceded the member's normal retirement age, as provided in subsection (1).

History.—s. 1, ch. 63-249; s. 1, ch. 70-129; s. 9, ch. 81-168; s. 11, ch. 86-41; s. 26, ch. 93-193; s. 923, ch. 95-147; s. 16, ch. 99-1; s. 6, ch. 2015-39.

175.171 Optional forms of retirement income.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified in s. 175.162, a firefighter, upon written request to the board of trustees and subject to the approval of the board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

(a) A retirement income of larger monthly amount, payable to the firefighter for his or her lifetime only.

(b) A retirement income of a modified monthly amount, payable to the firefighter during the joint lifetime of the firefighter and a joint annuitant designated by the firefighter, and following the death of either of them, 100 percent, 75 percent, 66 2/3 percent, or 50 percent of such monthly amounts payable to the survivor for the lifetime of the survivor.

(c) Such other amount and form of retirement payments or benefits as, in the opinion of the board of trustees, will best meet the circumstances of the retiring firefighter.

1. The firefighter upon electing any option of this section must designate the joint annuitant or beneficiary to receive the benefit, if any, payable under the plan in the event of his or her death, and may change such designation, but any such change shall be deemed a new election and is subject to approval by the board of trustees. Such designation must name a joint annuitant or one or more primary beneficiaries where applicable. If a firefighter has elected an option with a joint annuitant or beneficiary and his or her retirement income benefits have commenced, the firefighter may change the designated joint annuitant or beneficiary, but only if the board of trustees consents to such change and if the joint annuitant last designated by the firefighter is alive when the firefighter files with the board of trustees a request for such change.

2. The consent of a firefighter's joint annuitant or beneficiary to any such change is not required.

3. The board of trustees may request evidence of the good health of the joint annuitant that is being removed, and the amount of the retirement income payable to the firefighter upon designation of a new joint annuitant shall be actuarially redetermined taking into account the age and gender of the former joint annuitant, the new joint annuitant, and the firefighter. Each designation must be made in writing on a form prepared by the board of trustees and filed with the board of trustees. If no designated beneficiary survives the firefighter, such benefits as are payable in the event of the death of the firefighter subsequent to his or her retirement shall be paid as provided in s. 175.181.

4. Notwithstanding the provisions of this paragraph, a retired firefighter may change his or her designation of joint annuitant or beneficiary up to two times as provided in s. 175.333 without the approval of the board of trustees or the current joint annuitant or beneficiary. The retiree is not required to provide proof of the good health of the joint annuitant or beneficiary being removed, and the joint annuitant or beneficiary being removed need not be living.

(2) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(a) If a firefighter dies prior to his or her normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under s. 175.201.

(b) If the designated beneficiary or joint annuitant dies before the firefighter's retirement under the plan, the option elected is canceled automatically and a retirement income of the normal form and amount is payable to the firefighter upon retirement as if the election had not been made, unless a new election is made in accordance with this section or a new beneficiary is designated by the firefighter before retirement and within 90 days after the death of the beneficiary.

(c) If both the retired firefighter and the beneficiary (or beneficiaries) designated by him or her die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of paragraph (1)(c), the board of trustees may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with s. 175.181.

(d) If a firefighter continues beyond his or her normal retirement date pursuant to the provisions of s. 175.162(1) and dies prior to actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the firefighter in the amount or amounts computed as if the firefighter had retired under the option on the date on which death occurred.

(3) No firefighter may make any change in his or her retirement option after the date of cashing or depositing the first retirement check.

History.—s. 1, ch. 63-249; s. 2, ch. 65-58; s. 10, ch. 81-168; s. 12, ch. 86-41; s. 924, ch. 95-147; s. 17, ch. 99-1; s. 7, ch. 2009-97.

175.181 Beneficiaries.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) Each firefighter may, on a form provided for that purpose, signed and filed with the board of trustees, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his or her death; and each designation may be revoked by such firefighter by signing and filing with the board of trustees a new designation-of-beneficiary form.

(2) If no beneficiary is named in the manner provided by subsection (1), or if no beneficiary designated by the member survives him or her, the death benefit, if any, which may be payable under the plan with respect to such deceased firefighter shall be paid by the board of trustees to the estate of such deceased firefighter, provided that the board of trustees, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under the plan with regard to the deceased firefighter and any other persons with rights under the plan and shall not be subject to review by anyone but shall be final, binding, and conclusive on all persons ever interested hereunder.

(3) Notwithstanding any other provision of law to the contrary, the surviving spouse of any pension participant member killed in the line of duty shall not lose survivor retirement benefits if the spouse remarries. The surviving spouse of such deceased member whose benefit terminated because of remarriage shall have the benefit reinstated as of July 1, 1994, at an amount that would have been payable had such benefit not been terminated.

History.—s. 1, ch. 63-249; s. 11, ch. 81-168; s. 4, ch. 94-171; s. 1450, ch. 95-147; s. 18, ch. 99-1; s. 2, ch. 2000-159.

175.191 Disability retirement.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) A firefighter having 10 or more years of credited service or a firefighter who becomes totally and permanently disabled in the line of duty, regardless of length of service, may retire from the service of the municipality or special fire control district under the plan if the firefighter becomes totally and permanently disabled as defined in subsection (2) by reason of any cause other than a cause set out in subsection (3) on or after the effective date of the plan. Such retirement shall herein be referred to as “disability retirement.”

(2) A firefighter will be considered totally disabled if, in the opinion of the board of trustees, he or she is wholly prevented from rendering useful and efficient service as a firefighter; and a firefighter will be considered permanently disabled if, in the opinion of the board of trustees, he or she is likely to remain so disabled continuously and permanently from a cause other than is specified in subsection (3).

(3) A firefighter will not be entitled to receive any disability retirement income if the disability is a result of:

(a) Excessive and habitual use by the firefighter of drugs, intoxicants, or narcotics;

(b) Injury or disease sustained by the firefighter while willfully and illegally participating in fights, riots, or civil insurrections or while committing a crime;

(c) Injury or disease sustained by the firefighter while serving in any armed forces; or

(d) Injury or disease sustained by the firefighter after his or her employment has terminated.

(4) No firefighter shall be permitted to retire under the provisions of this section until he or she is examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any firefighter retiring under this section may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

(5) The benefit payable to a firefighter who retires from the service of a municipality or special fire control district due to total and permanent disability as a direct result of a disability is the monthly income payable for 10 years certain and life for which, if the firefighter’s disability occurred in the line of duty, his or her monthly benefit shall be the accrued retirement benefit, but shall not be less than 42 percent of his or her average monthly salary at the time of disability. If after 10 years of service the disability is other than in the line of duty, the firefighter’s monthly benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of his or her average monthly salary at the time of disability.

(6) The monthly retirement income to which a firefighter is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be, if the firefighter recovers from the disability, the payment due next preceding the date of such recovery or, if the firefighter dies without recovering from the disability, the payment due

next preceding his or her death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this paragraph, a firefighter may select an optional form as provided in s. 175.171. Any monthly retirement income payments due after the death of a disabled firefighter shall be paid to the firefighter's designated beneficiary (or beneficiaries) as provided in ss. 175.181 and 175.201.

(7) If the board of trustees finds that a firefighter who is receiving a disability retirement income is no longer disabled, as provided herein, the board of trustees shall direct that the disability retirement income be discontinued. "Recovery from disability" as used herein means the ability of the firefighter to render useful and efficient service as a firefighter.

(8) If the firefighter recovers from disability and reenters the service as a firefighter, service will be deemed to have been continuous, but the period beginning with the first month for which he or she received a disability retirement income payment and ending with the date he or she reentered the service may not be considered as credited service for the purpose of this plan.

History.—s. 1, ch. 63-249; s. 3, ch. 65-58; s. 2, ch. 70-129; s. 12, ch. 81-168; s. 13, ch. 86-41; s. 27, ch. 93-193; s. 925, ch. 95-147; s. 19, ch. 99-1.

175.195 False, misleading, or fraudulent statements made to obtain public retirement benefits prohibited; penalty.—

(1) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit available under a retirement plan receiving funding under this chapter.

(2)(a) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) In addition to any applicable criminal penalty, upon conviction for a violation described in subsection (1), a participant or beneficiary of a pension plan receiving funding under this chapter may, in the discretion of the board of trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this chapter. For purposes of this paragraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

History.—s. 20, ch. 99-1.

175.201 Death prior to retirement; refunds of contributions; death benefits.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) If a firefighter dies before being eligible to retire, the heirs, legatees, beneficiaries, or personal representatives of such deceased firefighter shall be entitled to a refund of 100 percent, without interest, of the contributions made to the firefighters' pension trust fund by such deceased firefighter or, in the event an annuity or life insurance contract has been purchased by the board of trustees on such firefighter, then to the death benefits available

under such life insurance or annuity contract subject to the limitations on such death benefits set forth in s. 175.081, whichever amount is greater.

(2) If a firefighter having at least 10 years of credited service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the firefighter at early or normal retirement age.

In the event that the death benefit paid by a life insurance company exceeds the limit set forth in s. 175.081, the excess of the death benefit over the limit shall be paid to the firefighters' pension trust fund. However, death benefits provided pursuant to s. 112.191 or any other state or federal law shall not be included in the calculation of death or retirement benefits provided under this chapter.

History.—s. 1, ch. 63-249; s. 13, ch. 81-168; s. 14, ch. 86-41; s. 5, ch. 90-138; s. 28, ch. 93-193; s. 926, ch. 95-147; s. 21, ch. 99-1.

175.211 Separation from service; refunds.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) If a firefighter leaves the service of the municipality or special fire control district before accumulating aggregate time of 10 years toward retirement and before being eligible to retire under the provisions of this chapter, the firefighter shall be entitled to a refund of all of his or her contributions made to the firefighters' pension trust fund after July 1, 1963, without interest, less any disability benefits paid to him or her after July 1, 1963.

(2) If a firefighter who has been in the service of the municipality or special fire control district for at least 10 years elects to leave his or her accrued contributions, if contributions are required, in the firefighters' pension trust fund, such firefighter upon attaining the age of 50 years may retire at the actuarial equivalent of the amount of such retirement income otherwise payable to him or her, as provided in s. 175.162(4), or upon attaining age 55 years may retire as provided in s. 175.162(1).

History.—s. 1, ch. 63-249; s. 14, ch. 81-168; s. 29, ch. 93-193; s. 927, ch. 95-147; s. 22, ch. 99-1.

175.221 Lump-sum payment of small retirement income.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, notwithstanding any provisions of the plan to the contrary, if the monthly retirement income payable to any person entitled to benefits hereunder is less than $100, or if the single-sum value of the accrued retirement income is less than $5,000, as of the date of retirement or termination of service, whichever is applicable, the board of trustees, in the exercise of its discretion, may specify that the actuarial equivalent of such retirement income be paid in a lump sum.

History.—s. 1, ch. 63-249; s. 23, ch. 99-1.

175.231 Diseases of firefighters suffered in line of duty; presumption.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, any condition or impairment of health of a firefighter caused by tuberculosis, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty unless the contrary is shown by competent evidence, provided that such firefighter shall have successfully passed a physical examination before entering into such service, which examination failed to reveal any evidence of such condition. This section shall be applicable to all firefighters only with reference to pension and retirement benefits under this chapter.

History.—s. 1, ch. 63-249; s. 15, ch. 81-168; s. 24, ch. 99-1.

175.241 Exemption from tax and execution.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the pensions, annuities, or other benefits accrued or accruing to any person under any chapter plan or local law plan under the provisions of this chapter and the accumulated contributions and the cash securities in the funds created under this chapter are hereby exempted from any state, county, or municipal tax and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable.

History.—s. 1, ch. 63-249; s. 25, ch. 99-1.

175.261 Annual report to Division of Retirement; actuarial valuations.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the board of trustees for every chapter plan and local law plan shall submit the following reports to the division:

(1) With respect to chapter plans:

(a) Each year, by February 1, the chair or secretary of the board of trustees of each firefighters' pension trust fund operating under a chapter plan shall file a report with the division which contains:

1. A statement of whether in fact the municipality or special fire control district is within the provisions of s. 175.041.

2. An independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning and end of the year.

3. A statistical exhibit showing the total number of firefighters on the force, the number included in the retirement plan and the number ineligible, classified according to the reason for their being ineligible, and the number of disabled firefighters and retired firefighters and

their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

4. A statement of the amount the municipality or special fire control district, or other income source, has contributed to the retirement fund for the most recent plan year and the amount the municipality or special fire control district will contribute to the retirement fund during its current plan year.

5. If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the insured benefits to the benefits provided by this chapter as well as the name of the insurer and information about the basis of premium rates, mortality table, interest rates, and method used in valuing retirement benefits.

(b) In addition to annual reports provided under paragraph (a), by February 1 of each triennial year, an actuarial valuation of the chapter plan must be made by the division at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. To that end, the chair of the board of trustees for each firefighters' pension trust fund operating under a chapter plan shall report to the division such data as it needs to complete an actuarial valuation of each fund. The forms for each municipality and special fire control district shall be supplied by the division. The expense of this actuarial valuation shall be borne by the firefighters' pension trust fund established by ss. 175.041 and 175.121. The requirements of this section are supplemental to the actuarial valuations necessary to comply with s. 218.39.

(2) With respect to local law plans:

(a) Each year, on or before March 15, the trustees of the retirement plan shall submit the following information to the division in order for the retirement plan of such municipality or special fire control district to receive a share of the state funds for the then-current calendar year:

1. A certified copy of each and every instrument constituting or evidencing the plan. This includes the formal plan, including all amendments, the trust agreement, copies of all insurance contracts, and formal announcement material.

2. An independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year.

3. A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.

4. A statistical exhibit showing the total number of firefighters, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired firefighters and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

5. A certified statement describing the methods, factors, and actuarial assumptions used in determining the cost.

6. A certified statement by an enrolled actuary showing the results of the latest actuarial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results.

7. A statement of the amount the municipality or special fire control district, or other income source, has contributed toward the plan for the most recent plan year and will contribute toward the plan for the current plan year.

When any of the items required hereunder is identical to the corresponding item submitted for a previous year, it is not necessary for the trustees to submit duplicate information if they make reference to the item in the previous year's report.

(b) In addition to annual reports provided under paragraph (a), an actuarial valuation of the retirement plan must be made at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. Such valuation shall be prepared by an enrolled actuary, subject to the following conditions:

1. The assets shall be valued as provided in s. 112.625(7).

2. The cost of the actuarial valuation must be paid by the individual firefighters' retirement fund or by the sponsoring municipality or special fire control district.

3. A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the division within 3 months after the date of valuation. If any benefits are insured with a commercial insurance company, the report must include a statement of the relationship of the retirement plan benefits to the insured benefits, the name of the insurer, the basis of premium rates, and the mortality table, interest rate, and method used in valuing the retirement benefits.

History.—s. 1, ch. 63-249; s. 4, ch. 65-58; ss. 13, 35, ch. 69-106; s. 17, ch. 81-168; s. 15, ch. 86-41; s. 31, ch. 93-193; s. 928, ch. 95-147; s. 7, ch. 96-324; s. 27, ch. 99-1; s. 42, ch. 2001-266; s. 15, ch. 2004-305.

175.301 Depository for pension funds.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, all funds of the firefighters' pension trust fund of any chapter plan or local law plan under this chapter may be deposited by the board of trustees with the treasurer of the municipality or special fire control district, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality or special fire control district. However, any funds so deposited with the treasurer of the municipality or special fire control district shall be kept in a separate fund by the treasurer or clearly identified as such funds of the firefighters' pension trust fund. In lieu thereof, the board of trustees shall deposit the funds of the firefighters' pension trust fund in a qualified public depository as defined in s. 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of chapter 280.

History.—s. 1, ch. 63-249; s. 19, ch. 81-168; s. 17, ch. 86-41; s. 2, ch. 88-185; s. 33, ch. 93-193; s. 930, ch. 95-147; s. 29, ch. 99-1.

175.311 Municipalities, special fire control districts, and boards independent of each other.—In the enforcement and interpretation of the provisions of this chapter for any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, each municipality and each special fire control district shall be independent of any other municipality or special fire control district, and the board of trustees of the firefighters' pension trust fund of each municipality and each special fire control district shall function for the municipality or special fire control district that it serves as trustee. Each board of trustees shall be independent of the municipality or special fire control district for which it serves as board of trustees to the extent required to accomplish the intent, requirements, and responsibilities provided for in this chapter.

History.—s. 1, ch. 63-249; s. 4, ch. 79-380; s. 18, ch. 86-41; s. 34, ch. 93-193; s. 30, ch. 99-1.

175.333 Discrimination in benefit formula prohibited; restrictions regarding designation of joint annuitants.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) No plan shall discriminate in its benefit formula based on color, national origin, sex, or marital status.

(2)(a) If a plan offers a joint annuitant option and the member selects such option, or if a plan specifies that the member's spouse is to receive the benefits that continue to be payable upon the death of the member, then, in both of these cases, after retirement benefits have commenced, a retired member may change his or her designation of joint annuitant or beneficiary only twice.

(b) Any retired member who desires to change his or her joint annuitant or beneficiary shall file with the board of trustees of his or her plan a notarized notice of such change either by registered letter or on such form as is provided by the administrator of the plan. Upon receipt of a completed change of joint annuitant form or such other notice, the board of trustees shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. Nothing herein shall preclude a plan from actuarially adjusting benefits or offering options based upon sex, age, early retirement, or disability.

(3) Eligibility for coverage under the plan must be based upon length of service or attained age, or both, and benefits must be determined by a nondiscriminatory formula based upon:

(a) Length of service and compensation; or

(b) Length of service.

History.—s. 4, ch. 79-380; s. 19, ch. 86-41; s. 932, ch. 95-147; s. 33, ch. 99-1.

175.341 Duties of Division of Retirement; rulemaking authority; investments by State Board of Administration.—

(1) The division shall be responsible for the daily oversight and monitoring for actuarial soundness of the firefighters' pension plans, whether chapter or local law plans, established under this chapter, for receiving and holding the premium tax moneys collected under this chapter, and, upon determining compliance with the provisions of this chapter, for disbursing those moneys to the firefighters' pension plans. The funds necessary to pay expenses for such administration shall be annually appropriated from the interest and investment income earned on moneys deposited in the trust fund.

(2) The State Board of Administration shall invest and reinvest the moneys in the trust fund collected under this chapter in accordance with ss. 215.44-215.53. Costs incurred by the board in carrying out the provisions of this subsection shall be deducted from the interest and investment income accruing to the trust fund.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 36, ch. 93-193; s. 3, ch. 95-250; s. 11, ch. 98-200; s. 34, ch. 99-1; s. 48, ch. 2012-116.

175.351 Municipalities and special fire control districts that have their own retirement plans for firefighters.—In order for a municipality or special fire control district that has its own retirement plan for firefighters, or for firefighters and police officers if both are included, to participate in the distribution of the tax fund established under s. 175.101, a local law plan must meet minimum benefits and minimum standards, except as provided in the mutual consent provisions in paragraph (1)(g) with respect to the minimum benefits not met as of October 1, 2012.

(1) If a municipality has a retirement plan for firefighters, or for firefighters and police officers if both are included, which in the opinion of the division meets minimum benefits and minimum standards, the board of trustees of the retirement plan must place the income from the premium tax in s. 175.101 in such plan for the sole and exclusive use of its firefighters, or for firefighters and police officers if both are included, where it shall become an integral part of that plan and be used to fund benefits as provided herein. Effective October 1, 2015, for noncollectively bargained service or upon entering into a collective bargaining agreement on or after July 1, 2015:

(a) The base premium tax revenues 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.

