

MEMORANDUM

TO: BOARD OF TRUSTEES
FROM: STEPHEN H. CYPEN, ESQ.
DATE: JUNE 2, 2009
RE: CS SB 538



On June 1, 2009, Florida Governor Charlie Crist signed into law CS SB 538, an act relating to publicly funded retirement programs. The law makes significant amendments to Chapter 175, Florida Statutes (firefighters) and Chapter 185, Florida Statutes (police officers). The law is effective July 1, 2009, although certain provisions need not be complied with until January 1, 2010. The entire 37-page law is attached to this Memorandum. In the near future, we will do a detailed Memorandum analyzing each section of the new law.

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1
2 An act relating to publicly funded retirement
3 programs; amending s. 121.4501, F.S.; requiring the
4 Trustees of the State Board of Administration to
5 identify and offer at least one terror-free investment
6 product to the Public Employee Optional Retirement
7 Program by a certain date; amending s. 121.591, F.S.;
8 conforming a cross-reference; amending s. 175.032,
9 F.S.; redefining the terms "credible service" and
10 "firefighter"; amending s. 175.061, F.S.; authorizing
11 the terms of office for the board of trustees of the
12 firefighters' pension trust fund to be revised under
13 certain circumstances; authorizing the firefighters'
14 pension trust fund plan administrator to withhold
15 funds to pay for premiums for accident, health, and
16 long-term care insurance for the retiree and the
17 retiree's spouse and dependents; providing an
18 exemption from liability under certain circumstances;
19 amending s. 175.071, F.S.; requiring the board of
20 trustees to perform its powers subject to certain
21 fiduciary standards and ethics provisions; increasing
22 the percentage of assets of the firefighters' pension
23 trust fund that the board of trustees may invest in
24 foreign securities on a market-value basis;
25 authorizing certain individuals to sign drafts issued
26 providing that investment caps on foreign securities
27 may only be amended, repealed, or increased by an act
28 of the Legislature; authorizing certain individuals to
29 sign drafts issued upon the firefighters' pension

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30 trust fund; requiring the board of trustees to
31 identify and divest the fund of any scrutinized
32 companies by a certain date; amending s. 175.101,
33 F.S.; clarifying boundaries of a special fire control
34 district for purposes of assessment and imposition of
35 the excise tax on property insurance premiums;
36 amending s. 175.171, F.S.; authorizing retired
37 firefighters to change their designation of joint
38 annuitant or beneficiary up to two times without the
39 approval of the board of trustees or the prior joint
40 annuitant or beneficiary; conforming provisions
41 relating to joint pensioner or beneficiary to reflect
42 joint annuitant or beneficiary; amending s. 175.361,
43 F.S.; revising fund distribution procedures with
44 respect to plan termination; providing that the
45 Department of Management Services shall effect the
46 termination of the fund; amending s. 185.02, F.S.;
47 redefining the term "creditable service" for purposes
48 of determining credit for prior service as a police
49 officer; amending s. 185.05, F.S.; revising municipal
50 police officers' retirement trust fund board of
51 trustee selection procedures; authorizing the terms of
52 office for the board of trustees of the municipal
53 police officers' retirement trust fund to be revised
54 under certain circumstances; authorizing the plan
55 administrator to withhold funds to pay for premiums
56 for accident, health, and long-term care insurance for
57 the retiree and the retiree's spouse and dependents;
58 providing an exemption from liability under certain

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59 circumstances; amending s. 185.06, F.S.; requiring the
60 board of trustees to perform its powers subject to
61 certain fiduciary standards and ethics provisions;
62 increasing the percentage of assets of the municipal
63 police officers' retirement trust fund that the board
64 of trustees may invest in foreign securities on a
65 market-value basis; providing that the investment cap
66 on foreign securities may only be amended, repealed,
67 or increased by an act of the Legislature; authorizing
68 certain individuals to sign drafts issued upon the
69 municipal police officers' retirement trust fund;
70 requiring the board of trustees to identify and divest
71 the fund of any scrutinized companies by a date
72 certain; amending s. 185.161, F.S.; authorizing
73 retired police officers to change their designation of
74 joint annuitant or beneficiary up to two times without
75 the approval of the board of trustees or the prior
76 joint annuitant or beneficiary; conforming provisions
77 relating to joint pensioner or beneficiary to reflect
78 joint annuitant or beneficiary; amending s. 185.37,
79 F.S.; revising fund distribution procedures with
80 respect to plan termination; providing that the
81 Department of Management Services shall effect the
82 termination of the fund; providing an effective date.

83
84 Be It Enacted by the Legislature of the State of Florida:

85
86 Section 1. Present paragraphs (d), (e), and (f) of
87 subsection (9) of section 121.4501, Florida Statutes, are

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88 redesignated as paragraphs (e), (f), and (g), respectively, and
89 a new paragraph (d) is added to that subsection, to read:

90 121.4501 Public Employee Optional Retirement Program.—

91 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

92 (d) By March 1, 2010, the board shall identify and offer at
93 least one terror-free investment product that allocates its
94 funds among securities not subject to divestiture as provided in
95 s. 215.473 if the investment product is deemed by the board to
96 be consistent with prudent investor standards. No person may
97 bring a civil, criminal, or administrative action against an
98 approved provider, the state board, or any employee, officer,
99 director, or trustee of such provider based upon the divestiture
100 of any security or the offering of a terror-free investment
101 product as specified in this paragraph.

