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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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131 law plan.

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

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

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

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

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

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

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

167 (8) The board of trustees shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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235 responsible for administering the trust fund. Effective October
 236 1, 1986, and thereafter:

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

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

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

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

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

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

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

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

312 (c) Whenever the active police officer membership of a

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

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

337 (2) The trustees shall by majority vote elect from its
 338 members a chair and a secretary. The secretary of the board

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339 shall keep a complete minute book of the actions, proceedings,
 340 or hearings of the board. The trustees shall not receive any
 341 compensation as such, but may receive expenses and per diem as
 342 provided by Florida law.

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

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

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

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

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365 premiums for accident, health, and long-term care insurance for
 366 the retiree and the retiree's spouse and dependents. A
 367 retirement plan does not incur liability for participation in
 368 this permissive program if its actions are taken in good faith.

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

372 (8) The board of trustees shall:

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

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

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391 effect. The administrative expense budget, including any budget
 392 amendments, is not effective until the budget or any budget
 393 amendment is approved by a majority vote of the plan sponsor.

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

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

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

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

416 (6) (a) A municipality having its own pension plan that has

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417 an assets to liabilities ratio, using the most recent plan
 418 actuarial report, of 75 percent or less, shall, every 3 years,
 419 conduct an internal audit of the plan's management and
 420 accounting practices and investments. The audit shall be paid
 421 for by the board of trustees of the pension trust fund. The
 422 results of the audit shall be provided to the municipality and
 423 the Department of Management Services.

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

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

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