(b) Of the additional premium tax revenues received that are in excess of the amount received for the 2012 calendar year, 50 percent 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, and 50 percent must be placed in a defined contribution plan to fund special benefits.

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

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

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

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

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

(2) The premium tax provided by this chapter must be used in its entirety to provide retirement benefits to firefighters, or to firefighters and police officers if both are included.

Local law plans created by special act before May 27, 1939, are deemed to comply with this chapter.

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

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

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

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

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

(6) In addition to the defined benefit plan component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2015, for noncollectively 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. Depending upon the application of subsection (1), a defined contribution plan component may or may not receive any funding.

(7) Notwithstanding any other provision of this chapter, a municipality or special fire control district that has implemented or proposed changes to a local law plan based on the municipality’s or district’s reliance on an interpretation of this chapter by the Department of Management Services on or after August 14, 2012, and before March 3, 2015, may continue the implemented changes or continue to implement proposed changes. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality or district and the Department of Management Services which describes the specific changes to the local law plan, with the initial proposal, agreement, or correspondence from the municipality or district dated before March 3, 2015. Changes to the local law plan which are otherwise contrary to minimum benefits and minimum standards may continue in effect until the earlier of October 1, 2018, or the

effective date of a collective bargaining agreement that is contrary to the changes to the local law plan.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 5, ch. 79-380; s. 21, ch. 81-168; s. 47, ch. 83-217; s. 20, ch. 86-41; s. 37, ch. 93-193; s. 933, ch. 95-147; s. 35, ch. 99-1; s. 4, ch. 2002-66; s. 5, ch. 2004-21; s. 7, ch. 2011-216; s. 7, ch. 2015-39.

175.361 Termination of plan and distribution of fund.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the plan may be terminated by the municipality or special fire control district. Upon termination of the plan by the municipality or special fire control district for any reason or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in chapter 121, or upon written notice by the municipality or special fire control district to the board of trustees that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the municipality or special fire control district if additional assets are required, in which event the municipality or special fire control district shall continue to financially support the plan until all nonforfeitable benefits have been funded.

(2) The board of trustees shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each firefighter entitled to benefits under the plan as specified in subsection (3).

(3) The board of trustees shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

(4) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the municipality or special fire control district, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the municipality or special fire control district and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality or special fire control district and the state.

(5) The board of trustees shall distribute, in accordance with subsection (2), the amounts determined under subsection (3).

If, after 24 months after the date the plan terminated or the date the board received written notice that the contributions thereunder were being permanently discontinued, the municipality or special fire control district or the board of trustees of the firefighters' pension trust fund affected has not complied with all the provisions in this section, the Department of Management Services shall effect the termination of the fund in accordance with this section.

History.—s. 1, ch. 63-249; s. 5, ch. 65-58; s. 22, ch. 81-168; s. 48, ch. 83-217; s. 21, ch. 86-41; s. 38, ch. 93-193; s. 934, ch. 95-147; s. 36, ch. 99-1; s. 8, ch. 2009-97.

175.371 Transfer to another state retirement system; benefits payable.— For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) Any firefighter who has a vested right to benefits under a pension plan created pursuant to the provisions of this chapter 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 for which benefits are paid under the provisions of the pension plan created pursuant to this chapter.

(2) When every active participant in any pension plan created pursuant to this chapter elects to transfer to another state retirement system, the pension plan created pursuant to this chapter shall be terminated and the assets distributed in accordance with s. 175.361. If some participants in a pension plan created pursuant to this chapter elect to transfer to another state retirement system and other participants elect to remain in the existing plan created pursuant to this chapter, the plan created pursuant to this chapter shall continue to receive state premium tax moneys until fully funded. If the plan is fully funded at a particular valuation date and not fully funded at a later valuation date, the plan shall resume receipt of state premium tax moneys until the plan is once again fully funded. "Fully funded" means that the present value of all benefits, accrued and projected, is less than the available assets and the present value of future member contributions and future plan sponsor contributions on an actuarial entry age cost funding basis. Effective May 31, 1998, for plans discussed herein, the plan shall remain in effect until the final benefit payment has been made to the last participant or beneficiary and shall then be terminated in accordance with s. 175.361.

History.—s. 22, ch. 86-41; s. 37, ch. 99-1; s. 5, ch. 2002-66.

175.381 Applicability.—This act shall apply to all municipalities, special fire control districts, chapter plans, local law municipalities, local law special fire control districts, or local law plans presently existing or to be created pursuant to this chapter. Those plans presently existing pursuant to s. 175.351 and not in compliance with the provisions of this act must comply no later than December 31, 1999. However, the plan sponsor of any plan established by special act of the Legislature shall have until July 1, 2000, to comply with the provisions of this act, except as otherwise provided in this act with regard to establishment and election of board members. The provisions of this act shall be construed to establish minimum standards and minimum benefit levels, and nothing contained in this act or in chapter 175 shall operate to reduce presently existing rights or benefits of any firefighter, directly, indirectly, or otherwise.

History.—s. 23, ch. 86-41; s. 38, ch. 99-1.

175.401 Retiree health insurance subsidy.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. In addition, special fire control districts may, by resolution, establish and administer locally funded health insurance subsidy programs. Pursuant thereto:

(1) PURPOSE.—The purpose of this section is to allow municipalities and special fire control districts the option to use premium tax moneys, as provided for under this chapter, to establish and administer health insurance subsidy programs which will provide a monthly subsidy payment to retired members of any firefighters' pension trust fund system or plan as provided under this chapter, or to beneficiaries who are spouses or financial dependents entitled to receive benefits under such a plan, in order to assist such retired members or beneficiaries in paying the costs of health insurance.

(2) RETIREE HEALTH INSURANCE SUBSIDY TRUST FUNDS; ESTABLISHMENT AND TERMINATION.—

(a) Any municipality or special fire control district having a firefighters' pension trust fund system or plan as provided under this chapter may, in its discretion, establish by ordinance or resolution, as appropriate, a trust fund to be known as the firefighters' retiree health insurance subsidy trust fund. This fund may be a separate account established for such purpose in the existing firefighters' pension fund, provided that all funds deposited in such account are segregated from, and not commingled with, pension funds or other public moneys and that the account otherwise conforms to the requirements of subsection (8). The trust fund shall be used to account for all moneys received and disbursed pursuant to this section.

(b) Prior to the second reading of the ordinance before the municipal legislative body, or of the resolution before the governing body of the special fire control district, an actuarial valuation must be performed by an enrolled actuary as provided in s. 112.63, and copies of the valuation and the proposed implementing ordinance or resolution shall be furnished to the division.

(c) The subsidy program may, at the discretion of the municipal governing body, be permanently discontinued by municipal ordinance, and at the discretion of the governing body of a special fire control district may be permanently discontinued by resolution, at any time, subject to the requirements of any applicable collective bargaining agreement, in the same manner and subject to the same conditions established for plan termination and fund distribution under s. 175.361.

(3) FUNDING.—Trust funds established pursuant to this section shall be funded in the following manner:

(a) By payment to the fund of an amount equivalent to one-half of the net increase over the previous tax year in the premium tax funds provided for in this chapter, said amount to be established in the implementing ordinance or resolution.

(b) By no less than one-half of 1 percent of the base salary of each firefighter, for so long as the firefighter is employed and covered by a pension plan established pursuant to this chapter. The municipality or special fire control district, with approval of the board of trustees, may increase member contributions if needed to fund benefits greater than the minimums established in this section.

(c) By payment by the municipality or special fire control district, on at least a quarterly basis, of whatever sum is determined necessary to maintain the actuarial soundness of the fund in accordance with s. 112.64.

Such contributions and payments shall be submitted to the board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local law plans established under s. 175.351, and deposited in the firefighters' retiree health insurance subsidy trust fund, in the same manner and subject to the same time constraints as provided under s. 175.131.

(4) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who has contributed to the retiree health insurance subsidy trust fund and retires under a firefighters' pension trust fund system or plan as provided under this chapter, including any local law plan as provided under s. 175.351, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under such a plan, is eligible for health insurance subsidy payments provided under this section. However, the fund, with approval of the board of trustees and approval of the municipality or special fire control district, may provide coverage to retirees and beneficiaries when the retirees have not contributed to the fund as provided in subsection (3). Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the board of trustees of the firefighters' pension trust fund.

(5) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—Beginning on the effective date established in the implementing ordinance or resolution, each eligible retiree, or beneficiary who is a spouse or financial dependent thereof, shall receive a monthly retiree health insurance subsidy payment equal to the aggregate number of years of service, as defined in s. 175.032, completed at the time of retirement multiplied by an amount determined in the implementing ordinance or resolution, but no less than $3 for each year of service. Nothing herein shall be construed to restrict the plan sponsor from establishing, in the implementing ordinance or resolution, a cap of no less than 30 years upon the number of years' service for which credit will be given toward a health insurance subsidy or a maximum monthly subsidy amount.

(6) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning on the effective date established in the implementing ordinance or resolution, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members, or their eligible beneficiaries, by the board of trustees of the firefighters' pension

trust fund, or the plan trustees in the case of local law plans established under s. 175.351, in the same manner as provided by s. 175.071(1)(c) for drafts upon the pension fund.

(7) INVESTMENT OF THE TRUST FUND.—The trustees of the firefighters' pension trust fund, or the plan trustees in the case of local law plans established under s. 175.351, are hereby authorized to invest and reinvest the funds of the firefighters' retiree health insurance subsidy trust fund in the same manner and subject to the same conditions as apply hereunder to the investment of firefighters' pension funds under s. 175.071.

(8) DEPOSIT OF HEALTH INSURANCE SUBSIDY FUNDS.—All funds of the health insurance subsidy fund may be deposited by the board of trustees with the treasurer of the municipality or special fire control district, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality or special fire control district. Any funds so deposited shall be segregated by the treasurer in a separate fund, clearly identified as funds of the health insurance subsidy fund. In lieu thereof, the board of trustees shall deposit the funds of the health insurance subsidy fund in a qualified public depository as defined in s. 280.02, which shall conform to and be bound by the provisions of chapter 280 with regard to such funds. In no case shall the funds of the health insurance subsidy fund be deposited in any financial institution, brokerage house trust company, or other entity that is not a public depository as provided by s. 280.02.

(9) SEPARATION FROM SERVICE; REFUNDS.—Any firefighter who terminates employment with a municipality or special fire control district having a retiree health insurance subsidy trust fund system or plan as provided under this section shall be entitled to a refund of all employee contributions he or she made to that trust fund, without interest, regardless of whether the firefighter has vested for purposes of retirement. Any firefighter who has vested for purposes of retirement in the service of the municipality or special fire control district, and has contributed to the firefighters' retiree health insurance subsidy trust fund for so long as he or she was eligible to make such contributions, may, in his or her discretion, elect to leave his or her accrued contributions in the fund, whereupon, such firefighter shall, upon retiring and commencing to draw retirement benefits, receive a health insurance subsidy based upon his or her aggregate number of years of service, as defined in s. 175.032.

(10) ADMINISTRATION OF SYSTEM; ACTUARIAL VALUATIONS; AUDITS; RULES; ADMINISTRATIVE COSTS.—The board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local law plans established under s. 175.351, shall be solely responsible for administering the health insurance subsidy trust fund. Pursuant thereto:

(a) As part of its administrative duties, no less frequently than every 3 years, the board shall have an actuarial valuation of the firefighters' retiree health insurance subsidy trust fund prepared as provided in s. 112.63 by an enrolled actuary, covering the same reporting period or plan year used for the firefighters' pension plan, and shall submit a report of the valuation, including actuarial assumptions and type and basis of funding, to the division.

(b) By February 1 of each year, the trustees shall file a report with the division, containing an independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(c) The trustees may adopt such rules and regulations as are necessary for the effective and efficient administration of this section.

(d) At the discretion of the plan sponsor, the cost of administration may be appropriated from the trust fund or paid directly by the plan sponsor.

(11) BENEFITS.—Subsidy payments shall be payable under the firefighters' retiree health insurance subsidy program only to participants in the program or their beneficiaries. Such subsidy payments shall not be subject to assignment, execution, or attachment or to any legal process whatsoever, and shall be in addition to any other benefits to which eligible recipients are entitled under any workers' compensation law, pension law, collective bargaining agreement, municipal or county ordinance, or any other state or federal statute.

(12) DISTRIBUTION OF PREMIUM TAXES; COMPLIANCE REQUIRED.—Premium tax dollars for which spending authority is granted under this section shall be distributed from the Police and Firefighters' Premium Tax Trust Fund and remitted annually to municipalities and special fire control districts in the same manner as provided under this chapter for firefighters' pension funds. Once a health insurance subsidy plan has been implemented by a municipality or special fire control district under this section, in order for the municipality or special fire control district to participate in the distribution of premium tax dollars authorized under this section, all provisions of this section, including state acceptance pursuant to part VII of chapter 112, shall be complied with, and said premium tax dollars may be withheld for noncompliance.

History.—s. 1, ch. 92-51; s. 39, ch. 93-193; s. 12, ch. 94-259; s. 1451, ch. 95-147; s. 4, ch. 95-250; s. 40, ch. 99-1.

175.411 Optional participation.—A municipality or special fire control district may revoke its participation under this chapter by rescinding the legislative act, ordinance, or resolution which assesses and imposes the taxes authorized in s. 175.101, and by furnishing a certified copy of such legislative act, ordinance, or resolution to the division. Thereafter, the municipality or special fire control district shall be prohibited from participating under this chapter, and shall not be eligible for future premium tax moneys. Premium tax moneys previously received shall continue to be used for the sole and exclusive benefit of firefighters, or firefighters and police officers where included, and no amendment, legislative act, ordinance, or resolution shall be adopted which shall have the effect of reducing the then-vested accrued benefits of the firefighters, retirees, or their beneficiaries. The municipality or special fire control district shall continue to furnish an annual report to the division as provided in s. 175.261. If the municipality or special fire control district subsequently terminates the defined benefit plan, they shall do so in compliance with the provisions of s. 175.361.

History.—s. 81, ch. 99-1.

CHAPTER 185 MUNICIPAL POLICE PENSIONS

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185.01 Legislative declaration.—

(1) It is hereby found and declared by the Legislature that police officers as hereinafter defined perform both state and municipal functions; that they make arrests for violations of state traffic laws on public highways; that they keep the public peace; that they conserve both life and property; and that their activities are vital to public welfare of this state. Therefore the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of police officers as hereinafter defined and intends, in implementing the provisions of s. 14, Art. X of the State Constitution as they relate to municipal police officers' retirement trust fund systems and plans, that such retirement systems or plans be managed, administered, operated, and funded in such manner as to maximize the protection of police officers' retirement trust funds. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

(2) This chapter hereby establishes, for all municipal pension plans provided for under this chapter, including chapter plans and local law plans, minimum benefits and minimum standards for the operation and funding of such plans, hereinafter referred to as municipal police officers' retirement trust funds, which must be met as conditions precedent to the plan or plan sponsor's receiving a distribution of insurance premium tax revenues under s. 185.10. Minimum benefits and minimum standards for each plan may not be diminished by local ordinance or by special act of the Legislature and may not be reduced or offset by any other local, state, or federal plan that includes police officers in its operation, except as provided under s. 112.65.

History.—s. 1, ch. 28230, 1953; s. 1, ch. 86-42; s. 41, ch. 99-1; s. 8, ch. 2015-39.

185.015 Short title.—This chapter may be cited as the "Marvin B. Clayton Police Officers Pension Trust Fund Act."

History.—s. 3, ch. 2004-21.

185.02 Definitions.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the term:

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

(2) "Average final compensation" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service before retirement, termination, or death.

(3) "Base premium tax revenues" means:

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

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

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

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

(6) "Compensation" or "salary" means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including "overtime" paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. Overtime may be limited before July 1, 2011, in a local law plan by the plan provisions. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

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

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

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

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

(a) A police officer may not receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the police officer repays into the fund the amount he or she has withdrawn, plus interest as determined by the board. The member has at least 90 days after his or her reemployment to make repayment.

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

(c) Credited service under this chapter shall be provided only for service as a police officer or for military service and may not include credit for any other type of service. A municipality, by local ordinance, may provide for the purchase of credit for military service occurring before employment as well as prior service as a police officer for some other employer as long as the police officer is not entitled to receive a benefit for such prior service. For purposes of determining credit for prior service, in addition to service as a police officer in this state, credit may be given for federal, other state, or county service as long as such service is recognized by the Criminal Justice Standards and Training Commission within the Department of Law Enforcement as provided in chapter 943 or the police officer provides proof to the board of trustees that such service is equivalent to the service required to meet the definition of a police officer.

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

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

2. The police officer is entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act.

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

(8) “Deferred Retirement Option Plan” or “DROP” means a local law plan retirement option in which a police officer may elect to participate. A police officer may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with his or her employer. However, a police officer who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.

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

(10) “Division” means the Division of Retirement of the Department of Management Services.

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

(12) “Local law municipality” means any municipality in which a local law plan exists.

(13) “Local law plan” means a retirement plan that includes both a defined benefit plan component and a defined contribution plan component for police officers, or for police officers and firefighters if both are included, as described in s. 185.35, established by municipal ordinance or special act of the Legislature, which sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if minimum benefits and minimum standards are met. However, any such variance must provide a greater benefit for police officers. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 185.221(2)(b).

(14) “Minimum benefits” means the benefits specified in ss. 185.01-185.341 and ss. 185.37-185.50.

(15) “Minimum standards” means the standards specified in ss. 185.01-185.50.

(16) “Police officer” means any person who is elected, appointed, or employed full time by a municipality, who is certified or required to be certified as a law enforcement officer in compliance with s. 943.1395, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as those terms are defined in s. 943.10. For the purposes of this chapter only, the term also includes a public safety officer who is responsible for performing both police and fire services. Any plan may provide that the police chief shall have an option to participate in that plan.

(17) “Police Officers’ Retirement Trust Fund” means a trust fund, by whatever name known, as provided under s. 185.03 for the purpose of assisting municipalities in establishing and maintaining a retirement plan for police officers.

(18) “Retiree” or “retired police officer” means a police officer who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a police officer who enters the DROP is considered a retiree for all purposes of the plan. However, a police officer who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.

(19) “Retirement” means a police officer’s separation from municipal employment as a police officer with immediate eligibility for benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), “retirement” means the date a police officer enters the DROP.

(20) “Special act plan” means a plan subject to the provisions of this chapter which was created by an act of the Legislature and continues to require an act of the Legislature to alter plan benefits.

(21) “Special benefits” means benefits provided in a defined contribution plan component for police officers.

(22) “Supplemental plan” means a plan to which deposits of the premium tax moneys as provided in s. 185.08 are made to provide special benefits to police officers, or police officers and firefighters if both are included. Such a plan is an element of a local law plan and exists in conjunction with a defined benefit plan component that meets minimum benefits and minimum standards. Any supplemental plan in existence on March 1, 2015, shall be deemed to be a defined contribution plan in compliance with s. 185.35(6).

(23) “Supplemental plan municipality” means a local law municipality in which any supplemental plan existed as of December 1, 2000.