102 Section 2. Paragraph (a) of subsection (1) of section
103 121.591, Florida Statutes, is amended to read:

104 121.591 Benefits payable under the Public Employee Optional
105 Retirement Program of the Florida Retirement System.—Benefits
106 may not be paid under this section unless the member has
107 terminated employment as provided in s. 121.021(39)(a) or is
108 deceased and a proper application has been filed in the manner
109 prescribed by the state board or the department. The state board
110 or department, as appropriate, may cancel an application for
111 retirement benefits when the member or beneficiary fails to
112 timely provide the information and documents required by this
113 chapter and the rules of the state board and department. In
114 accordance with their respective responsibilities as provided
115 herein, the state board of Administration and the Department of
116 Management Services shall adopt rules establishing procedures

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117 for application for retirement benefits and for the cancellation
118 of such application when the required information or documents
119 are not received. The State Board of Administration and the
120 Department of Management Services, as appropriate, are
121 authorized to cash out a de minimis account of a participant who
122 has been terminated from Florida Retirement System covered
123 employment for a minimum of 6 calendar months. A de minimis
124 account is an account containing employer contributions and
125 accumulated earnings of not more than \$5,000 made under the
126 provisions of this chapter. Such cash-out must either be a
127 complete lump-sum liquidation of the account balance, subject to
128 the provisions of the Internal Revenue Code, or a lump-sum
129 direct rollover distribution paid directly to the custodian of
130 an eligible retirement plan, as defined by the Internal Revenue
131 Code, on behalf of the participant. If any financial instrument
132 issued for the payment of retirement benefits under this section
133 is not presented for payment within 180 days after the last day
134 of the month in which it was originally issued, the third-party
135 administrator or other duly authorized agent of the State Board
136 of Administration shall cancel the instrument and credit the
137 amount of the instrument to the suspense account of the Public
138 Employee Optional Retirement Program Trust Fund authorized under
139 s. 121.4501(6). Any such amounts transferred to the suspense
140 account are payable upon a proper application, not to include
141 earnings thereon, as provided in this section, within 10 years
142 after the last day of the month in which the instrument was
143 originally issued, after which time such amounts and any
144 earnings thereon shall be forfeited. Any such forfeited amounts
145 are assets of the Public Employee Optional Retirement Program

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146 Trust Fund and are not subject to the provisions of chapter 717.

147 (1) NORMAL BENEFITS.—Under the Public Employee Optional
148 Retirement Program:

149 (a) Benefits in the form of vested accumulations as
150 described in s. 121.4501(6) are ~~shall be~~ payable under this
151 subsection in accordance with the following terms and
152 conditions:

153 1. To the extent vested, benefits are ~~shall be~~ payable only
154 to a participant.

155 2. Benefits shall be paid by the third-party administrator
156 or designated approved providers in accordance with the law, the
157 contracts, and any applicable board rule or policy.

158 3. To receive benefits ~~under this subsection~~, the
159 participant must be terminated from all employment with all
160 Florida Retirement System employers, as provided in s.
161 121.021(39).

162 4. Benefit payments may not be made until the participant
163 has been terminated for 3 calendar months, except that the board
164 may authorize by rule for the distribution of up to 10 percent
165 of the participant's account after being terminated for 1
166 calendar month if the ~~a~~ participant has reached the normal
167 retirement requirements of the defined benefit plan, as provided
168 in s. 121.021(29).

169 5. If a member or former member of the Florida Retirement
170 System receives an invalid distribution from the Public Employee
171 Optional Retirement Program Trust Fund, such person must ~~shall~~
172 repay the full invalid distribution to the trust fund within 90
173 days after receipt of final notification by the state board ~~of~~
174 ~~Administration~~ or the third-party administrator that the

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175 distribution was invalid. If such person fails to repay the full
176 invalid distribution within 90 days after receipt of final
177 notification, the person may be deemed retired from the ~~Public~~
178 ~~Employee~~ optional retirement program by the state board, as
179 provided pursuant to s. 121.4501(2)(j), and is ~~shall be~~ subject
180 to ~~the provisions of~~ s. 121.122. If such person is deemed
181 retired by the state board, any joint and several liability set
182 out in s. 121.091(9)(c)2. becomes null and void, and the state
183 board, the department ~~of Management Services~~, or the employing
184 agency is not liable for gains on payroll contributions that
185 have not been deposited to the person's account in the ~~Public~~
186 ~~Employee Optional~~ retirement program, pending resolution of the
187 invalid distribution. The member or former member who has been
188 deemed retired or who has been determined by the board to have
189 taken an invalid distribution may appeal the agency decision
190 through the complaint process as provided under s.
191 121.4501(9)(g)3. ~~s. 121.4501(9)(f)3.~~ As used in this
192 subparagraph, the term "invalid distribution" means any
193 distribution from an account in the ~~Public Employee~~ optional
194 retirement program which is taken in violation of ~~the provisions~~
195 ~~of~~ this section, s. 121.091(9), or s. 121.4501.

196 Section 3. Paragraph (c) of subsection (4) and paragraph
197 (a) of subsection (8) of section 175.032, Florida Statutes, are
198 amended to read:

199 175.032 Definitions.—For any municipality, special fire
200 control district, chapter plan, local law municipality, local
201 law special fire control district, or local law plan under this
202 chapter, the following words and phrases have the following
203 meanings:

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204 (4) "Creditable service" or "credited service" means the
205 aggregate number of years of service, and fractional parts of
206 years of service, of any firefighter, omitting intervening years
207 and fractional parts of years when such firefighter may not have
208 been employed by the municipality or special fire control
209 district, subject to the following conditions:

210 (c) Credited service under this chapter shall be provided
211 only for service as a firefighter, as defined in subsection (8),
212 or for military service and does ~~shall~~ not include credit for
213 any other type of service. A municipality may, by local
214 ordinance, or a special fire control district may, by
215 resolution, provide for the purchase of credit for military
216 service prior to employment as well as for prior service as a
217 firefighter for some other employer as long as a firefighter is
218 not entitled to receive a benefit for such ~~other~~ prior service
219 as a firefighter. For purposes of determining credit for prior
220 service as a firefighter, in addition to service as a
221 firefighter in this state, credit may be given for federal,
222 other state, or county service if the prior service is
223 recognized by the Division of State Fire Marshal as provided
224 under chapter 633, or the firefighter provides proof to the
225 board of trustees that his or her service is equivalent to the
226 service required to meet the definition of a firefighter under
227 subsection (8).