History.—s. 11, ch. 28230, 1953; s. 1, ch. 29825, 1955; s. 1, ch. 59-320; s. 1, ch. 61-85; s. 7, ch. 79-380; s. 2, ch. 79-388; s. 2, ch. 86-42; s. 43, ch. 91-45; s. 40, ch. 93-193; s. 939, ch. 95-147; s. 14, ch. 95-154; s. 42, ch. 99-1; s. 28, ch. 2000-151; s. 3, ch. 2000-159; s. 2, ch. 2002-66; s. 9, ch. 2009-97; s. 8, ch. 2011-216; s. 9, ch. 2015-39.

185.03 Municipal police officers' retirement trust funds; creation; applicability of provisions; participation by public safety officers.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) There shall be established a special fund exclusively for the purpose of this chapter, which in the case of chapter plans shall be known as the "Municipal Police Officers' Retirement Trust Fund," in each municipality of this state, heretofore or hereafter created, which now has or which may hereafter have a regularly organized police department, and which now owns and uses or which may hereafter own and use equipment and apparatus of a value exceeding $500 in serviceable condition for the prevention of crime and for the preservation of life and property.

(2)(a) This chapter applies only to municipalities organized and established pursuant to the laws of the state and does not apply to the unincorporated areas of a county or to a governmental entity whose police officers are eligible to participate in the Florida Retirement System.

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

(3) No municipality shall establish more than one retirement plan for public safety officers which is supported in whole or in part by the distribution of premium tax funds as provided by this chapter or chapter 175, nor shall any municipality establish a retirement plan for public safety officers which receives premium tax funds from both this chapter and chapter 175.

History.—s. 1, ch. 28230, 1953; s. 2, ch. 29825, 1955; s. 2, ch. 61-119; s. 1, ch. 65-152; s. 7, ch. 79-380; s. 2, ch. 79-388; s. 3, ch. 86-42; s. 43, ch. 99-1; s. 1, ch. 2014-28.

185.04 Actuarial deficits not state obligations.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, actuarial deficits, if any, arising under this chapter are not the obligation of the state.

History.—s. 1b, ch. 28230, 1953; s. 44, ch. 99-1.

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

(1) In each municipality described in s. 185.03 there is hereby created a board of trustees of the municipal police officers' retirement trust fund, which shall be solely responsible for administering the trust fund. Effective October 1, 1986, and thereafter:

(a) The membership of the board of trustees for chapter plans consists of five members, two of whom, unless otherwise prohibited by law, must be legal residents of the municipality and must be appointed by the legislative body of the municipality, and two of whom must be police officers as defined in s. 185.02 who are elected by a majority of the active police officers who are members of such plan. With respect to any chapter plan or local law plan that, on January 1, 1997, allowed retired police officers to vote in such elections, retirees may continue to vote in such elections. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the legislative body of the municipality. Upon receipt of the fifth person's name, the legislative body shall, as a ministerial duty, appoint such person to the board of trustees. The fifth member shall have the same rights as each of the other four members appointed or elected, shall serve as trustee for a period of 2 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the legislative body at whose pleasure the member serves, and may succeed himself or herself as a trustee. Each police officer member shall serve as trustee for a period of 2 years, unless he or she sooner leaves the employment of the municipality as a police officer, whereupon a successor shall be chosen in the same manner as an original appointment. Each police officer may succeed himself or herself in office. The terms of office of the appointed and elected members of the board of trustees may be amended by municipal ordinance or special act of the Legislature to extend the terms from 2 years to 4 years. The length of the terms of office shall be the same for all board members.

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

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

2. If a municipality has a pension plan for police officers and firefighters, the provisions of paragraph (a) apply, except that one member of the board shall be a police officer and one member shall be a firefighter as defined in s. 175.032, respectively, elected by a majority of the active firefighters and police officers who are members of the plan.

3. Any board of trustees operating a local law plan on July 1, 1999, which is combined with a plan for general employees shall hold an election of the police officers, or police officers and firefighters if included, to determine whether a plan is to be established for police officers only, or for police officers and firefighters where included. Based on the election results, a new board shall be established as provided in subparagraph 1. or subparagraph 2., as appropriate. The municipality shall enact an ordinance to implement the new board by October 1, 1999. The newly established board shall take whatever action is necessary to determine the amount of assets which is attributable to police officers, or police officers and firefighters where included. Such assets shall include all employer, employee, and state contributions made by or on behalf of police officers, or police officers and firefighters where

included, and any investment income derived from such contributions. All such moneys shall be transferred into the newly established retirement plan, as directed by the board.

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

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

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

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

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

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

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

(6) The board of trustees may, upon written request by the retiree of the plan, or by a dependent, if authorized by the retiree or the retiree's beneficiary, authorize the plan administrator to withhold from the monthly retirement payment funds necessary to pay for the benefits being received through the governmental entity from which the employee retired, to pay the certified bargaining agent of the governmental entity, and to make any

payments for child support or alimony. Upon the written request of the retiree of the plan, the board of trustees may also authorize the plan administrator to withhold from the retirement payment those funds necessary to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents. A retirement plan does not incur liability for participation in this permissive program if its actions are taken in good faith.

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

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

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

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

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

History.—s. 2, ch. 28230, 1953; s. 2, ch. 59-320; s. 2, ch. 61-119; s. 4, ch. 86-42; s. 41, ch. 93-193; s. 940, ch. 95-147; s. 45, ch. 99-1; s. 6, ch. 2002-66; s. 8, ch. 2004-21; s. 10, ch. 2009-97; s. 9, ch. 2011-216; s. 10, ch. 2015-39.

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

(1) The board of trustees, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11 and the Code of Ethics in ss. 112.311-112.3187, may:

(a) Invest and reinvest the assets of the retirement trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the municipal police officers' retirement trust fund are entitled under this chapter, and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the retirement trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings and loan association insured by the Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided:

a. The corporation is listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service; and

b. The board of trustees may not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of the company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the fund's assets.

This paragraph applies to all boards of trustees and participants. However, if a municipality has a duly enacted pension plan pursuant to, and in compliance with, s. 185.35 and the trustees desire to vary the investment procedures, the trustees of such plan shall request a variance of the investment procedures as outlined herein only through a municipal ordinance or special act of the Legislature; if a special act, or a municipality by ordinance adopted before July 1, 1998, permits a greater than 50-percent equity investment, such municipality is not required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law, this section may not be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. Notwithstanding any other provision of law, the board of trustees may invest up to 25 percent of plan assets in foreign securities on a market-value basis. The investment cap on foreign securities may not be revised, amended, repealed, or increased except as provided by general law.

(c) Issue drafts upon the municipal police officers' retirement trust fund pursuant to this act and rules prescribed by the board of trustees. All such drafts shall be consecutively numbered, be signed by the chair and secretary or by two individuals designated by the board who are subject to the same fiduciary standards as the board of trustees under this subsection, and state upon their faces the purposes for which the drafts are drawn. The city treasurer or other depository shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money may otherwise be drawn from the fund.

(d) Finally decide all claims to relief under the board's rules and regulations and pursuant to the provisions of this act.

(e) Convert into cash any securities of the fund.

(f) Keep a complete record of all receipts and disbursements and of the board's acts and proceedings.

(2) Any and all acts and decisions shall be effectuated by vote of a majority of the members of the board; however, no trustee shall take part in any action in connection with

his or her own participation in the fund, and no unfair discrimination shall be shown to any individual employee participating in the fund.

(3) The secretary of the board of trustees shall keep a record of all persons receiving retirement payments under the provisions of this chapter, in which shall be noted the time when the pension is allowed and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all police officers employed by the municipality. The record shall show the name, address, and time of employment of such police officer and when he or she ceases to be employed by the municipality.

(4) The sole and exclusive administration of, and the responsibilities for, the proper operation of the retirement trust fund and for making effective the provisions of this chapter are vested in the board of trustees; however, nothing herein shall empower a board of trustees to amend the provisions of a retirement plan without the approval of the municipality. The board of trustees shall keep in convenient form such data as shall be necessary for an actuarial valuation of the retirement trust fund and for checking the actual experience of the fund.

(5)(a) At least once every 3 years, the board of trustees shall retain a professionally qualified independent consultant who shall evaluate the performance of any existing professional money manager and shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in the same manner as for any meeting of the board.

(b) For the purpose of this subsection, the term “professionally qualified independent consultant” means a consultant who, based on education and experience, is professionally qualified to evaluate the performance of professional money managers, and who, at a minimum:

1. Provides his or her services on a flat-fee basis.

2. Is not associated in any manner with the money manager for the pension fund.

3. Makes calculations according to the American Banking Institute method of calculating time-weighted rates of return. All calculations must be made net of fees.

4. Has 3 or more years of experience working in the public sector.

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

(a) Employ independent legal counsel at the pension fund’s expense.

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

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

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

(7) Notwithstanding paragraph (1)(b) and as provided in s. 215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in that section, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed by September 10, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by s. 215.473, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this subsection.

History.—s. 3, ch. 28230, 1953; s. 1, ch. 57-118; s. 3, ch. 59-320; s. 2, ch. 61-119; s. 1, ch. 65-366; ss. 22, 35, ch. 69-106; s. 5, ch. 86-42; s. 941, ch. 95-147; s. 2, ch. 98-134; s. 67, ch. 99-2; s. 18, ch. 99-392; s. 29, ch. 2000-151; s. 11, ch. 2009-97; s. 19, ch. 2010-5; s. 11, ch. 2015-39.

185.061 Use of annuity or insurance policies.—When the board of trustees of any municipality, chapter plan, local law municipality, or local law plan purchases annuity or life insurance contracts to provide all or part of the benefits promised by this chapter, the following principles shall be observed:

(1) Only those officers who have been members of the retirement trust fund for 1 year or longer may be included in the insured plan.

(2) Individual policies shall be purchased only when a group insurance plan is not feasible.

(3) Each application and policy shall designate the pension fund as owner of the policy.

(4) Policies shall be written on an annual premium basis.

(5) The type of policy shall be one which for the premium paid provides each individual with the maximum retirement benefit at his or her earliest statutory normal retirement age.

(6) Death benefit, if any, should not exceed:

(a) One hundred times the estimated normal monthly retirement income, based on the assumption that the present rate of compensation continues without change to normal retirement date, or

(b) Twice the annual rate of compensation as of the date of termination of service, or

(c) The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service, whichever is greatest.

(7) An insurance plan may provide that the assignment of insurance contract to separating officer shall be at least equivalent to the return of the officer’s contributions used to purchase the contract. An assignment of contract discharges the municipality from all further obligation to the participant under the plan even though the cash value of such contract may be less than the employee’s contributions.

(8) Provisions shall be made, either by issuance of separate policies, or otherwise, that the separating officer does not receive cash values and other benefits under the policies assigned to the officer which exceed the present value of his or her vested interest under the retirement plan, inclusive of the officer’s contribution to the plan; the contributions by the state shall not be exhausted faster merely because the method of funding adopted was through insurance companies.

(9) The police officer shall have the right at any time to give the board of trustees written instructions designating the primary and contingent beneficiaries to receive death benefit or proceeds and the method of the settlement of the death benefit or proceeds, or requesting a change in the beneficiary, designation or method of settlement previously made, subject to the terms of the policy or policies on the officer’s life. Upon receipt of such written instructions, the board of trustees shall take the necessary steps to effectuate the designation or change of beneficiary or settlement option.

History.—s. 4, ch. 59-320; s. 2, ch. 61-119; s. 942, ch. 95-147; s. 46, ch. 99-1.

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

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

(a) By the net proceeds of the .85-percent excise tax which may be imposed by the respective cities and towns upon certain casualty insurance companies on their gross receipts of premiums from holders of policies, which policies cover property within the corporate limits of such municipalities, as is hereinafter expressly authorized.

(b) Except as reduced or increased contributions are authorized by subsection (2), by the payment to the fund of 5 percent of the salary of each full-time police officer duly appointed and enrolled as a member of such police department, which 5 percent shall be deducted by the municipality from the compensation due to the police officer and paid over to the board of trustees of the retirement trust fund wherein such police officer is employed. No police officer shall have any right to the money so paid into the fund except as provided in this chapter.

(c) By all fines and forfeitures imposed and collected from any police officer because of the violation of any rule adopted by the board of trustees.

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

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

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

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

(2) Member contribution rates may be adjusted as follows:

(a) The employing municipality, by local ordinance, may elect to make an employee's contributions. However, under no circumstances may a municipality reduce the member contribution to less than one-half of 1 percent of salary.

(b) Police officer member contributions may be increased by consent of the members' collective bargaining representative or, if none, by majority consent of police officer members of the fund.

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

History.—s. 4, ch. 28230, 1953; s. 3, ch. 29825, 1955; s. 5, ch. 59-320; s. 2, ch. 61-119; s. 6, ch. 86-42; s. 943, ch. 95-147; s. 5, ch. 95-250; s. 47, ch. 99-1; s. 10, ch. 2011-216; s. 12, ch. 2015-39.

185.08 State excise tax on casualty insurance premiums authorized; procedure.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1)(a) Each incorporated municipality in this state described and classified in s. 185.03, as well as each other city or town of this state which on July 31, 1953, had a lawfully established municipal police officers' retirement trust fund or city fund, by whatever name known, providing pension or relief benefits to police officers as provided under this chapter, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereafter engage in or carry on, the business of casualty insurance as shown by records of the Office of Insurance Regulation of the Financial Services Commission, an excise tax in addition to any lawful license or excise tax now levied by each of the municipalities, respectively, amounting to .85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on casualty insurance policies covering property within the corporate limits of such municipalities, respectively.

(b) This section applies to a municipality consisting of a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, and to casualty insurance policies covering property within the boundaries of the consolidated government, regardless of whether the properties are located within one or more separately incorporated areas within the consolidated government, and provided the properties are being provided with police protection services by the consolidated government.

(2) In the case of multiple peril policies with a single premium for both property and casualty coverages in such policies, 30 percent of such premium shall be used as the basis for the .85-percent tax above.

(3) The excise tax shall be payable annually March 1 of each year after the passing of an ordinance assessing and imposing the tax herein authorized. Installments of taxes shall be paid according to the provisions of s. 624.5092(2)(a), (b), and (c).

History.—s. 5, ch. 28230, 1953; s. 2, ch. 61-119; s. 1, ch. 63-196; ss. 13, 35, ch. 69-106; s. 7, ch. 86-42; s. 24, ch. 87-99; s. 15, ch. 88-206; s. 11, ch. 89-167; s. 944, ch. 95-147; s. 48, ch. 99-1; s. 164, ch. 2003-261; s. 2, ch. 2014-28.

185.085 Determination of local premium tax situs.—

(1)(a) Any insurance company that is obligated to report and remit the excise tax on casualty insurance premiums imposed under s. 185.08 shall be held harmless from any liability, including, but not limited to, liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction if the insurance company exercises due diligence in applying an electronic database provided by the Department of Revenue under subsection (2). Insurance companies that do not use the electronic database provided by the Department of Revenue or that do not exercise due diligence in applying the electronic database for tax years on or after January 1, 2006, are subject to a 0.5 percent penalty on the portion of the premium pertaining to any insured risk that is improperly assigned, whether assigned to an improper local taxing jurisdiction, not assigned to a local taxing jurisdiction when it should be assigned to a local taxing jurisdiction, or assigned to a local taxing jurisdiction when it should not be assigned to a local taxing jurisdiction.

(b) Any insurance company that is obligated to report and remit the excise tax on commercial casualty insurance premiums imposed under s. 185.08 and is unable, after due diligence, to assign an insured property to a specific local taxing jurisdiction for purposes of complying with paragraph (a) shall remit the excise tax on commercial casualty insurance premiums using a methodology of apportionment in a manner consistent with the remittance for the 2004 calendar year. An insurance company which makes two contacts with the agent responsible for a commercial casualty insurance application for the purpose of verifying information on the application necessary for the assignment to the appropriate taxing jurisdiction shall be considered to have exercised due diligence. Any insurance company which complies with the provisions of this paragraph shall not be subject to the penalty provided in paragraph (a).

(2)(a) The Department of Revenue shall, subject to legislative appropriation, create as soon as practical and feasible, and thereafter shall maintain, an electronic database that conforms to any format approved by the American National Standards Institute's Accredited Standards Committee X12 and that designates for each street address and address range in the state, including any multiple postal street addresses applicable to one street location, the local taxing jurisdiction in which the street address and address range is located, and the appropriate code for each such participating local taxing jurisdiction, identified by one nationwide standard numeric code. The nationwide standard numeric code must contain the same number of numeric digits, and each digit or combination of digits must refer to the same level of taxing jurisdiction throughout the United States and must be in a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission. Each address or address range must be provided in standard postal format, including the street number, street number range, street name, and zip code. Each year after the creation of the initial database, the Department of Revenue shall annually create and maintain a database for the current tax year. Each annual database must be calendar-year specific.

(b)1. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create the electronic database as soon as practical and feasible. The information furnished to the Department of Revenue must specify an effective date.

2. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create and update the current year's database, including changes in annexations, incorporations, and reorganizations and any other changes in jurisdictional boundaries, as well as changes in eligibility to participate in the excise tax imposed under this chapter. The information must specify an effective date and must be furnished to the Department of Revenue by July 1 of the current year.

3. The Department of Revenue shall create and update the current year's database in accordance with the information furnished by participating local taxing jurisdictions under subparagraph 1. or subparagraph 2., as appropriate. To the extent practicable, the Department of Revenue shall post each new annual database on a website by September 1 of each year. Each participating local taxing jurisdiction shall have access to this website and, within 30 days thereafter, shall provide any corrections to the Department of Revenue. The Department of Revenue shall finalize the current year's database and post it on a website by November 1 of the current year. If a dispute in jurisdictional boundaries cannot be resolved so that changes in boundaries may be included, as appropriate, in the database by November 1, the changes may not be retroactively included in the current year's database and the boundaries will remain the same as in the previous year's database. The finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due on the following March 1 for the tax year 2005. For subsequent tax years, the finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due for the tax year beginning on or after the January 1 following the website posting of the database. Information contained in the electronic database is conclusive for purposes of this chapter. The electronic database is not an order, a rule, or a policy of general applicability.

4. Each annual database must identify the additions, deletions, and other changes to the preceding version of the database.

(3)(a) As used in this section, the term "due diligence" means the care and attention that is expected from and is ordinarily exercised by a reasonable and prudent person under the circumstances.

(b) Notwithstanding any law to the contrary, an insurance company is exercising due diligence if the insurance company complies with the provisions of paragraph (1)(b) or if the insurance company assigns an insured's premium to local taxing jurisdictions in accordance with the Department of Revenue's annual database and with respect to such database:

1. Expends reasonable resources to accurately and reliably implement such method;

2. Maintains adequate internal controls to correctly include in its database of policyholders the location of the property insured, in the proper address format, so that matching with the department's database is accurate; and

3. Corrects errors in the assignment of addresses to local taxing jurisdictions within 120 days after the insurance company discovers the errors.

(4) There is annually appropriated from the moneys collected under this chapter and deposited in the Police and Firefighter's Premium Tax Trust Fund an amount sufficient to pay the expenses of the Department of Revenue in administering this section, but not to exceed $50,000 annually, adjusted annually by the lesser of a 5- percent increase or the percentage of growth in the total collections.

(5) The Department of Revenue shall adopt rules necessary to administer this section, including rules establishing procedures and forms.

(6) Any insurer that is obligated to collect and remit the tax on casualty insurance imposed under s. 185.08 shall be held harmless from any liability, including, but not limited to, liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured risk to an incorrect local taxing jurisdiction, based on the collection and remission of the tax accruing before January 1, 2005, if the insurer collects and reports this tax consistent with filings for periods before January 1, 2005. Further, any insurer that is obligated to collect and remit the tax on casualty insurance imposed under this section is not subject to an examination under s. 624.316 or s. 624.3161 which would occur solely as a result of an assignment of an insured risk to an incorrect local taxing jurisdiction, based on the collection and remission of such tax accruing before January 1, 2005.

History.—s. 4, ch. 2004-21; s. 2, ch. 2009-20.

185.09 Report of premiums paid; date tax payable.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, whenever any municipality passes an ordinance establishing a chapter plan or local law plan and assessing and imposing the tax authorized in s. 185.08, a certified copy of such ordinance shall be deposited with the division; and thereafter every insurance company, corporation, or other insurer carrying on the business of casualty insuring, on or before the succeeding March 1 after date of the passage of the ordinance, shall report fully in writing to the division and the Department of Revenue a just and true account of all premiums received by such insurer for casualty insurance policies covering or insuring any property located within the corporate limits of such municipality during the period of time elapsing between the date of the passage of the ordinance and the end of the calendar year. The aforesaid insurer shall annually thereafter, on March 1, file with the Department of Revenue a similar report covering the preceding year's premium receipts. Every such insurer shall, at the time of making such report, pay to the Department of Revenue the amount of the tax heretofore mentioned. Every insurer engaged in carrying on a general casualty insurance business in the state shall keep accurate books of account of all such business done by it within the limits of such incorporated municipality in such a manner as to be able to comply with the provisions of this chapter. Based on the insurers' reports of premium receipts, the division shall prepare a consolidated premium report and shall furnish to any municipality requesting the same a copy of the relevant section of that report.

History.—s. 6, ch. 28230, 1953; s. 2, ch. 61-85; ss. 12, 13, 35, ch. 69-106; s. 42, ch. 93-193; s. 49, ch. 99-1; s. 7, ch. 2000-355.

185.10 Department of Revenue and Division of Retirement to keep accounts of deposits; disbursements.—For any municipality having a chapter plan or local law plan under this chapter:

(1) The Department of Revenue shall keep a separate account of all moneys collected for each municipality under the provisions of this chapter. All moneys so collected must be transferred to the Police and Firefighters' Premium Tax Trust Fund and shall be separately accounted for by the division. The moneys budgeted as necessary to pay the expenses of the division for the daily oversight and monitoring of the police officers' retirement plans under this chapter and for the oversight and actuarial reviews conducted under part VII of chapter 112 are annually appropriated from the interest and investment income earned on the moneys collected for each municipality or special fire control district and deposited in the Police and Firefighters' Premium Tax Trust Fund. Interest and investment income remaining thereafter in the trust fund which is unexpended and otherwise unallocated by law shall revert to the General Revenue Fund on June 30 of each year.

(2) The Chief Financial Officer shall, on or before July 1 of each year, and at such other times as authorized by the division, draw his or her warrants on the full net amount of money then on deposit pursuant to this chapter in the Police and Firefighters' Premium Tax Trust Fund, specifying the municipalities to which the moneys must be paid and the net amount collected for and to be paid to each municipality, respectively. The sum payable to each municipality is appropriated annually out of the Police and Firefighters' Premium Tax Trust Fund. The warrants of the Chief Financial Officer shall be payable to the respective municipalities entitled to receive them and shall be remitted annually by the division to the respective municipalities. In lieu thereof, the municipality may provide authorization to the division for the direct payment of the premium tax to the board of trustees. In order for a municipality and its retirement fund to participate in the distribution of premium tax moneys under this chapter, all the provisions shall be complied with annually, including state acceptance pursuant to part VII of chapter 112.

History.—s. 7, ch. 28230, 1953; s. 2, ch. 29734, 1955; s. 2, ch. 61-119; ss. 13, 35, ch. 69-106; s. 1, ch. 74-297; s. 4, ch. 85-61; s. 8, ch. 86-42; s. 43, ch. 93-193; s. 13, ch. 94-259; s. 1458, ch. 95-147; s. 6, ch. 95-250; s. 50, ch. 99-1; s. 165, ch. 2003-261.

[1]**185.105 Police and Firefighters' Premium Tax Trust Fund.—**The Police and Firefighters' Premium Tax Trust Fund is created, to be administered by the Division of Retirement of the Department of Management Services. Funds credited to the trust fund, as

provided in chapter 95-250, Laws of Florida, or similar legislation, shall be expended for the purposes set forth in that legislation.

History.—s. 1, ch. 95-249.

[1]Note.—Also published at s. 175.1215.

185.11 Funds received by municipalities, deposit in retirement trust fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, all state and other funds received by any municipality under the provisions of this chapter shall be deposited by the municipality immediately, and under no circumstances more than 5 days after receipt, with the board of trustees. In lieu thereof, the municipality may provide authorization to the division for the direct payment of the premium tax to the board of trustees. The board shall deposit such moneys in the Municipal Police Officers' Retirement Trust Fund immediately, and under no circumstances more than 5 days after receipt. Employee contributions, however, which are withheld by the employer on behalf of an employee member shall be deposited immediately after each pay period with the board of trustees of the municipal police officers' retirement trust fund. Employer contributions shall be deposited at least quarterly.

History.—s. 8, ch. 28230, 1953; s. 2, ch. 61-119; s. 9, ch. 86-42; s. 51, ch. 99-1.

185.12 Payment of excise tax credit on similar state excise or license tax.—The tax herein authorized shall in nowise be additional to the similar state excise or license tax imposed by part IV, chapter 624, but the payor of the tax hereby authorized shall receive credit therefor on his or her state excise or license tax and the balance of said state excise or license tax shall be paid to the Department of Revenue as provided by law.

History.—s. 9, ch. 28230, 1953; s. 3, ch. 61-85; ss. 13, 35, ch. 69-106; s. 10, ch. 86-42; s. 945, ch. 95-147; s. 52, ch. 99-1.

185.13 Failure of insurer to comply with chapter; penalty.—If any insurance company, corporation or other insurer fails to comply with the provisions of this chapter, on or before March 1 in each year as herein provided, the certificate of authority issued to said insurance company, corporation or other insurer to transact business in this state may be canceled and revoked by the Office of Insurance Regulation of the Financial Services Commission, and it is unlawful for any such insurance company, corporation or other insurer to transact any business thereafter in this state unless such insurance company, corporation or other insurer shall be granted a new certificate of authority to transact business in this state, in compliance with provisions of law authorizing such certificate of authority to be issued. The division shall be responsible for notifying the Office of Insurance Regulation regarding any such failure to comply.

History.—s. 10, ch. 28230, 1953; ss. 13, 35, ch. 69-106; s. 53, ch. 99-1; s. 166, ch. 2003-261.

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

(1) The normal retirement date of each police officer will be the first day of the month coincident with or next following the date on which the police officer has completed 10 or more years of creditable service and attained age 55 or completed 25 years of creditable service and attained age 52.

(2)(a) The amount of the monthly retirement income payable to a police officer who retires on or after his or her normal retirement date shall be an amount equal to the number of the police officer’s years of credited service multiplied by 2.75 percent of his or her average final compensation.

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

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

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

(3) The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the police officer’s normal retirement date, or on the first day of the month coincident with or next following the police officer’s actual retirement, if later, and the last payment will be the payment due next preceding the police officer’s death; except that, in the event the police officer dies after retirement but before receiving retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the police officer for the balance of such 10-year period, or, if no beneficiary is designated, to the estate of the police officer, as provided in s. 185.162. If a police officer continues in the service of the city beyond his or her normal retirement date and dies prior to the date of actual retirement, without an option made pursuant to s. 185.161 being in effect, monthly retirement income payments will be made for a period of 10 years to a beneficiary (or beneficiaries) designated by the police officer as if the police officer had retired on the date on which death occurred, or, if no beneficiary is designated, to the estate of the police officer, as provided in s. 185.162.

(4) Early retirement under the plan is retirement from the service of the city, with the consent of the city, as of the first day of any calendar month which is prior to the police

officer’s normal retirement date but subsequent to the date as of which the police officer has both attained the age of 50 years and completed 10 years of contributing service. In the event of early retirement, payment of retirement income will be governed as follows:

(a) The early retirement date shall be the first day of the calendar month coincident with or immediately following the date a police officer retires from the service of the city under the provisions of this section prior to his or her normal retirement date.

(b) The monthly amount of retirement income payable to a police officer who retires prior to his or her normal retirement date under the provisions of this section shall be an amount computed as described in subsection (2), taking into account his or her credited service to the date of actual retirement and his or her final monthly compensation as of such date, such amount of retirement income to be actuarially reduced to take into account the police officer’s younger age and the earlier commencement of retirement income payments. In no event shall the early retirement reduction exceed 3 percent for each year by which the member’s age at retirement preceded the member’s normal retirement age, as provided in subsection (1).

(c) The retirement income payable in the event of early retirement will be payable on the first day of each month. The first payment will be made on the police officer’s early retirement date and the last payment will be the payment due next preceding the retired police officer’s death; except that, in the event the police officer dies before receiving retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary designated by the police officer for the balance of such 10-year period, or, if no designated beneficiary is surviving, the same monthly benefit for the balance of such 10-year period shall be payable as provided in s. 185.162.

History.—s. 14, ch. 28230, 1953; s. 4, ch. 29825, 1955; s. 6, ch. 59-320; s. 5, ch. 61-85; s. 2, ch. 63-196; s. 1, ch. 70-128; s. 12, ch. 86-42; s. 946, ch. 95-147; s. 56, ch. 99-1; s. 13, ch. 2015-39.

185.161 Optional forms of retirement income.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1)(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified in s. 185.16, a police officer, upon written request to the board of trustees and subject to the approval of the board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

1. A retirement income of larger monthly amount, payable to the police officer for his or her lifetime only.

2. A retirement income of a modified monthly amount, payable to the police officer during the joint lifetime of the police officer and a joint annuitant designated by the police officer, and following the death of either of them, 100 percent, 75 percent, 662/3 percent, or 50 percent of such monthly amount payable to the survivor for the lifetime of the survivor.

3. Such other amount and form of retirement payments or benefit as, in the opinion of the board of trustees, will best meet the circumstances of the retiring police officer.

(b) The police officer upon electing any option of this section must designate the joint annuitant or beneficiary to receive the benefit, if any, payable under the plan in the event of the police officer's death, and may change such designation but any such change shall be deemed a new election and is subject to approval by the pension committee. Such designation must name a joint annuitant or one or more primary beneficiaries where applicable. If a police officer has elected an option with a joint annuitant or beneficiary and his or her retirement income benefits have commenced, he or she may change the designated joint annuitant or beneficiary but only if the board of trustees consents to such change and if the joint annuitant last designated by the police officer is alive when he or she files with the board of trustees a request for such change. The consent of a police officer's joint annuitant or beneficiary to any such change is not required. The board of trustees may request evidence of the good health of the joint annuitant being removed, and the amount of the retirement income payable to the police officer upon the designation of a new joint annuitant shall be actuarially redetermined taking into account the ages and gender of the former joint annuitant, the new joint annuitant, and the police officer. Each designation must be made in writing on a form prepared by the board of trustees and filed with the board of trustees. If no designated beneficiary survives the police officer, such benefits as are payable in the event of the death of the police officer subsequent to his or her retirement shall be paid as provided in s. 185.162.

(c) Notwithstanding paragraph (b), a retired police officer may change his or her designation of joint annuitant or beneficiary up to two times as provided in s. 185.341 without the approval of the board of trustees or the current joint annuitant or beneficiary. The retiree need not provide proof of the good health of the joint annuitant or beneficiary being removed, and the joint annuitant or beneficiary being removed need not be living.

(2) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(a) If a police officer dies prior to his or her normal retirement date or early retirement date, whichever first occurs, no benefit will be payable under the option to any person, but the benefits, if any, will be determined under s. 185.21.

(b) If the designated beneficiary or joint annuitant dies before the police officer's retirement under the plan, the option elected is canceled automatically and a retirement income of the normal form and amount is payable to the police officer upon his or her retirement as if the election had not been made, unless a new election is made in accordance with this section or a new beneficiary is designated by the police officer before his or her retirement and within 90 days after the death of the beneficiary.

(c) If both the retired police officer and the designated beneficiary (or beneficiaries) die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subparagraph (1)(a)3., the board of trustees may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with s. 185.162.

(d) If a police officer continues beyond his or her normal retirement date pursuant to the provisions of s. 185.16(1) and dies prior to actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the police officer in the amount or amounts computed as if the police officer had retired under the option on the date on which death occurred.

(3) No police officer may make any change in his or her retirement option after the date of cashing or depositing his or her first retirement check.

History.—s. 7, ch. 59-320; s. 13, ch. 86-42; s. 947, ch. 95-147; s. 57, ch. 99-1; s. 12, ch. 2009-97.

185.162 Beneficiaries.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) Each police officer may, on a form, provided for that purpose, signed and filed with the board of trustees, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of the police officer’s death, and each designation may be revoked by such police officer by signing and filing with the board of trustees a new designation or beneficiary form.

(2) If no beneficiary is named in the manner provided by subsection (1), or if no beneficiary designated by the member survives him or her, the death benefit, if any, which may be payable under the plan with respect to such deceased police officer shall be paid by the board of trustees to the estate of such deceased police officer, provided that in any of such cases the board of trustees, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under the plan with regard to such deceased police officer and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons ever interested hereunder.

(3) Notwithstanding any other provision of law to the contrary, the surviving spouse of any pension participant member killed in the line of duty shall not lose survivor retirement benefits if the spouse remarries. The surviving spouse of such deceased member whose benefit terminated because of remarriage shall have the benefit reinstated as of July 1, 1994, at an amount that would have been payable had such benefit not been terminated.

History.—s. 7, ch. 59-320; s. 5, ch. 94-171; s. 1459, ch. 95-147; s. 58, ch. 99-1.

185.18 Disability retirement.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) A police officer having 10 or more years of credited service, or a police officer who becomes totally and permanently disabled in the line of duty, regardless of length of service, may retire from the service of the city under the plan if he or she becomes totally and permanently disabled as defined in subsection (2) by reason of any cause other than a cause set out in subsection (3) on or after the effective date of the plan. Such retirement shall herein be referred to as disability retirement.

(2) A police officer will be considered totally disabled if, in the opinion of the board of trustees, he or she is wholly prevented from rendering useful and efficient service as a police officer; and a police officer will be considered permanently disabled if, in the opinion of the board of trustees, such police officer is likely to remain so disabled continuously and permanently from a cause other than as specified in subsection (3).

(3) A police officer will not be entitled to receive any disability retirement income if the disability is a result of:

(a) Excessive and habitual use by the police officer of drugs, intoxicants, or narcotics;

(b) Injury or disease sustained by the police officer while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime;

(c) Injury or disease sustained by the police officer while serving in any armed forces;

(d) Injury or disease sustained by the police officer after employment has terminated;

(e) Injury or disease sustained by the police officer while working for anyone other than the city and arising out of such employment.

(4) No police officer shall be permitted to retire under the provisions of this section until examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any police officer retiring under this section may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

(5) The benefit payable to a police officer who retires from the service of the city with a total and permanent disability as a result of a disability is the monthly income payable for 10 years certain and life for which, if the police officer’s disability occurred in the line of duty, his or her monthly benefit shall be the accrued retirement benefit, but shall not be less than 42 percent of his or her average monthly compensation as of the police officer’s disability retirement date. If after 10 years of service the disability is other than in the line of duty, the police officer’s monthly benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of his or her average monthly compensation as of the police officer’s disability retirement date.

(6) The monthly retirement income to which a police officer is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be, if the police officer recovers from the disability, the payment due next preceding the date of such recovery or, if the police officer dies without recovering from his or her disability, the payment due next preceding death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this subsection, a police officer may select an optional form as provided in s. 185.161. Any monthly retirement income payments due after the death of a disabled police officer shall be paid to the police officer’s designated beneficiary (or beneficiaries) as provided in ss. 185.162 and 185.21.

(7) If the board of trustees finds that a police officer who is receiving a disability retirement income is no longer disabled, as provided herein, the board of trustees shall

direct that the disability retirement income be discontinued. Recovery from disability as used herein shall mean the ability of the police officer to render useful and efficient service as a police officer.

(8) If the police officer recovers from disability and reenters the service of the city as a police officer, his or her service will be deemed to have been continuous, but the period beginning with the first month for which the police officer received a disability retirement income payment and ending with the date he or she reentered the service of the city may not be considered as credited service for the purposes of the plan.

History.—s. 16, ch. 28230, 1953; s. 6, ch. 59-320; s. 6, ch. 61-85; s. 2, ch. 61-119; s. 2, ch. 70-128; s. 14, ch. 86-42; s. 948, ch. 95-147; s. 59, ch. 99-1.

185.185 False, misleading, or fraudulent statements made to obtain public retirement benefits prohibited; penalty.—

(1) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit available under a retirement plan receiving funding under this chapter.

(2)(a) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) In addition to any applicable criminal penalty, upon conviction for a violation described in subsection (1), a participant or beneficiary of a pension plan receiving funding under this chapter may, in the discretion of the board of trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this chapter. For purposes of this paragraph, “conviction” means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

History.—s. 60, ch. 99-1.

185.19 Separation from municipal service; refunds.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) If any police officer leaves the service of the municipality before accumulating aggregate time of 10 years toward retirement and before being eligible to retire under the provisions of this chapter, such police officer shall be entitled to a refund of all of his or her contributions made to the municipal police officers’ retirement trust fund without interest, less any benefits paid to him or her.

(2) If any police officer who has been in the service of the municipality for at least 10 years elects to leave his or her accrued contributions, if contributions are required, in the municipal police officers’ retirement trust fund, such police officer upon attaining age 50 years or more may retire at the actuarial equivalent of the amount of such retirement income otherwise payable to him or her, as provided in s. 185.16(4), or, upon attaining age 55 years, may retire as provided in s. 185.16(2).

History.—s. 17, ch. 28230, 1953; s. 6, ch. 59-320; s. 7, ch. 61-85; s. 2, ch. 61-119; s. 949, ch. 95-147; s. 61, ch. 99-1.

185.191 Lump-sum payment of small retirement income.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, notwithstanding any provision of the plan to the contrary, if the monthly retirement income payable to any person entitled to benefits hereunder is less than $100 or if the single-sum value of the accrued retirement income is less than $2,500 as of the date of retirement or termination of service, whichever is applicable, the board of trustees, in the exercise of its discretion, may specify that the actuarial equivalent of such retirement income be paid in a lump sum.

History.—s. 7, ch. 59-320; s. 62, ch. 99-1.

185.21 Death prior to retirement; refunds of contributions or payment of death benefits.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) If a police officer dies before being eligible to retire, the heirs, legatees, beneficiaries, or personal representatives of such deceased police officer shall be entitled to a refund of 100 percent, without interest, of the contributions made to the municipal police officers' retirement trust fund by such deceased police officer or, in the event an annuity or life insurance contract has been purchased by the board on such police officer, then to the death benefits available under such life insurance or annuity contract, subject to the limitations on such death benefits set forth in s. 185.061 whichever amount is greater.

(2) If a police officer having at least 10 years of credited service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the police officer at early or normal retirement age.

In the event that a death benefit paid by a life insurance company exceeds the limit set forth in s. 185.061(6), the excess of the death benefit over the limit shall be paid to the municipal police officers' retirement trust fund. However, death benefits as provided pursuant to s. 112.19 or any other state or federal law shall not be included in the calculation of death or retirement benefits provided under this chapter.