228 (8) (a) "Firefighter" means any person employed solely by a
229 constituted fire department of any municipality or special fire
230 control district who is certified as a firefighter as a
231 condition of employment in accordance with ~~the provisions of s.~~
232 633.35 and whose duty it is to extinguish fires, to protect

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233 life, or to protect property. The term includes all certified,
234 supervisory, and command personnel whose duties include, in
235 whole or in part, the supervision, training, guidance, and
236 management responsibilities of full-time firefighters, part-time
237 firefighters, or auxiliary firefighters but does not include
238 part-time firefighters or auxiliary firefighters. However, for
239 purposes of this chapter only, the term "firefighter" also
240 includes public safety officers who are responsible for
241 performing both police and fire services, who are certified as
242 police officers or firefighters, and who are certified by their
243 employers to the Chief Financial Officer as participating in
244 this chapter before ~~prior to~~ October 1, 1979. Effective October
245 1, 1979, public safety officers who have not been certified as
246 participating in this chapter are ~~shall be~~ considered police
247 officers for retirement purposes and are ~~shall be~~ eligible to
248 participate in chapter 185. Any plan may provide that the fire
249 chief has ~~shall have~~ an option to participate, or not, in that
250 plan.

251 Section 4. Paragraph (a) of subsection (1) and subsection
252 (7) of section 175.061, Florida Statutes, are amended to read:

253 175.061 Board of trustees; members; terms of office;
254 meetings; legal entity; costs; attorney's fees.—For any
255 municipality, special fire control district, chapter plan, local
256 law municipality, local law special fire control district, or
257 local law plan under this chapter:

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

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262 1, 1986, and thereafter:

263 (a) The membership of the board of trustees for a chapter
264 plan consists ~~shall consist~~ of five members, two of whom, unless
265 otherwise prohibited by law, must ~~shall~~ be legal residents of
266 the municipality or special fire control district and must, ~~who~~
267 ~~shall~~ be appointed by the governing body of the municipality or
268 special fire control district, and two of whom must ~~shall~~ be
269 full-time firefighters as defined in s. 175.032 who are ~~shall be~~
270 elected by a majority of the active firefighters who are members
271 of such plan. With respect to any chapter plan or local law plan
272 that, on January 1, 1997, allowed retired firefighters to vote
273 in such elections, retirees may continue to vote in such
274 elections. The fifth member shall be chosen by a majority of the
275 previous four members as provided ~~for~~ herein, and such person's
276 name shall be submitted to the governing body of the
277 municipality or special fire control district. Upon receipt of
278 the fifth person's name, the governing body of the municipality
279 or special fire control district shall, as a ministerial duty,
280 appoint such person to the board of trustees ~~as its fifth~~
281 ~~member~~. The fifth member shall have the same rights as each of
282 the other four members ~~appointed or elected as herein provided~~,
283 shall serve as trustee for a period of 2 years, and may succeed
284 himself or herself in office. Each resident member shall serve
285 as trustee for a period of 2 years, unless sooner replaced by
286 the governing body at whose pleasure he or she serves ~~shall~~
287 ~~serve~~, and may succeed himself or herself as a trustee. Each
288 firefighter member shall serve as trustee for a period of 2
289 years, unless he or she sooner leaves the employment of the
290 municipality or special fire control district as a firefighter,

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291 whereupon a successor shall be chosen in the same manner as an
292 original appointment. Each firefighter may succeed himself or
293 herself in office. The terms of office of the appointed and
294 elected members may be amended by municipal ordinance, special
295 act of the Legislature, or resolution adopted by the governing
296 body of the special fire control district to extend the terms
297 from 2 years to 4 years. The length of the terms of office shall
298 be the same for all board members.

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

314 Section 5. Subsection (1) of section 175.071, Florida
315 Statutes, is amended and subsection (8) is added to that
316 section, to read:

317 175.071 General powers and duties of board of trustees.—For
318 any municipality, special fire control district, chapter plan,
319 local law municipality, local law special fire control district,

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320 or local law plan under this chapter:

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

324 (a) Invest and reinvest the assets of the firefighters'
325 pension trust fund in annuity and life insurance contracts of
326 life insurance companies in amounts sufficient to provide, in
327 whole or in part, the benefits to which all of the participants
328 in the firefighters' pension trust fund are ~~shall be~~ entitled
329 under ~~the provisions of~~ this chapter and pay the initial and
330 subsequent premiums thereon.

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

333 1. Time or savings accounts of a national bank, a state
334 bank insured by the Bank Insurance Fund, or a savings, building,
335 and loan association insured by the Savings Association
336 Insurance Fund ~~which is~~ administered by the Federal Deposit
337 Insurance Corporation or a state or federal chartered credit
338 union whose share accounts are insured by the National Credit
339 Union Share Insurance Fund.

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

343 3. Bonds issued by the State of Israel.

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

348 a. The corporation is listed on any one or more of the

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349 recognized national stock exchanges or on the National Market
350 System of the NASDAQ Stock Market and, in the case of bonds
351 only, holds a rating in one of the three highest classifications
352 by a major rating service; and

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

360
361 This paragraph applies ~~shall apply~~ to all boards of trustees and
362 participants. However, if ~~in the event that~~ a municipality or
363 special fire control district has a duly enacted pension plan
364 pursuant to, and in compliance with, s. 175.351, and the
365 trustees ~~thereof~~ desire to vary the investment procedures
366 ~~herein~~, the trustees of such plan must ~~shall~~ request a variance
367 of the investment procedures as outlined herein only through a
368 municipal ordinance, special act of the Legislature, or
369 resolution by the governing body of the special fire control
370 district; if ~~where~~ a special act, or a municipality by ordinance
371 adopted before ~~prior to~~ July 1, 1998, permits a greater than 50-
372 percent equity investment, such municipality is ~~shall~~ not be
373 required to comply with the aggregate equity investment
374 provisions of this paragraph. Notwithstanding any other
375 provision of law ~~to the contrary~~, ~~nothing in~~ this section may
376 not be construed to take away any preexisting legal authority to
377 make equity investments that exceed the requirements of this

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378 paragraph. Notwithstanding any other provision of law, the board
379 of trustees may invest up to 25 ~~10~~ percent of plan assets in
380 foreign securities on a market-value basis. The investment cap
381 on foreign securities may not be revised, amended, increased, or
382 repealed except as provided by general law.