History.—s. 19, ch. 28230, 1953; s. 6, ch. 29825, 1955; s. 3, ch. 57-118; s. 6, ch. 59-320; s. 2, ch. 61-119; s. 15, ch. 86-42; s. 6, ch. 90-138; s. 950, ch. 95-147; s. 63, ch. 99-1.

185.221 Annual report to Division of Retirement; actuarial valuations.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the board of trustees for every chapter plan and local law plan shall submit the following reports to the division:

(1) With respect to chapter plans:

(a) Each year by February 1, the chair or secretary of each municipal police officers' retirement trust fund operating a chapter plan shall file a report with the division which contains:

1. A statement of whether in fact the municipality is within the provisions of s. 185.03.

2. An independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning and end of the year.

3. A statistical exhibit showing the total number of police officers on the force of the municipality, the number included in the retirement plan and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired police officers and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

4. A statement of the amount the municipality, or other income source, has contributed to the retirement plan for the most recent plan year and the amount the municipality will contribute to the retirement plan for the current plan year.

5. If any benefits are insured with a commercial insurance company, the report shall include a statement of the relationship of the insured benefits to the benefits provided by this chapter. This report shall also contain information about the insurer, basis of premium rates and mortality table, interest rate and method used in valuing retirement benefits.

(b) In addition to annual reports provided under paragraph (a), by February 1 of each triennial year, an actuarial valuation of the chapter plan must be made by the division at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from the issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. To that end, the chair of the board of trustees for each municipal police officers' retirement trust fund operating under a chapter plan shall report to the division such data as the division needs to complete an actuarial valuation of each fund. The forms for each municipality shall be supplied by the division. The expense of the actuarial valuation shall be borne by the municipal police officers' retirement trust fund established by s. 185.10. The requirements of this section are supplemental to the actuarial valuations necessary to comply with s. 218.39.

(2) With respect to local law plans:

(a) Each year, on or before March 15, the trustees of the retirement plan shall submit the following information to the division in order for the retirement plan of such municipality to receive a share of the state funds for the then-current calendar year:

1. A certified copy of each and every instrument constituting or evidencing the plan. This includes the formal plan, including all amendments, the trust agreement, copies of all insurance contracts, and formal announcement materials.

2. An independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in

assets, for the most recent plan year, showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year.

3. A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.

4. A statistical exhibit showing the total number of police officers, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired police officers and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

5. A certified statement describing the methods, factors, and actuarial assumptions used in determining the cost.

6. A certified statement by an enrolled actuary showing the results of the latest actuarial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results.

7. A statement of the amount the municipality, or other income source, has contributed toward the plan for the most recent plan year and will contribute toward the plan for the current plan year.

When any of the items required hereunder is identical to the corresponding item submitted for a previous year, it is not necessary for the trustees to submit duplicate information if they make reference to the item in the previous year's report.

(b) In addition to annual reports provided under paragraph (a), an actuarial valuation of the retirement plan must be made at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. Such valuation shall be prepared by an enrolled actuary, subject to the following conditions:

1. The assets shall be valued as provided in s. 112.625(7).

2. The cost of the actuarial valuation must be paid by the individual police officer's retirement trust fund or by the sponsoring municipality.

3. A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the division within 3 months after the date of the valuation. If any benefits are insured with a commercial insurance company, the report must include a statement of the relationship of the retirement plan benefits to the insured benefits, the name of the insurer, the basis of premium rates, and the mortality table, interest rate, and method used in valuing the retirement benefits.

History.—s. 7, ch. 59-320; s. 2, ch. 61-119; ss. 13, 35, ch. 69-106; s. 16, ch. 86-42; s. 44, ch. 93-193; s. 951, ch. 95-147; s. 8, ch. 96-324; s. 64, ch. 99-1; s. 43, ch. 2001-266; s. 16, ch. 2004-305.

185.23 Duties of Division of Retirement; rulemaking authority; investments by State Board of Administration.—

(1) The division shall be responsible for the daily oversight and monitoring for actuarial soundness of the municipal police officers' retirement plans, whether chapter or local law plans, established under this chapter, for receiving and holding the premium tax moneys collected under this chapter, and, upon determining compliance with the provisions of this chapter, for disbursing those moneys to the municipal police officers' retirement plans. The funds to pay the expenses for such administration shall be annually appropriated from the interest and investment income earned on moneys deposited in the trust fund.

(2) The State Board of Administration shall invest and reinvest the moneys in the trust fund in accordance with ss. 215.44-215.53. Costs incurred by the board in carrying out the provisions of this section shall be deducted from the interest and investment income accruing to the trust fund.

History.—s. 20, ch. 28230, 1953; ss. 13, 35, ch. 69-106; s. 45, ch. 93-193; s. 7, ch. 95-250; s. 13, ch. 98-200; s. 65, ch. 99-1; s. 30, ch. 2000-151; s. 50, ch. 2012-116.

185.25 Exemption from tax and execution.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the pensions, annuities, or any other benefits accrued or accruing to any person under any municipality, chapter plan, local law municipality, or local law plan under the provisions of this chapter and the accumulated contributions and the cash securities in the funds created under this chapter are exempted from any state, county, or municipal tax of the state and shall not be subject to execution or attachment or to any legal process whatsoever and shall be unassignable.

History.—s. 21, ch. 28230, 1953; s. 66, ch. 99-1.

185.30 Depository for retirement fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, all funds of the municipal police officers' retirement trust fund of any municipality, chapter plan, local law municipality, or local law plan under this chapter may be deposited by the board of trustees with the treasurer of the municipality acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality. However, any funds so deposited with the treasurer of the municipality shall be kept in a separate fund by the municipal treasurer or clearly identified as such funds of the municipal police officers' retirement trust fund. In lieu thereof, the board of trustees shall deposit the funds of the municipal police officers' retirement trust fund in a qualified public depository as defined in s. 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of chapter 280.

History.—s. 26, ch. 28230, 1953; s. 2, ch. 61-119; s. 19, ch. 86-42; s. 3, ch. 88-185; s. 954, ch. 95-147; s. 69, ch. 99-1.

185.31 Municipalities and boards independent of other municipalities and boards and of each other.—In the enforcement and interpretation of the provisions of this chapter for any municipality, chapter plan, local law municipality, or local law plan under this chapter, each municipality shall be independent of any other municipality, and the board of trustees of the municipal police officers' retirement trust fund of each municipality shall function for the municipality which they are to serve as trustees. Each board of trustees shall be independent of each municipality for which it serves as board of trustees to the extent required to accomplish the intent, requirements, and responsibilities provided for in this chapter.

History.—s. 27, ch. 28230, 1953; s. 2, ch. 61-119; s. 20, ch. 86-42; s. 70, ch. 99-1.

185.34 Disability in line of duty.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, any condition or impairment of health of any and all police officers employed in the state caused by tuberculosis, hypertension, heart disease, or hardening of the arteries, resulting in total or partial disability or death, shall be presumed to be accidental and suffered in line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty, provided that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition, and, further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. This section shall be applicable to all police officers only with reference to pension and retirement benefits under this chapter.

History.—ss. 1, 2, ch. 57-340; s. 1, ch. 67-580; s. 62, ch. 79-40; s. 21, ch. 86-42; s. 72, ch. 99-1.

185.341 Discrimination in benefit formula prohibited; restrictions regarding designation of joint annuitants.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) No plan shall discriminate in its benefit formula based on color, national origin, sex, or marital status.

(2)(a) If a plan offers a joint annuitant option and the member selects such option, or if a plan specifies that the member's spouse is to receive the benefits that continue to be payable upon the death of the member, then, in both of these cases, after retirement benefits have commenced, a retired member may change the designation of joint annuitant or beneficiary only twice.

(b) Any retired member who desires to change the joint annuitant or beneficiary shall file with the board of trustees of his or her plan a notarized notice of such change either by registered letter or on such form as is provided by the administrator of the plan. Upon receipt of a completed change of joint annuitant form or such other notice, the board of trustees shall adjust the member’s monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member’s current benefit. Nothing herein shall preclude a plan from actuarially adjusting benefits or offering options based upon sex, age, early retirement, or disability.

(3) Eligibility for coverage under the plan must be based upon length of service, or attained age, or both, and benefits must be determined by a nondiscriminatory formula based upon:

(a) Length of service and compensation; or

(b) Length of service.

History.—s. 22, ch. 86-42; s. 955, ch. 95-147; s. 73, ch. 99-1.

185.35 Municipalities that have their own retirement plans for police officers.—In order for a municipality that has its own retirement plan for police officers, or for police officers and firefighters if both are included, to participate in the distribution of the tax fund established under s. 185.08, a local law plan must meet minimum benefits and minimum standards, except as provided in the mutual consent provisions in paragraph (1)(g) with respect to the minimum benefits not met as of October 1, 2012.

(1) If a municipality has a retirement plan for police officers, or for police officers and firefighters if both are included, which, in the opinion of the division, meets minimum benefits and minimum standards, the board of trustees of the retirement plan must place the income from the premium tax in s. 185.08 in such plan for the sole and exclusive use of its police officers, or its police officers and firefighters if both are included, where it shall become an integral part of that plan and be used to fund benefits as provided herein. Effective October 1, 2015, for noncollectively bargained service or upon entering into a collective bargaining agreement on or after July 1, 2015:

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

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

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

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

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

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

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

(2) The premium tax provided by this chapter must be used in its entirety to provide retirement benefits to police officers, or to police officers and firefighters if both are included. Local law plans created by special act before May 27, 1939, shall be deemed to comply with this chapter.

(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality or, where required, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other provision, only those local law plans created by special act of

legislation before May 27, 1939, are deemed to meet the minimum benefits and minimum standards only in this chapter.

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

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

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

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

(6) In addition to the defined benefit component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2015, for noncollectively 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. Depending upon the application of subsection (1), a defined contribution component may or may not receive any funding.

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

History.—s. 7, ch. 59-320; s. 2, ch. 61-119; s. 3, ch. 63-196; ss. 13, 35, ch. 69-106; s. 23, ch. 86-42; s. 47, ch. 93-193; s. 956, ch. 95-147; s. 74, ch. 99-1; s. 7, ch. 2002-66; s. 6, ch. 2004-21; s. 11, ch. 2011-216; s. 14, ch. 2015-39.

185.37 Termination of plan and distribution of fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the plan may be terminated by the municipality. Upon termination of the plan by the municipality for any reason, or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in chapter 121, or upon written notice to the board of trustees by the municipality that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination or discontinuance and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits, after taking into account the expenses of such distribution. The board shall inform the municipality if additional assets are required, in which event the municipality shall continue to financially support the plan until all nonforfeitable benefits have been funded.

(2) The board of trustees shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each police officer entitled to benefits under the plan, as specified in subsection (3).

(3) The board of trustees shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

(4) If there is asset value remaining after the full distribution specified in subsection (3), and after payment of any expenses incurred with such distribution, such excess shall be returned to the municipality, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the municipality and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality and the state.

(5) The board of trustees shall distribute, in accordance with the manner of distribution determined under subsection (2), the amounts determined under subsection (3).

If, after 24 months after the date the plan terminated or the date the board received written notice that the contributions thereunder were being permanently discontinued, the municipality or the board of trustees of the municipal police officers' retirement trust fund affected has not complied with all the provisions in this section, the Department of Management Services shall effect the termination of the fund in accordance with this section.

History.—s. 8, ch. 61-85; s. 2, ch. 61-119; s. 4, ch. 63-196; s. 24, ch. 86-42; s. 48, ch. 93-193; s. 957, ch. 95-147; s. 76, ch. 99-1; s. 13, ch. 2009-97.

185.38 Transfer to another state retirement system; benefits payable.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) Any police officer who has a vested right to benefits under a pension plan created pursuant to the provisions of this chapter 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 for which benefits are paid under the provisions of the pension plan created pursuant to this chapter.

(2) When every active participant in any pension plan created pursuant to this chapter elects to transfer to another state retirement system, the pension plan created pursuant to this chapter shall be terminated and the assets distributed in accordance with s. 185.37. If some participants in a pension plan created pursuant to this chapter elect to transfer to another state retirement system and other participants elect to remain in the existing plan created pursuant to this chapter, the plan created pursuant to this chapter shall continue to receive state premium tax moneys until fully funded. If the plan is fully funded at a particular valuation date and not fully funded at a later valuation date, the plan shall resume receipt of state premium tax moneys until the plan is once again determined to be fully funded. "Fully funded" means that the present value of all benefits, accrued and projected, is less than the available assets and the present value of future member contributions and future plan sponsor contributions on an actuarial entry age cost funding basis. Effective May 31, 1998, for plans discussed herein, the plan shall remain in effect until the final benefit payment has been made to the last participant or beneficiary and shall then be terminated in accordance with s. 185.37.

History.—s. 25, ch. 86-42; s. 77, ch. 99-1; s. 8, ch. 2002-66.

185.39 Applicability.—This act applies to all municipalities, chapter plans, local law municipalities, or local law plans presently existing or to be created pursuant to this chapter. Those plans presently existing pursuant to s. 185.35 and not in compliance with the provisions of this act must comply no later than December 31, 1999. However, the plan sponsor of any plan established by special act of the Legislature shall have until July 1, 2000, to comply with the provisions of this act, except as otherwise provided in this act with regard to establishment and election of board members. The provisions of this act shall be construed to establish minimum standards and minimum benefit levels, and nothing contained in this act or in chapter 185 shall operate to reduce presently existing rights or benefits of any police officer, directly, indirectly, or otherwise.

History.—s. 26, ch. 86-42; s. 78, ch. 99-1.

185.50 Retiree health insurance subsidy.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. Pursuant thereto:

(1) PURPOSE.—The purpose of this section is to allow municipalities the option to use premium tax moneys, as provided for under this chapter, to establish and administer health insurance subsidy programs which will provide a monthly subsidy payment to retired members of any municipal police officers' pension trust fund system or plan as provided under this chapter, or to beneficiaries who are spouses or financial dependents entitled to receive benefits under such a plan, in order to assist such retired members or beneficiaries in paying the costs of health insurance.

(2) MUNICIPAL RETIREE HEALTH INSURANCE SUBSIDY TRUST FUNDS; ESTABLISHMENT AND TERMINATION.—

(a) Any municipality having a municipal police officers' pension trust fund system or plan as provided under this chapter may, in its discretion, establish by ordinance a trust fund to be known as the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund. This fund may be a separate account established for such purpose in the existing municipal police officers' pension fund, provided that all funds deposited in such account are segregated from, and not commingled with, pension funds or other public moneys and that the account otherwise conforms to the requirements of subsection (8). The trust fund shall be used to account for all moneys received and disbursed pursuant to this section.

(b) Prior to the second reading of the ordinance before the municipal legislative body, an actuarial valuation must be performed by an enrolled actuary as defined in s. 185.02, and copies of the valuation and the proposed implementing ordinance shall be furnished to the division.

(c) The subsidy program may, at the discretion of the municipal governing body, be permanently discontinued by municipal ordinance at any time, subject to the requirements of any applicable collective bargaining agreement, in the same manner and subject to the same conditions established for plan termination and fund distribution under s. 185.37.

(3) FUNDING.—Trust funds established pursuant to this section shall be funded in the following manner:

(a) By payment to the fund of an amount equivalent to one-half of the net increase over the previous tax year in the premium tax funds provided for in this chapter, said amount to be established in the implementing ordinance.

(b) By no less than one-half of 1 percent of the base salary of each police officer, for so long as the police officer is employed and covered by a pension plan established pursuant to this chapter. The municipality, with approval of the board of trustees, may increase member contributions if needed to fund benefits greater than the minimums established in this section.

(c) By payment by the municipality, on at least a quarterly basis, of whatever sum is determined necessary to maintain the actuarial soundness of the fund in accordance with s. 112.64.

Such contributions and payments shall be submitted to the board of trustees of the police officers' pension trust fund, or the plan trustees in the case of local law plans established under s. 185.35, and deposited in the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund, in the same manner and subject to the same time constraints as provided under s. 185.11.

(4) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who has contributed to the Retiree Health Insurance Subsidy Trust Fund and retires under a municipal police officers' pension trust fund system or plan as provided under this chapter, including any local law plan as provided under s. 185.35, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under such a plan, is eligible for health insurance subsidy payments provided under this section. However, the fund, with approval of the board of trustees and the municipality, may provide coverage to retirees and

beneficiaries when the retirees have not contributed to the fund as provided in subsection (3). Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the board of trustees of the municipal police officers' pension trust fund.

(5) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—Beginning on the effective date established in the implementing ordinance, each eligible retiree, or beneficiary who is a spouse or financial dependent thereof, shall receive a monthly retiree health insurance subsidy payment equal to the aggregate number of years of service with the municipality, as defined in s. 185.02, completed at the time of retirement multiplied by an amount determined in the implementing ordinance, but no less than $3 for each year of service. Nothing herein shall be construed to restrict the plan sponsor from establishing, in the implementing ordinance, a cap of no less than 30 years upon the number of years' service for which credit will be given toward a health insurance subsidy or a maximum monthly subsidy amount.

(6) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning on the effective date established in the implementing ordinance, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members, or their eligible beneficiaries, by the board of trustees of the police officers' pension trust fund, or the plan trustees in the case of local law plans established under s. 185.35, in the same manner as provided by s. 185.06(1)(c) for drafts upon the pension fund.

(7) INVESTMENT OF THE TRUST FUND.—The trustees of the police officers' pension trust fund, or the plan trustees in the case of local law plans established under s. 185.35, are hereby authorized to invest and reinvest the funds of the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund in the same manner and subject to the same conditions as apply hereunder to the investment of municipal police officers' pension funds under s. 185.06.

(8) DEPOSIT OF PENSION FUNDS.—All funds of the health insurance subsidy fund may be deposited by the board of trustees with the treasurer of the municipality, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality. Any funds so deposited shall be segregated by said treasurer in a separate fund, clearly identified as funds of the health insurance subsidy fund. In lieu thereof, the board of trustees shall deposit the funds of the health insurance subsidy fund in a qualified public depository as defined in s. 280.02, which shall conform to and be bound by the provisions of chapter 280 with regard to such funds. In no case shall the funds of the health insurance subsidy fund be deposited in any financial institution, brokerage house trust company, or other entity that is not a public depository as provided by s. 280.02.

(9) SEPARATION FROM SERVICE; REFUNDS.—Any police officer who terminates employment with a municipality having a Municipal Retiree Health Insurance Subsidy Trust Fund system or plan as provided under this section shall be entitled to a refund of all employee contributions he or she made to that trust fund, without interest, regardless of whether he or she has vested for purposes of retirement. Any police officer who has vested for purposes of retirement in the service of the municipality, and has contributed to the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund for so long as he or she was eligible to make such contributions, may, in his or her discretion, elect to leave his

or her accrued contributions in the fund, whereupon, such police officer shall, upon retiring and commencing to draw retirement benefits, receive a health insurance subsidy based upon his or her aggregate number of years of service with the municipality, as defined in s. 185.02.

(10) ADMINISTRATION OF SYSTEM; ACTUARIAL VALUATIONS; AUDITS; RULES; ADMINISTRATIVE COSTS.—The board of trustees of the police officers' pension trust fund, or the plan trustees in the case of local law plans established under s. 185.35, shall be solely responsible for administering the health insurance subsidy trust fund. Pursuant thereto:

(a) As part of its administrative duties, no less frequently than every 3 years, the board shall have an actuarial valuation of the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund prepared as provided in s. 112.63 by an enrolled actuary, covering the same reporting period or plan year used for the municipal police officers' pension plan, and shall submit a report of the valuation, including actuarial assumptions and type and basis of funding, to the division.

(b) By February 1 of each year, the trustees shall file a report with the division, containing an independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(c) The trustees may adopt such rules and regulations as are necessary for the effective and efficient administration of this section.

(d) At the discretion of the plan sponsor, the cost of administration may be appropriated from the trust fund or paid directly by the plan sponsor.

(11) BENEFITS.—Subsidy payments shall be payable under the municipal police officers' retiree health insurance subsidy program only to participants in the program or their beneficiaries. Such subsidy payments shall not be subject to assignment, execution, or attachment or to any legal process whatsoever, and shall be in addition to any other benefits to which eligible recipients are entitled under any workers' compensation law, pension law, collective bargaining agreement, municipal or county ordinance, or any other state or federal statute.

(12) DISTRIBUTION OF PREMIUM TAXES; COMPLIANCE REQUIRED.—Premium tax dollars for which spending authority is granted under this section shall be distributed from the Police and Firefighters' Premium Tax Trust Fund and remitted annually to municipalities in the same manner as provided under this chapter for police officers' pension funds. Once a health insurance subsidy plan has been implemented by a municipality under this section, in order for the municipality to participate in the distribution of premium tax dollars authorized under this section, all provisions of this section, including state acceptance pursuant to part VII of chapter 112, shall be complied with, and said premium tax dollars may be withheld for noncompliance.

History.—s. 2, ch. 92-51; s. 49, ch. 93-193; s. 14, ch. 94-259; s. 1460, ch. 95-147; s. 8, ch. 95-250; s. 80, ch. 99-1.

185.60 Optional participation.—A municipality may revoke its participation under this chapter by rescinding the legislative act, or ordinance which assesses and imposes taxes authorized in s. 185.08, and by furnishing a certified copy of such legislative act, or ordinance to the division. Thereafter, the municipality shall be prohibited from participating under this chapter, and shall not be eligible for future premium tax moneys. Premium tax moneys previously received shall continue to be used for the sole and exclusive benefit of police officers, or police officers and firefighters where included, and no amendment, legislative act, or ordinance shall be adopted which shall have the effect of reducing the then-vested accrued benefits of the police officers, retirees, or their beneficiaries. The municipality shall continue to furnish an annual report to the division as provided in s. 185.221. If the municipality subsequently terminates the defined benefit plan, they shall do so in compliance with the provisions of s. 185.37.

History.—s. 82, ch. 99-1.

215.97 Florida Single Audit Act.—

(1) The purposes of the section are to:
(a) Establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects.
(b) Promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities.
(c) Promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities.
(d) Provide for identification of state financial assistance transactions in the state accounting records and recipient organization records.
(e) Promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance.
(f) Ensure, to the maximum extent possible, that state agencies monitor, use, and followup on audits of state financial assistance provided to nonstate entities.
(2) As used in this section, the term:
(a) "Audit threshold" means the threshold amount used to determine when a state single audit or project-specific audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state financial assistance equal to or in excess of $750,000 in any fiscal year of such nonstate entity shall be required to have a state single audit, or a project-specific audit, for such fiscal year in accordance with the requirements of this section. Every 2 years the Auditor General, after consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding agencies, shall review the threshold amount for requiring audits under this section and may adjust such threshold amount consistent with the purposes of this section.
(b) "Auditing standards" means the auditing standards as stated in the rules of the Auditor General as applicable to for-profit organizations, nonprofit organizations, or local governmental entities.
(c) "Catalog of State Financial Assistance" means a comprehensive listing of state projects. The Catalog of State Financial Assistance shall be issued by the Department of Financial Services after conferring with the Executive Office of the Governor and all state awarding agencies. The Catalog of State Financial Assistance shall include for each listed state project: the responsible state awarding agency; standard state project number identifier; official title; legal authorization; and description of the state project, including objectives, restrictions, application and awarding procedures, and other relevant information determined necessary.
(d) "Coordinating agency" means the state awarding agency that provides the predominant amount of state financial assistance expended by a recipient, as determined by the recipient's Schedule of Expenditures of State Financial Assistance. To provide continuity, the determination of the predominant amount of state financial assistance shall be based upon state financial assistance expended in the recipient's fiscal years ending in 2006, 2009, and 2012, and every third year thereafter.
(e) "Financial reporting package" means the nonstate entities' financial statements, Schedule of Expenditures of State Financial Assistance, auditor's reports, management letter, auditee's written responses or corrective action plan, correspondence on followup of prior years' corrective actions taken, and such other information determined by the Auditor General to be necessary and consistent with the purposes of this section.
(f) "Federal financial assistance" means financial assistance from federal sources passed through the state and provided to nonstate organizations to carry out a federal program. "Federal financial assistance" includes all types of federal assistance as defined in applicable United States Office of Management and Budget circulars.

(g) “For-profit organization” means any organization or sole proprietor that is not a governmental entity or a nonprofit organization.
(h) “Higher education entity” means a Florida College System institution or a state university, as those terms are defined in s. 1000.21.
(i) “Independent auditor” means an independent certified public accountant licensed under chapter 473.
(j) “Internal control over state projects” means a process, effected by a nonstate entity’s management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:
1. Effectiveness and efficiency of operations.
2. Reliability of financial operations.
3. Compliance with applicable laws and regulations.
(k) “Local governmental entity” means a county as a whole, municipality, or special district or any other entity excluding a district school board, charter school, Florida College System institution, or public university, however styled, which independently exercises any type of governmental function within the state.
(l) “Major state project” means any state project meeting the criteria as stated in the rules of the Department of Financial Services. Such criteria shall be established after consultation with all state awarding agencies and shall consider the amount of state project expenditures and expenses or inherent risks. Each major state project shall be audited in accordance with the requirements of this section.
(m) “Nonprofit organization” means any corporation, trust, association, cooperative, or other organization that:
1. Is operated primarily for scientific, educational service, charitable, or similar purpose in the public interest.
2. Is not organized primarily for profit.
3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
4. Has no part of its income or profit distributable to its members, directors, or officers.
(n) “Nonstate entity” means a local governmental entity, higher education entity, nonprofit organization, or for-profit organization that receives state financial assistance.
(o) “Recipient” means a nonstate entity that receives state financial assistance directly from a state awarding agency.
(p) “Schedule of Expenditures of State Financial Assistance” means a document prepared in accordance with the rules of the Department of Financial Services and included in each financial reporting package required by this section.
(q) “State awarding agency” means a state agency, as defined in s. 216.011, that is primarily responsible for the operations and outcomes of a state project, regardless of the state agency that actually provides state financial assistance to a nonstate entity.
(r) “State financial assistance” means state resources, not including federal financial assistance and state matching on federal programs, provided to a nonstate entity to carry out a state project. “State financial assistance” includes the types of state resources stated in the rules of the Department of Financial Services established in consultation with all state awarding agencies. State financial assistance may be provided directly by state awarding agencies or indirectly by nonstate entities. “State financial assistance” does not include procurement contracts used to buy goods or services from vendors and contracts to operate state-owned and contractor-operated facilities.
(s) “State matching” means state resources provided to a nonstate entity to meet federal financial participation matching requirements.
(t) “State program” means a set of special purpose activities undertaken to realize identifiable goals and objectives in order to achieve a state agency’s mission and legislative intent requiring accountability for state resources.

(u) “State project” means a state program that provides state financial assistance to a nonstate organization and that must be assigned a state project number identifier in the Catalog of State Financial Assistance.
(v) “State Projects Compliance Supplement” means a document issued by the Department of Financial Services, in consultation with all state awarding agencies. The State Projects Compliance Supplement shall identify state projects, the significant compliance requirements, eligibility requirements, matching requirements, suggested audit procedures, and other relevant information determined necessary.
(w) “State project-specific audit” means an audit of one state project performed in accordance with the requirements of subsection (11).
(x) “State single audit” means an audit of a nonstate entity’s financial statements and state financial assistance. Such audits shall be conducted in accordance with the auditing standards as stated in the rules of the Auditor General.
(y) “Subrecipient” means a nonstate entity that receives state financial assistance through another nonstate entity.
(z) “Vendor” means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a state project. These goods or services may be for an organization’s own use or for the use of beneficiaries of the state project.
(3) The Executive Office of the Governor is responsible for notifying the Department of Financial Services of any actions during the budgetary process that impact the Catalog of State Financial Assistance.
(4) The Department of Financial Services shall:
(a) Upon conferring with the Executive Office of the Governor and all state awarding agencies, adopt rules necessary to provide appropriate guidance to state awarding agencies, nonstate entities, and independent auditors of state financial assistance relating to the requirements of this section, including:
1. The types or classes of state resources considered to be state financial assistance that would be subject to the requirements of this section. This would include guidance to assist in identifying when the state awarding agency or a nonstate entity has contracted with a vendor rather than with a recipient or subrecipient.
2. The criteria for identifying a major state project.
3. The criteria for selecting state projects for audits based on inherent risk.
(b) Be responsible for coordinating revisions to the Catalog of State Financial Assistance after consultation with the Executive Office of the Governor and all state awarding agencies.
(c) Be responsible for coordinating with the Executive Office of the Governor actions affecting the budgetary process under paragraph (b).
(d) Be responsible for coordinating revisions to the State Projects Compliance Supplement, after consultation with the Executive Office of the Governor and all state awarding agencies.
(e) Make enhancements to the state’s accounting system to provide for the:
1. Recording of state financial assistance and federal financial assistance appropriations and expenditures within the state awarding agencies’ operating funds.
2. Recording of state project number identifiers, as provided in the Catalog of State Financial Assistance, for state financial assistance.
3. Establishment and recording of an identification code for each financial transaction, including awarding state agencies’ disbursements of state financial assistance and federal financial assistance, as to the corresponding type or organization that is party to the transaction (e.g., other governmental agencies, nonprofit organizations, and for-profit organizations), and disbursements of federal financial assistance, as to whether the party to the transaction is or is not a nonstate entity.
(f) Upon conferring with the Executive Office of the Governor and all state awarding agencies, adopt rules necessary to provide appropriate guidance to state awarding agencies, nonstate entities, and independent auditors of state financial assistance relating to the format for the Schedule of Expenditures of State Financial Assistance.

(g) Perform any inspections, reviews, investigations, or audits of state financial assistance considered necessary in carrying out the Department of Financial Services' legal responsibilities for state financial assistance or to comply with the requirements of this section.

(5) Each state awarding agency shall:

(a) Provide to each recipient information needed by the recipient to comply with the requirements of this section, including:

1. The audit and accountability requirements for state projects as stated in this section and applicable rules of the Department of Financial Services and rules of the Auditor General.

2. Information from the Catalog of State Financial Assistance, including the standard state project number identifier; official title; legal authorization; and description of the state project including objectives, restrictions, and other relevant information determined necessary.

3. Information from the State Projects Compliance Supplement, including the significant compliance requirements, eligibility requirements, matching requirements, suggested audit procedures, and other relevant information determined necessary.

(b) Require the recipient, as a condition of receiving state financial assistance, to allow the state awarding agency, the Department of Financial Services, and the Auditor General access to the recipient's records and the recipient's independent auditor's working papers as necessary for complying with the requirements of this section.

(c) Notify the recipient that this section does not limit the authority of the state awarding agency to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state awarding agency inspector general, the Auditor General, or any other state official.

(d) Be provided one copy of each financial reporting package prepared in accordance with the requirement of this section.

(e) Review the recipient's financial reporting package, including the management letters and corrective action plans, to the extent necessary to determine whether timely and appropriate corrective action has been taken with respect to audit findings and recommendations pertaining to state financial assistance that are specific to the state awarding agency.

(f) Designate within the state awarding agency an organizational unit that will be responsible for reviewing financial reporting packages pursuant to paragraph (e).

If the state awarding agency is not the coordinating agency as defined in paragraph (2)(d), the state awarding agency's designated organizational unit shall communicate to the coordinating agency the state awarding agency's approval of the recipient's corrective action plan with respect to findings and recommendations that are not specific to the state awarding agency.

(6) Each coordinating agency shall:

(a) Review the recipient's financial reporting package, including the management letter and corrective action plan, to identify audit findings and recommendations that affect state financial assistance that are not specific to a particular state awarding agency.

(b) For any findings and recommendations identified pursuant to paragraph (a):

1. Determine whether timely and appropriate corrective action has been taken.

2. Promptly inform the state awarding agency, as provided in paragraph (5)(f), of actions taken by the recipient to comply with the approved corrective action plan.

(c) Maintain records of followup actions taken for the use of any succeeding coordinating agency.

(7) As a condition of receiving state financial assistance, each nonstate entity that provides state financial assistance to a subrecipient shall:

(a) Provide to each subrecipient information needed by the subrecipient to comply with the requirements of this section, including:

1. Identification of the state awarding agency.
2. The audit and accountability requirements for state projects as stated in this section and applicable rules of the Department of Financial Services and rules of the Auditor General.
3. Information from the Catalog of State Financial Assistance, including the standard state project number identifier; official title; legal authorization; and description of the state project, including objectives, restrictions, and other relevant information.
4. Information from the State Projects Compliance Supplement including the significant compliance requirements, eligibility requirements, matching requirements, and suggested audit procedures, and other relevant information determined necessary.
(b) Review the financial reporting package of the subrecipient, including the management letter and corrective action plan, to the extent necessary to determine whether timely and appropriate corrective action has been taken with respect to audit findings and recommendations pertaining to state financial assistance provided by a state awarding agency or nonstate entity.
(c) Perform any other procedures specified in terms and conditions of the written agreement with the state awarding agency or nonstate entity, including any required monitoring of the subrecipient’s use of state financial assistance through onsite visits, limited scope audits, or other specified procedures.
(d) Require subrecipients, as a condition of receiving state financial assistance, to permit the independent auditor of the nonstate entity, the state awarding agency, the Department of Financial Services, and the Auditor General access to the subrecipient’s records and the subrecipient’s independent auditor’s working papers as necessary to comply with the requirements of this section.
(8) Each recipient or subrecipient of state financial assistance shall comply with the following:
(a) Each nonstate entity that meets the audit threshold requirements, in any fiscal year of the nonstate entity, stated in the rules of the Auditor General, shall have a state single audit conducted for such fiscal year in accordance with the requirements of this act and with additional requirements established in rules of the Department of Financial Services and rules of the Auditor General. If only one state project is involved in a nonstate entity’s fiscal year, the nonstate entity may elect to have only a state project-specific audit.
(b) Each nonstate entity that does not meet the audit threshold requirements, in any fiscal year of the nonstate entity, stated in this law or the rules of the Auditor General is exempt for such fiscal year from the state single audit requirements of this section. However, such nonstate entity must meet terms and conditions specified in the written agreement with the state awarding agency or nonstate entity.
(c) If a nonstate entity has extremely limited or no required activities related to the administration of a state project, and only acts as a conduit of state financial assistance, none of the requirements of this section apply to the conduit nonstate entity. However, the nonstate entity that is provided state financial assistance by the conduit nonstate entity is subject to the requirements of this section.
(d) Regardless of the amount of the state financial assistance, this section does not exempt a nonstate entity from compliance with provisions of law relating to maintaining records concerning state financial assistance to such nonstate entity or allowing access and examination of those records by the state awarding agency, the nonstate entity, the Department of Financial Services, or the Auditor General.
(e) Audits conducted pursuant to this section shall be performed annually.
(f) Audits conducted pursuant to this section shall be conducted by independent auditors in accordance with auditing standards stated in rules of the Auditor General.
(g) Upon completion of the audit required by this section, a copy of the recipient’s financial reporting package shall be filed with the state awarding agency and the Auditor General. Upon completion of the audit required by this section, a copy of the subrecipient’s financial reporting package shall be filed with the nonstate entity that provided the state financial

assistance and the Auditor General. The financial reporting package shall be filed in accordance with the rules of the Auditor General.
(h) All financial reporting packages prepared pursuant to this section shall be available for public inspection.
(i) If an audit conducted pursuant to this section discloses any significant audit findings relating to state financial assistance, including material noncompliance with individual state project compliance requirements or reportable conditions in internal controls of the nonstate entity, the nonstate entity shall submit as part of the financial reporting package to the state awarding agency or nonstate entity a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary.
(j) An audit conducted in accordance with this section is in addition to any audit of federal awards required by the federal Single Audit Act and other federal laws and regulations. To the extent that such federally required audits provide the state awarding agency or nonstate entity with information it requires to carry out its responsibilities under state law or other guidance, the state awarding agency or nonstate entity shall rely upon and use that information.
(k) Unless prohibited by law, the costs of audits pursuant to this section are allowable charges to state projects. However, any charges to state projects should be limited to those incremental costs incurred as a result of the audit requirements of this section in relation to other audit requirements. The nonstate entity should allocate such incremental costs to all state projects for which it expended state financial assistance.
(l) Audit costs may not be charged to state projects when audits required by this section have not been made or have been made but not in accordance with this section. If a nonstate entity fails to have an audit conducted consistent with this section, a state awarding agency or nonstate entity may take appropriate corrective action to enforce compliance.
(m) This section does not prohibit the state awarding agency or nonstate entity from including terms and conditions in the written agreement which require additional assurances that state financial assistance meets the applicable requirements of laws, regulations, and other compliance rules.
(n) A state awarding agency or nonstate entity that conducts or arranges for audits of state financial assistance that are in addition to the audits conducted under this act, including audits of nonstate entities that do not meet the audit threshold requirements, shall, consistent with other applicable law, arrange for funding the full cost of such additional audits.
(o) A higher education entity is exempt from the requirements of paragraph (2)(a) and this subsection.
(9) This subsection applies to any contract or agreement between a state awarding agency and a higher education entity that is funded by state financial assistance.
(a) The contract or agreement must comply with ss. 215.971(1) and 216.3475 and must be in the form of one or a combination of the following:
1. A fixed-price contract that entitles the provider to receive compensation for the fixed contract amount upon completion of all contract deliverables.
2. A fixed-rate-per-unit contract that entitles the provider to receive compensation for each contract deliverable provided.
3. A cost-reimbursable contract that entitles the provider to receive compensation for actual allowable costs incurred in performing contract deliverables.
(b) If a higher education entity has extremely limited or no required activities related to the administration of a state project and acts only as a conduit of state financial assistance, none of the requirements of this section apply to the conduit higher education entity. However, the subrecipient that is provided state financial assistance by the conduit higher education entity is subject to the requirements of subsection (8) and this subsection.