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

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

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

397 (8) Notwithstanding paragraph (1)(b) and as provided in s.
398 215.473, the board of trustees must identify and publicly report
399 any direct or indirect holdings it may have in any scrutinized
400 company, as defined in that section, and proceed to sell,
401 redeem, divest, or withdraw all publicly traded securities it
402 may have in that company beginning January 1, 2010. The
403 divestiture of any such security must be completed by September
404 30, 2010. The board and its named officers or investment
405 advisors may not be deemed to have breached their fiduciary duty
406 in any action taken to dispose of any such security, and the

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407 board shall have satisfactorily discharged the fiduciary duties
408 of loyalty, prudence, and sole and exclusive benefit to the
409 participants of the pension fund and their beneficiaries if the
410 actions it takes are consistent with the duties imposed by s.
411 215.473, and the manner of the disposition, if any, is
412 reasonable as to the means chosen. For the purposes of effecting
413 compliance with that section, the pension fund shall designate
414 terror-free plans that allocate their funds among securities not
415 subject to divestiture. No person may bring any civil, criminal,
416 or administrative action against the board of trustees or any
417 employee, officer, director, or advisor of such pension fund
418 based upon the divestiture of any security pursuant to this
419 paragraph.

420 Section 6. Subsection (1) of section 175.101, Florida
421 Statutes, is amended to read:

422 175.101 State excise tax on property insurance premiums
423 authorized; procedure.—For any municipality, special fire
424 control district, chapter plan, local law municipality, local
425 law special fire control district, or local law plan under this
426 chapter:

427 (1) Each municipality or special fire control district in
428 this state described and classified in s. 175.041, having a
429 lawfully established firefighters' pension trust fund or
430 municipal fund or special fire control district fund, by
431 whatever name known, providing pension benefits to firefighters
432 as provided under this chapter, may assess and impose on every
433 insurance company, corporation, or other insurer now engaged in
434 or carrying on, or who shall hereinafter engage in or carry on,
435 the business of property insurance as shown by the records of

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436 the Office of Insurance Regulation of the Financial Services
437 Commission, an excise tax in addition to any lawful license or
438 excise tax now levied by each of the municipalities or special
439 fire control districts, respectively, amounting to 1.85 percent
440 of the gross amount of receipts of premiums from policyholders
441 on all premiums collected on property insurance policies
442 covering property within the corporate limits of such
443 municipalities or within the legally defined boundaries of
444 special fire control districts, respectively. Whenever the
445 boundaries of a special fire control district that has lawfully
446 established a firefighters' pension trust fund encompass a
447 portion of the corporate territory of a municipality that has
448 also lawfully established a firefighters' pension trust fund,
449 that portion of the tax receipts attributable to insurance
450 policies covering property situated both within the municipality
451 and the special fire control district shall be given to the fire
452 service provider. For the purpose of this section, the
453 boundaries of a special fire control district include an area
454 that has been annexed until the completion of the 4-year period
455 provided for in s. 171.093(4), or other agreed-upon extension,
456 or if a special fire control district is providing services
457 under an interlocal agreement executed in accordance with s.
458 171.093(3). The agent shall identify the fire service provider
459 on the property owner's application for insurance. Remaining
460 revenues collected pursuant to this chapter shall be distributed
461 to the municipality or special fire control district according
462 to the location of the insured property.

463
464 This section also applies to any municipality consisting of a

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465 single consolidated government which is made up of a former
466 county and one or more municipalities, consolidated pursuant to
467 the authority in s. 3 or s. 6(e), Art. VIII of the State
468 Constitution, and to property insurance policies covering
469 property within the boundaries of the consolidated government,
470 regardless of whether the properties are located within one or
471 more separately incorporated areas within the consolidated
472 government, provided the properties are being provided fire
473 protection services by the consolidated government. This section
474 also applies to any municipality, as provided in s.
475 175.041(3)(c), which has entered into an interlocal agreement to
476 receive fire protection services from another municipality
477 participating under this chapter. The excise tax may be levied
478 on all premiums collected on property insurance policies
479 covering property located within the corporate limits of the
480 municipality receiving the fire protection services, but will be
481 available for distribution to the municipality providing the
482 fire protection services.

483 Section 7. Paragraphs (b) and (c) of subsection (1) and
484 paragraph (b) of subsection (2) of section 175.171, Florida
485 Statutes, are amended to read:

486 175.171 Optional forms of retirement income.—For any
487 municipality, special fire control district, chapter plan, local
488 law municipality, local law special fire control district, or
489 local law plan under this chapter:

490 (1) In lieu of the amount and form of retirement income
491 payable in the event of normal or early retirement as specified
492 in s. 175.162, a firefighter, upon written request to the board
493 of trustees and subject to the approval of the board of

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494 trustees, may elect to receive a retirement income or benefit of
495 equivalent actuarial value payable in accordance with one of the
496 following options:

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

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

507 1. The firefighter upon electing any option of this section
508 must ~~will~~ designate the joint annuitant ~~pensioner~~ or beneficiary
509 ~~(or beneficiaries)~~ to receive the benefit, if any, payable under
510 the plan in the event of his or her death, and may ~~will have the~~
511 ~~power to~~ change such designation ~~from time to time~~, but any such
512 change shall be deemed a new election and is ~~will be~~ subject to
513 approval by the board of trustees. Such designation must ~~will~~
514 name a joint annuitant ~~pensioner~~ or one or more primary
515 beneficiaries where applicable. If a firefighter has elected an
516 option with a joint annuitant ~~pensioner~~ or beneficiary and his
517 or her retirement income benefits have commenced, the
518 firefighter may ~~thereafter~~ change the designated joint annuitant
519 ~~pensioner~~ or beneficiary, but only if the board of trustees
520 consents to such change and if the joint annuitant ~~pensioner~~
521 last ~~previously~~ designated by the firefighter is alive when the
522 firefighter files with the board of trustees a request for such

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523 change.

524 2. The consent of a firefighter's joint annuitant ~~pensioner~~
525 or beneficiary to any such change is ~~shall~~ not be required.