(c) Regardless of the amount of the state financial assistance, this subsection does not exempt a higher education entity from compliance with provisions of law that relate to maintaining records concerning state financial assistance to the higher education entity or that allow access and examination of those records by the state awarding agency, the higher education entity, the Department of Financial Services, or the Auditor General.
(d) This subsection does not prohibit the state awarding agency from including terms and conditions in the contract or agreement which require additional assurances that the state financial assistance meets the applicable requirements of laws, regulations, and other compliance rules.
(10) The independent auditor when conducting a state single audit of a nonstate entity shall:
(a) Determine whether the nonstate entity’s financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles.
(b) Determine whether state financial assistance shown on the Schedule of Expenditures of State Financial Assistance is presented fairly in all material respects in relation to the nonstate entity’s financial statements taken as a whole.
(c) With respect to internal controls pertaining to each major state project:
1. Obtain an understanding of internal controls.
2. Assess control risk.
3. Perform tests of controls unless the controls are deemed to be ineffective.
4. Determine whether the nonstate entity has internal controls in place to provide reasonable assurance of compliance with the provisions of laws and rules pertaining to state financial assistance that have a material effect on each major state project.
(d) Determine whether each major state project complied with the provisions of laws, rules, and guidelines as identified in the State Projects Compliance Supplement, or otherwise identified by the state awarding agency, which have a material effect on each major state project. When major state projects are less than 50 percent of the nonstate entity’s total expenditures for all state financial assistance, the auditor shall select and test additional state projects as major state projects as necessary to achieve audit coverage of at least 50 percent of the expenditures for all state financial assistance provided to the nonstate entity. Additional state projects needed to meet the 50-percent requirement may be selected on an inherent risk basis as stated in the rules of the Department of Financial Services.
(e) Report on the results of any audit conducted pursuant to this section in accordance with the rules of the Department of Financial Services and rules of the Auditor General. Financial reporting packages shall include summaries of the auditor’s results regarding the nonstate entity’s financial statements; Schedule of Expenditures of State Financial Assistance; internal controls; and compliance with laws, rules, and guidelines.
(f) Issue a management letter as prescribed in the rules of the Auditor General.
(g) Upon notification by the nonstate entity, make available the working papers relating to the audit conducted pursuant to this section to the state awarding agency, the Department of Financial Services, or the Auditor General for review or copying.
(11) The independent auditor, when conducting a state project-specific audit of a nonstate entity, shall:
(a) Determine whether the nonstate entity’s schedule of Expenditure of State Financial Assistance is presented fairly in all material respects in conformity with stated accounting policies.
(b) Obtain an understanding of internal controls and perform tests of internal controls over the state project consistent with the requirements of a major state project.
(c) Determine whether or not the auditee has complied with applicable provisions of laws, rules, and guidelines identified in the State Projects Compliance Supplement, or otherwise identified by the state awarding agency, which could have a direct and material effect on the state project.

(d) Report on the results of the state project-specific audit consistent with the requirements of the state single audit and issue a management letter as prescribed in the rules of the Auditor General.
(e) Upon notification by the nonstate entity, make available the working papers relating to the audit conducted pursuant to this section to the state awarding agency, the Department of Financial Services, or the Auditor General for review or copying.
(12) The Auditor General shall:
(a) Have the authority to audit state financial assistance provided to any nonstate entity when determined necessary by the Auditor General or when directed by the Legislative Auditing Committee.
(b) Adopt rules that state the auditing standards that independent auditors are to follow for audits of nonstate entities required by this section.
(c) Adopt rules that describe the contents and the filing deadlines for the financial reporting package.
(d) Provide technical advice upon request of the Department of Financial Services and state awarding agencies relating to financial reporting and audit responsibilities contained in this section.
(e) Be provided one copy of each financial reporting package prepared in accordance with this section.
(f) Perform ongoing reviews of a sample of financial reporting packages filed pursuant to this section to determine compliance with the reporting requirements of this section and applicable rules of the Department of Financial Services and rules of the Auditor General.
History.—s. 2, ch. 98-91; s. 58, ch. 2000-371; s. 233, ch. 2003-261; s. 11, ch. 2005-152; ss. 14, 16, ch. 2006-122; s. 26, ch. 2013-15; s. 6, ch. 2016-132.
Note.—Former s. 216.3491.

Financial Matters pertaining to Political Subdivisions

218.391 Auditor selection procedures.—

(1) Each local governmental entity, district school board, charter school, or charter technical career center, prior to entering into a written contract pursuant to subsection (7), except as provided in subsection (8), shall use auditor selection procedures when selecting an auditor to conduct the annual financial audit required in s. 218.39.

(2) The governing body of a charter county, municipality, special district, district school board, charter school, or charter technical career center shall establish an audit committee. Each noncharter county shall establish an audit committee that, at a minimum, shall consist of each of the county officers elected pursuant to s. 1(d), Art. VIII of the State Constitution, or a designee, and one member of the board of county commissioners or its designee. The primary purpose of the audit committee is to assist the governing body in selecting an auditor to conduct the annual financial audit required in s. 218.39; however, the audit committee may serve other audit oversight purposes as determined by the entity's governing body. The public shall not be excluded from the proceedings under this section.

(3) The audit committee shall:

(a) Establish factors to use for the evaluation of audit services to be provided by a certified public accounting firm duly licensed under chapter 473 and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy. Such factors shall include, but are not limited to, ability of personnel, experience, ability to furnish the required services, and such other factors as may be determined by the committee to be applicable to its particular requirements.

(b) Publicly announce requests for proposals. Public announcements must include, at a minimum, a brief description of the audit and indicate how interested firms can apply for consideration.

(c) Provide interested firms with a request for proposal. The request for proposal shall include information on how proposals are to be evaluated and such other information the committee determines is necessary for the firm to prepare a proposal.

(d) Evaluate proposals provided by qualified firms. If compensation is one of the factors established pursuant to paragraph (a), it shall not be the sole or predominant factor used to evaluate proposals.

(e) Rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to paragraph (a). If fewer than three firms respond to the request for proposal, the committee shall recommend such firms as it deems to be the most highly qualified.

(4) The governing body shall inquire of qualified firms as to the basis of compensation, select one of the firms recommended by the audit committee, and negotiate a contract, using one of the following methods:

(a) If compensation is not one of the factors established pursuant to paragraph (3)(a) and not used to evaluate firms pursuant to paragraph (3)(e), the governing body shall negotiate a contract with the firm ranked first. If the governing body is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the governing body shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The governing body, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time.

(b) If compensation is one of the factors established pursuant to paragraph (3)(a) and used in the evaluation of proposals pursuant to paragraph (3)(d), the governing body shall select the highest-ranked qualified firm or must document in its public records the reason for not selecting the highest-ranked qualified firm.

(c) The governing body may select a firm recommended by the audit committee and negotiate a contract with one of the recommended firms using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor used to select the firm.

(d) In negotiations with firms under this section, the governing body may allow a designee to conduct negotiations on its behalf.

(5) The method used by the governing body to select a firm recommended by the audit committee and negotiate a contract with such firm must ensure that the agreed-upon compensation is reasonable to satisfy the requirements of s. 218.39 and the needs of the governing body.

(6) If the governing body is unable to negotiate a satisfactory contract with any of the recommended firms, the committee shall recommend additional firms, and negotiations shall continue in accordance with this section until an agreement is reached.

(7) Every procurement of audit services shall be evidenced by a written contract embodying all provisions and conditions of the procurement of such services. For purposes of this section, an engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall, at a minimum, include the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services.

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract.

(c) A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed.

(8) Written contracts entered into pursuant to subsection (7) may be renewed. Such renewals may be done without the use of the auditor selection procedures provided in this section. Renewal of a contract shall be in writing.

History.—s. 65, ch. 2001-266; s. 1, ch. 2005-32.

Procurement of Personal Property and Services

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(1) SHORT TITLE.—This section shall be known as the "Consultants' Competitive Negotiation Act."

(2) DEFINITIONS.—For purposes of this section:

(a) "Professional services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

(b) "Agency" means the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06 or ss. 163.3220-163.3243.

(c) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or surveying and mapping in the state.

(d) "Compensation" means the amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated.

(e) "Agency official" means any elected or appointed officeholder, employee, consultant, person in the category of other personal service or any other person receiving compensation from the state, a state agency, municipality, or political subdivision, a school district or a school board.

(f) "Project" means that fixed capital outlay study or planning activity described in the public notice of the state or a state agency under paragraph (3)(a). A project may include:

1. A grouping of minor construction, rehabilitation, or renovation activities.

2. A grouping of substantially similar construction, rehabilitation, or renovation activities.

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed $2 million, for study activity if the fee for professional services for each individual study under the contract does not exceed $200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another.

(h) A "design-build firm" means a partnership, corporation, or other legal entity that:

1. Is certified under s. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

2. Is certified under s. 471.023 to practice or to offer to practice engineering; certified under s. 481.219 to practice or to offer to practice architecture; or certified under s. 481.319 to practice or to offer to practice landscape architecture.

(i) A "design-build contract" means a single contract with a design-build firm for the design and construction of a public construction project.

(j) A "design criteria package" means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.

(k) A "design criteria professional" means a firm who holds a current certificate of registration under chapter 481 to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under chapter 471 to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

(l) "Negotiate" or any form of that word means to conduct legitimate, arms length discussions and conferences to reach an agreement on a term or price. For purposes of this section, the term does not include presentation of flat-fee schedules with no alternatives or discussion.

(3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.—

(a)1. Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in cases of valid public emergencies certified by the agency head. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.

2. Each agency shall provide a good faith estimate in determining whether the proposed activity meets the threshold amounts referred to in this paragraph.

(b) Each agency shall encourage firms engaged in the lawful practice of their professions that desire to provide professional services to the agency to submit annually statements of qualifications and performance data.

(c) Any firm or individual desiring to provide professional services to the agency must first be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency must find that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

(d) Each agency shall evaluate professional services, including capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act, and other factors determined by the agency to be applicable to its particular requirements. When securing professional services, an agency must endeavor to meet the minority business enterprise procurement goals under s. 287.09451.

(e) The public must not be excluded from the proceedings under this section.

(4) COMPETITIVE SELECTION.—

(a) For each proposed project, the agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the project, and ability to furnish the required services.

(b) The agency shall select in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The agency may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations under subsection (5).

(c) This subsection does not apply to a professional service contract for a project the basic construction cost of which is estimated by the agency to be not in excess of the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services is not in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO. However, if, in using another procurement process, the majority of the compensation proposed by firms is in excess of the appropriate threshold amount, the agency shall reject all proposals and reinitiate the procurement pursuant to this subsection.

(d) Nothing in this act shall be construed to prohibit a continuing contract between a firm and an agency.

(5) COMPETITIVE NEGOTIATION.—

(a) The agency shall negotiate a contract with the most qualified firm for professional services at compensation which the agency determines is fair, competitive, and reasonable. In making such determination, the agency shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For any lump-sum or cost-plus-a-fixed-fee professional service contract over the threshold amount provided in s. 287.017 for CATEGORY FOUR, the agency shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto will be adjusted to exclude any significant sums by which the agency determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within 1 year following the end of the contract.

(b) Should the agency be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the agency determines to be fair, competitive, and reasonable, negotiations with that firm must be formally terminated. The agency shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency must terminate negotiations. The agency shall then undertake negotiations with the third most qualified firm.

(c) Should the agency be unable to negotiate a satisfactory contract with any of the selected firms, the agency shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this subsection until an agreement is reached.

(6) PROHIBITION AGAINST CONTINGENT FEES.—

(a) Each contract entered into by the agency for professional services must contain a prohibition against contingent fees as follows: "The architect (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(b) Any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for an architect, professional engineer, or registered land surveyor and mapper, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(c) Any architect, professional engineer, or registered surveyor and mapper, or any group, association, company, corporation, firm, or partnership thereof, who offers to pay, or pays, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction in a state court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(d) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(7) AUTHORITY OF DEPARTMENT OF MANAGEMENT SERVICES.—Notwithstanding any other provision of this section, the Department of Management Services shall be the agency of state government which is solely and exclusively authorized and empowered to administer and perform the functions described in subsections (3), (4), and (5) respecting all projects for which the funds necessary to complete same are appropriated to the Department of Management Services, irrespective of whether such projects are intended for the use and benefit of the Department of Management Services or any other agency of government. However, nothing herein shall be construed to be in derogation of any authority conferred on the Department of Management Services by other express provisions of law. Additionally, any agency of government may, with the approval of the Department of Management Services, delegate to the Department of Management Services authority to administer and perform the functions described in subsections (3), (4), and (5). Under the terms of the delegation, the agency may reserve its right to accept or reject a proposed contract.

(8) STATE ASSISTANCE TO LOCAL AGENCIES.—On any professional service contract for which the fee is over $25,000, the Department of Transportation or the Department of Management Services shall provide, upon request by a municipality, political subdivision, school board, or school district, and upon reimbursement of the costs involved, assistance in selecting consultants and in negotiating consultant contracts.

(9) APPLICABILITY TO DESIGN-BUILD CONTRACTS.—

(a) Except as provided in this subsection, this section is not applicable to the procurement of design-build contracts by any agency, and the agency must award design-build contracts in accordance with the procurement laws, rules, and ordinances applicable to the agency.

(b) The design criteria package must be prepared and sealed by a design criteria professional employed by or retained by the agency. If the agency elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with under the requirements of subsections (4) and (5). A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package.

(c) Except as otherwise provided in s. 337.11(7), the Department of Management Services shall adopt rules for the award of design-build contracts to be followed by state agencies. Each other agency must adopt rules or ordinances for the award of design-build contracts. Municipalities, political subdivisions, school districts, and school boards shall award design-build contracts by the use of a competitive proposal selection process as described in this subsection, or by the use of a qualifications-based selection process pursuant to subsections (3), (4), and (5) for entering into a contract whereby the selected firm will, subsequent to competitive negotiations, establish a guaranteed maximum price and guaranteed completion date. If the procuring agency elects the option of qualifications-based selection, during the selection of the design-build firm the procuring agency shall employ or retain a licensed design professional appropriate to the project to serve as the agency's representative. Procedures for the use of a competitive proposal selection process must include as a minimum the following:

1. The preparation of a design criteria package for the design and construction of the public construction project.

2. The qualification and selection of no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.

3. The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.

4. The solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.

5. For consultation with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the agency of the detailed working drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.

6. In the case of public emergencies, for the agency head to declare an emergency and authorize negotiations with the best qualified design-build firm available at that time.

(10) REUSE OF EXISTING PLANS.—Notwithstanding any other provision of this section, there shall be no public notice requirement or utilization of the selection process as provided in this section for projects in which the agency is able to reuse existing plans from a prior project of the agency, or, in the case of a board as defined in s. 1013.01, a prior project of that or any other board. Except for plans of a board as defined in s. 1013.01, public notice for any plans that are intended to be reused at some future time must contain a statement that provides that the plans are subject to reuse in accordance with the provisions of this subsection.

(11) CONSTRUCTION OF LAW.—Nothing in the amendment of this section by chapter 75-281, Laws of Florida, is intended to supersede the provisions of ss. 1013.45 and 1013.46.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 73-19; ss. 1, 2, 3, ch. 75-281; s. 1, ch. 77-174; s. 1, ch. 77-199; s. 10, ch. 84-321; ss. 23, 32, ch. 85-104; s. 57, ch. 85-349; s. 6, ch. 86-204; s. 1, ch. 88-108; s. 1, ch. 89-158; s. 16, ch. 90-268; s. 15, ch. 91-137; s. 7, ch. 91-162; s. 250, ch. 92-279; s. 55, ch. 92-326; s. 1, ch. 93-95; s. 114, ch. 94-119; s. 10, ch. 94-322; s. 868, ch. 95-148; s. 2, ch. 95-410; s. 45, ch. 96-399; s. 38, ch. 97-100; s. 1, ch. 97-296; s. 80, ch. 98-279; s. 55, ch. 2001-61; s. 63, ch. 2002-20; s. 944, ch. 2002-387; s. 1, ch. 2005-224; s. 19, ch. 2007-157; s. 3, ch. 2007-159; s. 3, ch. 2009-227.

Commercial Development and Capital Improvements

288.705 Statewide contracts register.—

All state agencies shall in a timely manner provide the Florida Small Business Development Center Procurement System with all formal solicitations for contractual services, supplies, and commodities. The Small Business Development Center shall coordinate with Minority Business Development Centers to compile and distribute this information to small and minority businesses requesting such service for the period of time necessary to familiarize the business with the market represented by state agencies. On or before February 1 of each year, the Small Business Development Center shall report to the department on the use of the statewide contracts register. The report shall include, but not be limited to, information relating to:

(1) The total number of solicitations received from state agencies during the calendar year.

(2) The number of solicitations received from each state agency during the calendar year.

(3) The method of distributing solicitation information to businesses requesting such service.

(4) The total number of businesses using the service.

(5) The percentage of businesses using the service which are owned and controlled by minorities.

(6) The percentage of service-disabled veteran business enterprises using the service.

History.—s. 4, ch. 85-104; s. 277, ch. 92-279; s. 55, ch. 92-326; s. 23, ch. 94-322; s. 60, ch. 96-320; s. 39, ch. 2007-217; s. 2, ch. 2008-155; s. 173, ch. 2011-142.

GFOA Best Practice

Government Finance Officers Association

BEST PRACTICE

Audit Committees

BACKGROUND:

Three main groups are responsible for the quality of financial reporting: the governing body,[1] financial management, and the independent auditors. Of these three, the governing body must be seen as first among equals because of its unique position as the ultimate monitor of the financial reporting process.[2] An audit committee is a practical means for a governing body to provide much needed independent review and oversight of the governments financial reporting processes, internal controls, and independent auditors. An audit committee also provides a forum separate from management in which auditors and other interested parties can candidly discuss concerns. By effectively carrying out its functions and responsibilities, an audit committee helps to ensure that management properly develops and adheres to a sound system of internal controls, that procedures are in place to objectively assess managements practices, and that the independent auditors, through their own review, objectively assess the governments financial reporting practices.[3]

RECOMMENDATION:

GFOA makes the following recommendations regarding the establishment of audit committees by state and local governments:

- The governing body[4] of every state and local government should establish an audit committee or its equivalent;
- The audit committee should be formally established by charter, enabling resolution, or other appropriate legal means and made directly responsible[5] for the appointment, compensation, retention, and oversight of the work of any independent accountants engaged for the purpose of preparing or issuing an independent audit report or performing other independent audit, review, or attest services.[6] Likewise, the audit committee should be established in such a manner that all accountants thus engaged report directly to the audit committee. The written documentation establishing the audit committee should prescribe the scope of the committees responsibilities, as well as its structure, processes, and membership requirements. The audit committee should itself periodically review such documentation, no less than once every five years, to assess its continued adequacy;[7]
- Ideally, all members of the audit committee should possess or obtain a basic understanding of governmental financial reporting and auditing.[8] The audit committee also should have access to the services of at least one financial expert, either a committee member or an outside party engaged by the committee for this purpose. Such a financial expert should through both education and experience, and in a manner specifically relevant to the government sector, possess 1) an understanding of generally accepted accounting principles and financial statements; 2) experience in preparing or auditing financial statements of comparable entities; 3) experience in applying such principles in connection with the accounting for estimates,

accruals, and reserves; 4) experience with internal accounting controls; and 5) an understanding of audit committee functions;[9]

- All members of the audit committee should be members of the governing body. To ensure the committees independence and effectiveness, no governing body member who exercises managerial responsibilities that fall within the scope of the audit should serve as a member of the audit committee;
- An audit committee should have sufficient members for meaningful discussion and deliberation, but not so many as to impede its efficient operation. As a general rule, the minimum membership of the committee should be no fewer than three;[10]
- Members of the audit committee should be educated regarding both the role of the audit committee and their personal responsibility as members, including their duty to exercise an appropriate degree of professional skepticism;
- It is the responsibility of the audit committee to provide independent review and oversight of a governments financial reporting processes, internal controls and independent auditors;[11]
- The audit committee should have access to the reports of internal auditors, as well as access to annual internal audit work plans;
- The audit committee should present annually to the full governing body a written report of how it has discharged its duties and met its responsibilities. It is further recommended that this report be made public and be accompanied by the audit committees charter or other establishing documentation;
- The audit committee should establish procedures for the receipt, retention, and treatment of complaints regarding accounting, internal accounting controls, or auditing matters. Such procedures should specifically provide for the confidential, anonymous submission by employees of the government of concerns regarding questionable accounting or auditing matters.[12] The audit committee also should monitor controls performed directly by senior management, as well as controls designed to prevent or detect senior-management override of other controls[13];
- The audit committee should be adequately funded and should be authorized to engage the services of financial experts, legal counsel, and other appropriate specialists, as necessary to fulfill its responsibilities[14]; and
- In its report to the governing body, the audit committee should specifically state that it has discussed the financial statements with management, with the independent auditors in private,[15] and privately among committee members,[16] and believes that they are fairly presented, to the extent such a determination can be made solely on the basis of such conversations.