526 3. The board of trustees may request ~~such~~ evidence of the
527 good health of the joint annuitant ~~pensioner~~ that is being
528 removed ~~as it may require~~ and the amount of the retirement
529 income payable to the firefighter upon designation of a new
530 joint annuitant ~~pensioner~~ shall be actuarially redetermined
531 taking into account the age and gender ~~sex~~ of the former joint
532 annuitant ~~pensioner~~, the new joint annuitant ~~pensioner~~, and the
533 firefighter. Each ~~such~~ designation must ~~will~~ be made in writing
534 on a form prepared by the board of trustees and ~~on completion~~
535 ~~will be~~ filed with the board of trustees. If ~~In the event that~~
536 no designated beneficiary survives the firefighter, such
537 benefits as are payable in the event of the death of the
538 firefighter subsequent to his or her retirement shall be paid as
539 provided in s. 175.181.

540 4. Notwithstanding the provisions of this paragraph, a
541 retired firefighter may change his or her designation of joint
542 annuitant or beneficiary up to two times as provided in s.
543 175.333 without the approval of the board of trustees or the
544 current joint annuitant or beneficiary. The retiree is not
545 required to provide proof of the good health of the joint
546 annuitant or beneficiary being removed, and the joint annuitant
547 or beneficiary being removed need not be living.

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

551 (b) If the designated beneficiary ~~(or beneficiaries)~~ or

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552 joint annuitant ~~pensioner~~ dies before the firefighter's
553 retirement under the plan, the option elected is ~~will be~~
554 canceled automatically and a retirement income of the normal
555 form and amount is ~~will be~~ payable to the firefighter upon
556 retirement as if the election had not been made, unless a new
557 election is made in accordance with ~~the provisions of~~ this
558 section or a new beneficiary is designated by the firefighter
559 before ~~prior to~~ retirement and within 90 days after the death of
560 the beneficiary.

561 Section 8. Section 175.361, Florida Statutes, is amended to
562 read:

563 175.361 Termination of plan and distribution of fund.—For
564 any municipality, special fire control district, chapter plan,
565 local law municipality, local law special fire control district,
566 or local law plan under this chapter, the plan may be terminated
567 by the municipality or special fire control district. Upon
568 termination of the plan by the municipality or special fire
569 control district for any reason or because of a transfer,
570 merger, or consolidation of governmental units, services, or
571 functions as provided in chapter 121, or upon written notice by
572 the municipality or special fire control district to the board
573 of trustees that contributions under the plan are being
574 permanently discontinued, the rights of all employees to
575 benefits accrued to the date of such termination and the amounts
576 credited to the employees' accounts are nonforfeitable. The fund
577 shall be ~~apportioned and~~ distributed in accordance with the
578 following procedures:

579 (1) The board of trustees shall determine the date of
580 distribution and the asset value required to fund all the

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581 nonforfeitable benefits to be distributed, after taking into
582 account the expenses of such distribution. The board shall
583 inform the municipality or special fire control district if
584 additional assets are required, in which event the municipality
585 or special fire control district shall continue to financially
586 support the plan until all nonforfeitable benefits have been
587 funded.

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

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

607 ~~(a) Apportionment shall first be made in respect of each~~
608 ~~retired firefighter receiving a retirement income hereunder on~~
609 ~~such date, each person receiving a retirement income on such~~

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610 ~~date on account of a retired (but since deceased) firefighter,~~
611 ~~and each firefighter who has, by such date, become eligible for~~
612 ~~normal retirement but has not yet retired, in the amount~~
613 ~~required to provide such retirement income, provided that, if~~
614 ~~such asset value is less than the aggregate of such amounts,~~
615 ~~such amounts shall be proportionately reduced so that the~~
616 ~~aggregate of such reduced amounts will be equal to such asset~~
617 ~~value.~~

618 ~~(b) If there is any asset value remaining after the~~
619 ~~apportionment under paragraph (a), apportionment shall next be~~
620 ~~made in respect of each firefighter in the service of the~~
621 ~~municipality or special fire control district on such date who~~
622 ~~has completed at least 10 years of credited service, in the~~
623 ~~firefighters' pension trust fund for at least 10 years, and who~~
624 ~~is not entitled to an apportionment under paragraph (a), in the~~
625 ~~amount required to provide the actuarial equivalent of the~~
626 ~~accrued normal retirement income, based on the firefighter's~~
627 ~~credited service and earnings to such date, and each former~~
628 ~~participant then entitled to a benefit under the provisions of~~
629 ~~s. 175.211 who has not by such date reached his or her normal~~
630 ~~retirement date, in the amount required to provide the actuarial~~
631 ~~equivalent of the accrued normal retirement income to which he~~
632 ~~or she is entitled under s. 175.211; provided that, if such~~
633 ~~remaining asset value is less than the aggregate of the amounts~~
634 ~~apportioned hereunder, such latter amounts shall be~~
635 ~~proportionately reduced so that the aggregate of such reduced~~
636 ~~amounts will be equal to such remaining asset value.~~

637 ~~(c) If there is any asset value after the apportionments~~
638 ~~under paragraphs (a) and (b), apportionment shall lastly be made~~

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639 ~~in respect of each firefighter in the service of the~~
640 ~~municipality or special fire control district on such date who~~
641 ~~is not entitled to an apportionment under paragraphs (a) and (b)~~
642 ~~in the amount equal to the firefighter's total contributions to~~
643 ~~the plan to date of termination; provided that, if such~~
644 ~~remaining asset value is less than the aggregate of the amounts~~
645 ~~apportioned hereunder, such latter amounts shall be~~
646 ~~proportionately reduced so that the aggregate of such reduced~~
647 ~~amounts will be equal to such remaining asset value.~~

648 (4)(d) ~~If~~ In ~~the event that~~ there is asset value remaining
649 after the full distribution ~~apportionment~~ specified in
650 subsection (3), and after the payment of any expenses incurred
651 with such distribution ~~paragraphs (a), (b), and (c),~~ such excess
652 shall be returned to the municipality or special fire control
653 district, less return to the state of the state's contributions,
654 provided that, if the excess is less than the total
655 contributions made by the municipality or special fire control
656 district and the state to date of termination of the plan, such
657 excess shall be divided proportionately to the total
658 contributions made by the municipality or special fire control
659 district and the state.