Notes:

[1] For the purposes of this recommended practice, the term governing body should be understood to include any elected officials (e.g., county auditor, city controller) with legal responsibility for overseeing financial reporting, internal control, and auditing, provided they do not exercise managerial responsibilities within the scope of the audit. The term governing body also is intended to encompass appointed bodies such as pension boards.

[2] *Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees,* Overview and Recommendations.

[3] Securities and Exchange Commission (SEC) Regulation 33-8220, Background and Overview of the New Rule and Amendments.

[4] For the purposes of this recommended practice, the term governing body should be understood to include any other elected officials (e.g., county auditor, city controller) with legal responsibility for overseeing financial reporting, internal control, and auditing, provided they do *not* exercise managerial responsibilities within the scope of the audit. The term governing body also is intended to encompass appointed bodies such as pension boards.

[5] Nothing in this recommended practice should be interpreted so as to limit the full governing body from exercising ultimate authority.

[6] Sarbanes Oxley Act, Section 301.

[7] *Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees*, Recommendation 4.

[8] *Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees*, Recommendation 3. Continuity typically is a positive factor in achieving this goal, a fact that should be kept in mind when considering the appropriate length of service for audit committee members.

[9] Sarbanes-Oxley Act, Section 407.

[10] In certain limited instances, as noted later, the audit committee will need to meet privately to achieve its goals. If the audit committee constitutes a majority of the governing body, such private meetings may be hampered by sunshine laws and similar open meetings legislation.

[11] SEC Regulation 330-8220, Background and Overview.

[12] Sarbanes Oxley Act, Section 301.

[13] *Internal Control Integrated Framework: Guidance on Monitoring Internal Control Systems* (Discussion Document of the Committee of Sponsoring OrganizationsCOSO, 2007), page 10.

[14] Nothing in this recommended practice should be interpreted so as to limit the full governing body from exercising ultimate authority.

[15] It is important that the audit committee be able to meet privately with the independent auditors, as needed, to ensure a full and candid discussion. Governments are urged to amend sunshine laws and similar open meetings legislation to permit such encounters in these limited circumstances.

[16] It is important that audit committee members be able to meet privately among themselves, as needed, to ensure a full and candid discussion. Governments are urged to amend sunshine laws and similar open meetings legislation to permit such an encounter in these limited circumstances.

Government Finance Officers Association

BEST PRACTICE

Establishing an Effective Grants Policy

BACKGROUND:

Grants are an attractive form of funding for governments and frequently come with special requirements that the recipient must follow. Such requirements can apply to the general operations of the grant, specific compliance rules, monitoring of other parties that may receive resources from the grants, specific time frame, and specialized reporting requirements. There are typically negative consequences for failing to meet grant requirements and in addition, grants may, either as a condition of the grant itself or politically, commit a government to financially maintaining a program or asset after the expiration of the grant. An effective grants policy provides guidance to staff as it relates to associated processes and procedures in order to maximize the benefits and minimize the risks.

RECOMMENDATION:

GFOA recommends that governments develop a formal grants policy. Further, GFOA recommends that such a policy address steps to take prior to applying for or accepting grants, and that the policy at minimum contain the following components:

1. *Grants identification and application*. A grants policy should require that the department or agency seeking a grant provide advance notice to appropriate authority, such as finance, so that the effects on the government, for example, budget, cash flow, procurement requirements, financial reporting, or compliance requirements can be reviewed and understood beforehand.
2. *Strategic alignment*. A grants policy should include a requirement for assessing the extent to which a grant is consistent with the governments mission, strategic priorities, and/or adopted plans as opposed to simply constituting additional funding for a department or agency of the government. Accepting a grant that is not consistent with the overall strategic direction of a government creates the risk that the government will spend its own funds to support a grant inconsistent with overall strategic direction or commit the government to own-source spending beyond the grant period (see cost/benefit analysis, below). Such a requirement could be for a formal strategic analysis, including the creation of outcome measures, or simply a statement of the way in which the grant would further the organizations mission or strategies followed by a review by a central agency such as a finance or budget office, strategic planning office, or legislative staff.
3. *Funding analysis*. Along with a review of strategic alignment, a grants policy should require a multi-year cost/benefit analysis prior to application or acceptance. The analysis should include matching funds (and whether or not they will need to be set aside) and any other direct costs associated with a grant, the extent to which overhead costs will be covered, in-

kind contributions, audit and close-out costs, and potential costs that might need to be incurred by the government beyond the grant period. The analysis should also explore whether or not a grant requires that general revenues or a line of credit or grant anticipation notes be used to cover the gap between cash being expended and reimbursement is received by the government.

4. *Evaluation prior to renewal or grant continuation*. A grants policy should include an overall approach to grant renewals. Additionally, a grants policy should require an evaluation of the impacts of the grant-funded program or asset prior to deciding whether to continue a grant at the end of the initial grant period. Creating outcome measures before receiving a grant will help the government to determine the extent to which the grant program or asset has produced desired benefits. Such an analysis should also include a review of actual costs and the potential benefits of using general revenues associated with the grant for other purposes.
5. *Administrative and operational support*. A grants policy should also include a requirement that the government obtain a detailed understanding of grant terms and conditions and specify how the grant will be monitored. Examples of what should be required include establishment of procedures related to:
    1. The development of a project plan that would include how new programs or activities funded by the grant would be implemented and who would be responsible for implementation.
    2. The provision of training for those responsible for the grant, so they can effectively carry out their roles.
    3. Terms and conditions for grant-funded personnel, such as severance and unemployment costs related to employees who are terminated upon expiration of the grant or operating and maintenance costs for assets that are acquired.
    4. The system/process that will be used to charge expenses against the grant and to obtain reimbursement. This might require both technical procedures to account for time and materials and reporting, as well as training for employees so that they fully appreciate the importance of charging time and materials correctly.
    5. Identify the individual/department responsible for carrying out the grant and making sure that proper resources are available to support that grant.

Government Finance Officers Association

BEST PRACTICE

Sustainable Funding Practices for Defined Benefit Pensions and Other Postemployment Benefits (OPEB)

BACKGROUND:

The fundamental financial objective of government employers that offer defined benefit (DB) pensions and other postemployment benefits (OPEB) to their employees is to fund the long-term cost of the benefits promised to participants. It is widely acknowledged that the appropriate way to attain reasonable assurance that benefits will remain sustainable is for a government to accumulate resources for future benefit payments in a systematic and disciplined manner during the active service life of the benefitting employees.

Long-term funding is accomplished through contributions from the employer and employee, and from investment earnings, which typically provide the largest component of funding. Contributions often are expressed as a percentage of active member payroll, which should remain approximately level from one year to the next. A funding policy for benefits offered codifies the government's commitment to fund benefit promises based on regular actuarial valuations. Creating a funding policy that embodies this funding principle is a prudent governance practice and helps achieve intergenerational equity among those who are called on to financially support the benefits, thereby avoiding the transfer of costs into the future.

RECOMMENDATION:

GFOA recommends that government officials ensure that the costs of DB pensions and OPEB are properly measured and reported. Sustainability requires governments that sponsor or participate in DB pension plans, or that offer OPEB, to contribute the full amount of their actuarially determined contribution (ADC) each year. Failing to fund the ADC during recessionary periods impairs investment returns by providing inadequate funds to invest when stock prices are low. As a result, long-term investment performance will suffer and ultimately require higher contributions.

Public officials and associated trustees should, at a minimum, adhere to the following best practices for sustaining DB pension plans and OPEB, as applicable:

1. Adopt a funding policy with a target funded ratio of 100 percent or more (full funding). The funding policy should provide for a stable amortization period over time,[1] with parameters provided for making changes based on specific circumstances. The amortization period for the unfunded actuarial accrued liability should be consistent with the funding policy.
2. Discuss the funding and amortization methods with the government's actuary and select the one most closely aligned with the government's funding policy. The actuarial funding method selected is a key component of the funding policy for the offered benefits.[2] Some funding

methods may result in greater variation in the ADC (the portion of the present value of projected benefits that is attributable to the current period) than others. Governments should take measures to reduce the volatility in the ADC in order to create a more predictable operating budget and enhance their ability to meet their funding obligations.

3. The funding policy should stipulate that employer and employee contributions are to be made at regular intervals, with the contribution amount determined by the results of a recent actuarial valuation of the system. To ensure that this objective can be achieved, the funding policy should be integrated with investment and asset allocation policies. Reductions or postponements in collecting the ADC would typically be inconsistent with the assumptions made in computing the ADC. When contributions fall below the ADC, the board of trustees should prepare a report that analyzes the effect of the underfunding and distribute that report to all stakeholders.
4. Have a qualified actuary prepare an actuarial valuation[3] at least biennially, in accordance with generally accepted actuarial principles. Each valuation should include a gain/loss analysis that identifies the magnitude of actuarial gains and losses, based on variations between actual and assumed experience for each major assumption.
5. Have an actuarial experience study[4] performed at least once every five years and update actuarial assumptions as needed. Assumptions that should be carefully reviewed include the long-term return on assets, salary growth, inflation, mortality tables, age eligibility, and any anticipated changes in the covered population of plan participants. As part of this review, assess the overall risk of the assumptions to ensure that what may have been determined to be an acceptable level of risk in any one area has not been compounded.
6. Have an independent actuary perform a comprehensive actuarial audit of the actuarial valuations[5] at least once every five to eight years. The purpose of such a review is to provide an independent assessment of the reasonableness of the actuarial methods and assumptions in use and the validity of the resulting actuarially computed contributions and liabilities. Actuarial assumptions should be carefully reviewed, discussed with outside experts (including investment advisors), and explicitly approved by the governing body.
7. Communicate plan status and activities by preparing and widely distributing a comprehensive annual financial report (CAFR) covering the retirement system, and distribute summary information to all plan participants. The CAFR should be prepared following GFOA's guidance for the preparation of a public-employee retirement system CAFR.

GFOA recommends the following options to reduce ADC volatility:

1. *Smoothing returns on assets.* Smoothing investment returns over several years recognizes that investment portfolio performance fluctuates, and only by coincidence will it exactly equal the assumed actuarial rate of return for any given year. This approach reduces the volatility within the calculation of the ADC. A smoothing period is used to balance the need for a longer-term investment horizon with the short-term market fluctuations in the value of assets. While the smoothing period is typically about five years, it can be longer, if controls are in place to assure that any variation between the market value and actuarial value of assets does not become too large. A common approach is to establish corridors around the market value of assets that stipulate the maximum percentage by which the actuarially smoothed value will be allowed to deviate from actual market value. Once a smoothing method is established, the governing board should adhere to it and avoid making arbitrary changes to the methodology.
2. *Diversifying the investment portfolio to reduce volatility in investment returns.* Diversifying assets across and within asset classes is a fundamental risk management tool that also has the effect of reducing the fluctuations in ADC volatility. Although annual changes in the ADC are affected by numerous factors, the most significant is usually investment return. Retirement systems should periodically conduct asset-liability studies for use in reviewing their asset allocation policies. The risk of investment strategies should also be assessed as

well as an evaluation of any management fees associated with investment strategies utilized. (See GFOA's Best Practice, "Asset Allocation for Defined Benefit Plans," 2009).

3. *Managing investment returns long term.* Because the investment return assumption is an average long-term expected rate of return, excess earnings in any one year will likely be offset by lower-than-expected rates of return in a future year. Thus, any program that is derived from an excess-earnings concept is detrimental to the funded status of the plan.
4. *Managing growth in liabilities.* All benefit increases for members and beneficiaries should be carefully considered, appropriately approved, and consistent with applicable Internal Revenue Service requirements. Whether cost of living adjustments (COLAs), benefit formula enhancements, or postretirement benefit increases, a clear strategy should be developed that integrates benefit enhancements with the funding policy. Further, all benefit enhancements and COLAs should be actuarially valued and presented to the appropriate governing bodies before they are adopted so the effect of the benefit enhancements on the fund's actuarial accrued liability, funded ratio, and contribution rates is fully understood. This step will help ensure that the goals of fully funding member benefits and financial sustainability are achieved. If a benefit enhancement is being considered, a source of funding should be identified that can support the enhancement over the long term.

To further ensure sustainable funding practices, design the plan to prevent calculation abuses of retirement benefit enhancements such as salary spiking, and any other ethical violations. These violations can create negative public perceptions that are harmful to all participants and can adversely affect the sustainability of the system. Policies to safeguard against ethical violations and benefit calculation abuses should be considered.

Notes:

1. GFOA recommends that a pension funding policy use a fixed (closed) amortization method so that the entire liability would be fully amortized at the end of a set duration, e.g., 25 years. See GFOA Best Practice, "Core Elements of a Funding Policy," 2013.
2. The use of projected unit credit method typically would not be consistent with the goal of level funding.
3. The purpose of an actuarial valuation is 1) to determine the amount of actuarially determined contributions (i.e., an amount that, if contributed consistently and combined with investment earnings, would be sufficient to pay promised benefits in full over the long-term) and 2) to measure the plan's funding progress.
4. An actuarial experience study reviews the differences between a plan's assumed and actual experience over multiple years (typically 3 to 5), with the goal of examining the trends related to actual experience and recommending changes to assumptions, if needed.
5. Because the reliability of an actuarial valuation depends on the use of reasonable methods and assumptions, a comprehensive audit of the actuarial valuations is conducted to review the appropriateness of the actuarial methods, assumptions, and their application.

References:

- *Financing Retirement System Benefits*, Richard G. Roeder, GFOA, 1987.
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- *A Guide for Selecting Pension Actuarial Consultants: Writing RFPs and Evaluating Proposals*, Robert Pam, GFOA, 1999.
- *Public Pension Systems – Operational Risks of Defined Benefit and Related Plans and Controls Investment Policy Checklist for Pension Fund Assets*, GFOA, May 2003.
- GFOA Best Practice, "Asset Allocation for Defined Benefit Plans," 2009.

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Government Finance Officers Association

BEST PRACTICE

Technology in Capital Planning and Management

BACKGROUND:

Organizations use a variety of software to assist in managing their capital programs. Systems that support capital programming commonly found in government include: enterprise resource planning (ERP), financial management, fixed asset management, budget development, geographic information systems (GIS), constituent relationship management (CRM), computerized maintenance management (CMMS), business intelligence (BI)/analytic, and a variety of spreadsheets and custom developed databases. Further, individual departments within a single organization often own and operate their own systems, resulting in information being dispersed with no single source providing complete information on the capital program.

Systems used across the entire organization for managing the capital program often support the following tasks:

- *Capital Planning* for multi-year capital forecasting that identifies needs of new items, replacement items, and major renovations.
- *Capital Budgeting* for managing the organizations 5-year capital improvement program and identifies both approved projects and funding sources.
- *Project Costing* for tracking the ongoing costs of capital projects including labor, requirements, supplies, and contract costs.
- *Project Management* to provide managers with project status reports, budget reports, and an ongoing indicator of project progress
- *Asset Inventory* to list all current capital assets, detailed information on asset location, features, and ownership/responsibility
- *Asset Management* to track usage information on the item, identify upcoming maintenance items and track history of work performed on the item.
- *Work Orders* to schedule and manage current work. Systems may also include a method of receiving service requests from both internal and external sources.

RECOMMENDATION:

GFOA recommends that finance officers take an organizational-wide approach to using technology for capital program management. Use of appropriate technology that can be used by key participants in the process -- in finance, engineering, operations, overall management, and other areas can enhance collaboration and improve management of the capital program by providing timely, relevant, and complete information to all. In developing that approach, governments should consider the following:

- **Systems Available in the Market** - Many commercially available systems address the needs of governments for managing components of the capital program. Features differ from system to system, so that a system that is a good fit for one organization may not be for another. For example, systems may specialize in utility assets, road infrastructure, or facilities. Governments with highly specialized needs must understand the degree individual systems can meet their needs. Some functionality may have to be custom-developed. However, software firms continue to offer additional features as they develop newer and better versions of their systems. In addition, many systems develop their software around standard practices used across many organizations and it may be beneficial to adopt those practices rather than customize software to meet an organizations unique process.
- **Alignment with the Organizations Information Technology (IT) Strategic Plan** - To avoid the condition where a government procures many disparate and standalone systems that are not capable of sharing information, any technology used in the capital planning process should also be planned for in the governments IT strategic plan. Alignment with other organization-wide planning efforts will avoid redundant systems and will provide a greater opportunity for systems to efficiently support end-to-end business processes.
- **Stakeholder Expectations for the System** - In planning and procuring a new system, organizations should develop detailed requirements that identify the scope of the system and set an overall expectation for the project. Requirements and expectations should then be managed throughout the procurement and implementation project to ensure that vendor promises are delivered and expectations met.
- **The Business Case for the System (Assessment of Costs and Benefits)** - Organizations must analyze the projected benefits, costs, and risks in moving to a new system to determine if there is a suitable business case for moving forward. Different organizations will have different needs and while some may require complex systems, others may achieve greater returns from using simple systems that do not require significant upfront investments.
- **Likely Users of the System** - As part of the planning process for a system, the government should identify all stakeholders across the organization that will use the system, use information from the system, or provide data to the system. To be an effective tool, the system will need to meet the needs of all stakeholders including finance officers, accountants, analysts, engineers, project managers, policy makers, and other managers. The system will also need to work with other existing systems to exchange data through interfaces. Additionally, there may be a need for the public to interact with the system (e.g. to submit service requests or provide feedback on planning documents).
- **Scope of the System** - After identifying who will use the system, governments should detail specific requirements for how the system will be used to support the organizations business processes. The scope of a system could range from one aspect of the capital budgeting process to a complete planning, management and analysis of the capital program. Identifying the specific needs of each stakeholder group will assist in getting organization-wide buy-in for the system.
- **Process for Collecting, Verifying, and Transferring Data** - There are multiple method of getting data into the system that could include automated interfaces with other systems or manual data entry. The organization will need to determine an effective way for getting information in the system. Where possible, organizations should seek systems and process that facilitate single points of data entry so that the same data is not entered at multiple times.
- **Communication of Information** - Current systems provide multiple ways to communicate relevant data, including standard reports, customized reports, dashboards, or exception reports. Many of these systems also use features to provide automated notifications to stakeholders and decision makers when certain conditions arise. It is essential that the system be able to provide the necessary information to support key decisions in the capital program management process.
- **Ongoing Support for the System** - Maintaining the system involves both a functional and technical responsibility. The system will need to comply with the organizations technical

standards and have appropriate staff assigned to maintaining the system. System maintenance will include any administrative tasks for security, such as manager user access to the system and permissions within the system, managing the automation of business process flows, and continuing to develop reports to meet new business needs. In addition, system support includes technical tasks such as database administration and network administration. Finally, an organization must develop and maintain a core group of experts to support key business processes and remain self-sufficient on the system. Relying on a vendor to provide this expertise can be costly.

Overall, technology provides the opportunity to transform the planning, budgeting, implementation, and overall management of an organizations capital program. However, to generate the expected return on investment, an organization should properly plan for such a system and detail its specific needs so that a system can be deployed that meets needs across the organization given its resource constraints for both the initial purchase and long term maintenance.

References:

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