660 (5)(4) The board of trustees shall distribute, in
661 accordance with ~~the manner of distribution determined under~~
662 subsection (2), the amounts determined ~~apportioned~~ under
663 subsection (3).

664
665 If, after ~~a period of~~ 24 months after the date ~~on which~~ the plan
666 terminated or the date ~~on which~~ the board received written
667 notice that the contributions thereunder were being permanently

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668 discontinued, the municipality or special fire control district
669 or the board of trustees of the firefighters' pension trust fund
670 affected has not complied with all the provisions in this
671 section, the Department of Management Services ~~division~~ shall
672 effect the termination of the fund in accordance with this
673 section.

674 Section 9. Paragraph (c) of subsection (5) of section
675 185.02, Florida Statutes, is amended to read:

676 185.02 Definitions.—For any municipality, chapter plan,
677 local law municipality, or local law plan under this chapter,
678 the following words and phrases as used in this chapter shall
679 have the following meanings, unless a different meaning is
680 plainly required by the context:

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

687 (c) Credited service under this chapter shall be provided
688 only for service as a police officer, as defined in subsection
689 (11), or for military service and may ~~shall~~ not include credit
690 for any other type of service. A municipality may, by local
691 ordinance, provide for the purchase of credit for military
692 service occurring before ~~prior to~~ employment as well as prior
693 service as a police officer for some other employer as long as
694 the police officer is not entitled to receive a benefit for such
695 other prior service as a police officer. For purposes of
696 determining credit for prior service, in addition to service as

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697 a police officer in this state, credit may be given for federal,
698 other state, or county service as long as such service is
699 recognized by the Criminal Justice Standards and Training
700 Commission within the Department of Law Enforcement as provided
701 under chapter 943 or the police officer provides proof to the
702 board of trustees that such service is equivalent to the service
703 required to meet the definition of a police officer under
704 subsection (11).

705 Section 10. Paragraph (a) of subsection (1) and subsection
706 (6) of section 185.05, Florida Statutes, are amended to read:

707 185.05 Board of trustees; members; terms of office;
708 meetings; legal entity; costs; attorney's fees.—For any
709 municipality, chapter plan, local law municipality, or local law
710 plan under this chapter:

711 (1) In each municipality described in s. 185.03 there is
712 hereby created a board of trustees of the municipal police
713 officers' retirement trust fund, which shall be solely
714 responsible for administering the trust fund. Effective October
715 1, 1986, and thereafter:

716 (a) The membership of the board of trustees for chapter
717 plans consists ~~shall consist~~ of five members, two of whom,
718 unless otherwise prohibited by law, must ~~shall~~ be legal
719 residents of the municipality and must, ~~who shall~~ be appointed
720 by the legislative body of the municipality, and two of whom
721 must ~~shall~~ be police officers as defined in s. 185.02 who are
722 ~~shall be~~ elected by a majority of the active police officers who
723 are members of such plan. With respect to any chapter plan or
724 local law plan that, on January 1, 1997, allowed retired police
725 officers to vote in such elections, retirees may continue to

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726 vote in such elections. The fifth member shall be chosen by a
727 majority of the previous four members, and such person's name
728 shall be submitted to the legislative body of the municipality.
729 Upon receipt of the fifth person's name, the legislative body ~~of~~
730 ~~the municipality~~ shall, as a ministerial duty, appoint such
731 person to the board of trustees ~~as its fifth member~~. The fifth
732 member shall have the same rights as each of the other four
733 members appointed or elected ~~as herein provided~~, shall serve as
734 trustee for a period of 2 years, and may succeed himself or
735 herself in office. Each resident member shall serve as trustee
736 for a period of 2 years, unless sooner replaced by the
737 legislative body at whose pleasure the member serves ~~shall~~
738 ~~serve~~, and may succeed himself or herself as a trustee. Each
739 police officer member shall serve as trustee for a period of 2
740 years, unless he or she sooner leaves the employment of the
741 municipality as a police officer, whereupon ~~the legislative body~~
742 ~~of the municipality shall choose~~ a successor shall be chosen in
743 the same manner as an original appointment. Each police officer
744 may succeed himself or herself in office. The terms of office of
745 the appointed and elected members of the board of trustees may
746 be amended by municipal ordinance or special act of the
747 Legislature to extend the terms from 2 years to 4 years. The
748 length of the terms of office shall be the same for all board
749 members.

750 (6) The board of trustees may, upon written request by the
751 retiree of the plan, or by a dependent, if ~~when~~ authorized by
752 the retiree or the retiree's beneficiary, authorize the plan
753 administrator to withhold from the monthly retirement payment
754 ~~those funds that are~~ necessary to pay for the benefits being

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755 received through the governmental entity from which the employee
756 retired, to pay the certified bargaining agent of the
757 governmental entity, and to make any payments for child support
758 or alimony. Upon the written request of the retiree of the plan,
759 the board of trustees may also authorize the plan administrator
760 to withhold from the retirement payment those funds necessary to
761 pay for premiums for accident, health, and long-term care
762 insurance for the retiree and the retiree's spouse and
763 dependents. A retirement plan does not incur liability for
764 participation in this permissive program if its actions are
765 taken in good faith.

766 Section 11. Subsection (1) of section 185.06, Florida
767 Statutes, is amended and subsection (7) is added to that
768 section, to read:

769 185.06 General powers and duties of board of trustees.—For
770 any municipality, chapter plan, local law municipality, or local
771 law plan under this chapter:

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

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

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

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784 1. Time or savings accounts of a national bank, a state
785 bank insured by the Bank Insurance Fund, or a savings and loan
786 association insured by the Savings Association Insurance Fund
787 ~~which is~~ administered by the Federal Deposit Insurance
788 Corporation or a state or federal chartered credit union whose
789 share accounts are insured by the National Credit Union Share
790 Insurance Fund.

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

793 3. Bonds issued by the State of Israel.

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

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

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

810
811 This paragraph applies ~~shall apply~~ to all boards of trustees and
812 participants. However, if ~~in the event that~~ a municipality has a

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813 duly enacted pension plan pursuant to, and in compliance with,
814 s. 185.35 and the trustees ~~thereof~~ desire to vary the investment
815 procedures ~~herein~~, the trustees of such plan shall request a
816 variance of the investment procedures as outlined herein only
817 through a municipal ordinance or special act of the Legislature;
818 if where a special act, or a municipality by ordinance adopted
819 before ~~prior to~~ July 1, 1998, permits a greater than 50-percent
820 equity investment, such municipality is ~~shall not be~~ required to
821 comply with the aggregate equity investment provisions of this
822 paragraph. Notwithstanding any other provision of law ~~to the~~
823 ~~contrary, nothing in~~ this section may not be construed to take
824 away any preexisting legal authority to make equity investments
825 that exceed the requirements of this paragraph. Notwithstanding
826 any other provision of law, the board of trustees may invest up
827 to 25 ~~40~~ percent of plan assets in foreign securities on a
828 market-value basis. The investment cap on foreign securities may
829 not be revised, amended, repealed, or increased except as
830 provided by general law.

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

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

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

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

848 (7) Notwithstanding paragraph (1)(b) and as provided in s.
849 215.473, the board of trustees must identify and publicly report
850 any direct or indirect holdings it may have in any scrutinized
851 company, as defined in that section, and proceed to sell,
852 redeem, divest, or withdraw all publicly traded securities it
853 may have in that company beginning January 1, 2010. The
854 divestiture of any such security must be completed by September
855 10, 2010. The board and its named officers or investment
856 advisors may not be deemed to have breached their fiduciary duty
857 in any action taken to dispose of any such security, and the
858 board shall have satisfactorily discharged the fiduciary duties
859 of loyalty, prudence, and sole and exclusive benefit to the
860 participants of the pension fund and their beneficiaries if the
861 actions it takes are consistent with the duties imposed by s.
862 215.473, and the manner of the disposition, if any, is
863 reasonable as to the means chosen. For the purposes of effecting
864 compliance with that section, the pension fund shall designate
865 terror-free plans that allocate their funds among securities not
866 subject to divestiture. No person may bring any civil, criminal,
867 or administrative action against the board of trustees or any
868 employee, officer, director, or advisor of such pension fund
869 based upon the divestiture of any security pursuant to this
870 paragraph.

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871 Section 12. Subsection (1) and paragraph (b) of subsection
872 (2) of section 185.161, Florida Statutes, are amended to read:

873 185.161 Optional forms of retirement income.—For any
874 municipality, chapter plan, local law municipality, or local law
875 plan under this chapter:

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

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

885 2. A retirement income of a modified monthly amount,
886 payable to the police officer during the joint lifetime of the
887 police officer and a joint annuitant pensioner designated by the
888 police officer, and following the death of either of them, 100
889 percent, 75 percent, 66 2/3 percent, or 50 percent of such
890 monthly amount payable to the survivor for the lifetime of the
891 survivor.

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

895 (b) The police officer upon electing any option of this
896 section must ~~will~~ designate the joint annuitant pensioner or
897 beneficiary ~~(or beneficiaries)~~ to receive the benefit, if any,
898 payable under the plan in the event of the police officer's
899 death, and may ~~will have the power to~~ change such designation

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900 ~~from time to time~~ but any such change shall be deemed a new
901 election and is ~~will be~~ subject to approval by the pension
902 committee. Such designation must ~~will~~ name a joint annuitant
903 ~~pensioner~~ or one or more primary beneficiaries where applicable.
904 If a police officer has elected an option with a joint annuitant
905 ~~pensioner~~ or beneficiary and his or her retirement income
906 benefits have commenced, he or she may ~~thereafter~~ change the
907 designated joint annuitant ~~pensioner~~ or beneficiary but only if
908 the board of trustees consents to such change and if the joint
909 annuitant ~~pensioner~~ last ~~previously~~ designated by the police
910 officer is alive when he or she files with the board of trustees
911 a request for such change. The consent of a police officer's
912 joint annuitant ~~pensioner~~ or beneficiary to any such change is
913 ~~shall not be~~ required. The board of trustees may request ~~such~~
914 evidence of the good health of the joint annuitant ~~pensioner~~
915 ~~that is~~ being removed ~~as it may require~~ and the amount of the
916 retirement income payable to the police officer upon the
917 designation of a new joint annuitant ~~pensioner~~ shall be
918 actuarially redetermined taking into account the ages and gender
919 ~~sex~~ of the former joint annuitant ~~pensioner~~, the new joint
920 annuitant ~~pensioner~~, and the police officer. Each ~~such~~
921 designation must ~~will~~ be made in writing on a form prepared by
922 the board of trustees, ~~and on completion will be~~ filed with the
923 board of trustees. ~~If In the event that~~ no designated
924 beneficiary survives the police officer, such benefits as are
925 payable in the event of the death of the police officer
926 subsequent to his or her retirement shall be paid as provided in
927 s. 185.162.

928 (c) Notwithstanding paragraph (b), a retired police officer

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929 may change his or her designation of joint annuitant or
930 beneficiary up to two times as provided in s. 185.341 without
931 the approval of the board of trustees or the current joint
932 annuitant or beneficiary. The retiree need not provide proof of
933 the good health of the joint annuitant or beneficiary being
934 removed, and the joint annuitant or beneficiary being removed
935 need not be living.

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

939 (b) If the designated beneficiary ~~(or beneficiaries)~~ or
940 joint annuitant pensioner dies before the police officer's
941 retirement under the plan, the option elected is ~~will be~~
942 canceled automatically and a retirement income of the normal
943 form and amount is ~~will be~~ payable to the police officer upon
944 his or her retirement as if the election had not been made,
945 unless a new election is made in accordance with ~~the provisions~~
946 ~~of~~ this section or a new beneficiary is designated by the police
947 officer before ~~prior to~~ his or her retirement and within 90 days
948 after the death of the beneficiary.

949 Section 13. Section 185.37, Florida Statutes, is amended to
950 read:

951 185.37 Termination of plan and distribution of fund.—For
952 any municipality, chapter plan, local law municipality, or local
953 law plan under this chapter, the plan may be terminated by the
954 municipality. Upon termination of the plan by the municipality
955 for any reason, or because of a transfer, merger, or
956 consolidation of governmental units, services, or functions as
957 provided in chapter 121, or upon written notice to the board of

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958 trustees by the municipality that contributions under the plan
959 are being permanently discontinued, the rights of all employees
960 to benefits accrued to the date of such termination or
961 discontinuance and the amounts credited to the employees'
962 accounts are nonforfeitable. The fund shall be ~~apportioned and~~
963 distributed in accordance with the following procedures:

964 (1) The board of trustees shall determine the date of
965 distribution and the asset value required to fund all the
966 nonforfeitable benefits ~~to be distributed~~, after taking into
967 account the expenses of such distribution. The board shall
968 inform the municipality if additional assets are required, in
969 which event the municipality shall continue to financially
970 support the plan until all nonforfeitable benefits have been
971 funded.

972 (2) The board of trustees shall determine the method of
973 distribution of the asset value, ~~that is~~, whether distribution
974 shall be by payment in cash, by the maintenance of another or
975 substituted trust fund, by the purchase of insured annuities, or
976 otherwise, for each police officer entitled to benefits under
977 the plan, as specified in subsection (3).

978 (3) The board of trustees shall distribute ~~apportion~~ the
979 asset value as of the date of termination in the manner set
980 forth in this subsection, on the basis that the amount required
981 to provide any given retirement income is ~~shall mean~~ the
982 actuarially computed single-sum value of such retirement income,
983 except that if the method of distribution determined under
984 subsection (2) involves the purchase of an insured annuity, the
985 amount required to provide the given retirement income is ~~shall~~
986 ~~mean~~ the single premium payable for such annuity. The actuarial

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987 single-sum value may not be less than the employee's accumulated
988 contributions to the plan, with interest if provided by the
989 plan, less the value of any plan benefits previously paid to the
990 employee.

991 ~~(a) Apportionment shall first be made in respect of each~~
992 ~~retired police officer receiving a retirement income hereunder~~
993 ~~on such date, each person receiving a retirement income on such~~
994 ~~date on account of a retired (but since deceased) police~~
995 ~~officer, and each police officer who has, by such date, become~~
996 ~~eligible for normal retirement but has not yet retired, in the~~
997 ~~amount required to provide such retirement income, provided~~
998 ~~that, if such asset value is less than the aggregate of such~~
999 ~~amounts, such amounts shall be proportionately reduced so that~~
1000 ~~the aggregate of such reduced amounts will be equal to such~~
1001 ~~asset value.~~

1002 ~~(b) If there is any asset value remaining after the~~
1003 ~~apportionment under paragraph (a), apportionment shall next be~~
1004 ~~made in respect of each police officer in the service of the~~
1005 ~~municipality on such date who has completed at least 10 years of~~
1006 ~~credited service, in the municipal police officers' retirement~~
1007 ~~trust fund for at least 10 years, and who is not entitled to an~~
1008 ~~apportionment under paragraph (a), in the amount required to~~
1009 ~~provide the actuarial equivalent of the accrued normal~~
1010 ~~retirement income, based on the police officer's credited~~
1011 ~~service and earnings to such date, and each former participant~~
1012 ~~then entitled to a benefit under the provisions of s. 185.19 who~~
1013 ~~has not by such date reached his or her normal retirement date,~~
1014 ~~in the amount required to provide the actuarial equivalent of~~
1015 ~~the accrued normal retirement income to which he or she is~~

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1016 ~~entitled under s. 185.19, provided that, if such remaining asset~~
1017 ~~value is less than the aggregate of the amounts apportioned~~
1018 ~~hereunder, such latter amounts shall be proportionately reduced~~
1019 ~~so that the aggregate of such reduced amounts will be equal to~~
1020 ~~such remaining asset value.~~

1021 ~~(c) If there is an asset value after the apportionments~~
1022 ~~under paragraphs (a) and (b), apportionment shall lastly be made~~
1023 ~~in respect of each police officer in the service of the~~
1024 ~~municipality on such date who is not entitled to an~~
1025 ~~apportionment under paragraphs (a) and (b) in the amount equal~~
1026 ~~to the police officer's total contributions to the plan to date~~
1027 ~~of termination, provided that, if such remaining asset value is~~
1028 ~~less than the aggregate of the amounts apportioned hereunder,~~
1029 ~~such latter amounts shall be proportionately reduced so that the~~
1030 ~~aggregate of such reduced amounts will be equal to such~~
1031 ~~remaining asset value.~~

1032 ~~(4)(d)~~ If In the event that there is asset value remaining
1033 after the full distribution ~~apportionment~~ specified in
1034 subsection (3), and after payment of any expenses incurred with
1035 such distribution ~~paragraphs (a), (b), and (c),~~ such excess
1036 shall be returned to the municipality, less return to the state
1037 of the state's contributions, provided that, if the excess is
1038 less than the total contributions made by the municipality and
1039 the state to date of termination of the plan, such excess shall
1040 be divided proportionately to the total contributions made by
1041 the municipality and the state.

1042 ~~(5)(4)~~ The board of trustees shall distribute, in
1043 accordance with the manner of distribution determined under
1044 subsection (2), the amounts determined ~~apportioned~~ under

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1045 subsection (3).

1046

1047 If, after ~~a period of~~ 24 months after the date ~~on which~~ the plan
1048 terminated or the date ~~on which~~ the board received written
1049 notice that the contributions thereunder were being permanently
1050 discontinued, the municipality or the board of trustees of the
1051 municipal police officers' retirement trust fund affected has
1052 not complied with all the provisions in this section, the
1053 Department of Management Services ~~division~~ shall effect the
1054 termination of the fund in accordance with this section.

1055 Section 14. This act shall take effect July 1, 2009.