

By Senator Wise

5-147-07

1                                   A bill to be entitled  
2           An act relating to firefighter and municipal  
3           police pensions; amending s. 175.032, F.S.;  
4           redefining the term "firefighter"; amending s.  
5           175.061, F.S.; providing for terms of office of  
6           members of the board of trustees of a  
7           firefighters' pension trust fund to be revised  
8           under certain circumstances; amending s.  
9           175.071, F.S.; requiring such a board of  
10          trustees to perform its functions subject to  
11          certain fiduciary standards and ethics  
12          provisions; revising the percentage of assets  
13          of a firefighters' pension trust fund which the  
14          board of trustees may invest in foreign  
15          securities; authorizing the board of trustees  
16          to designate persons other than the chair and  
17          secretary to sign drafts drawn on the trust  
18          fund and prescribing qualifications for such  
19          persons; amending s. 185.05, F.S.; providing  
20          for terms of office of members of the board of  
21          trustees of a municipal police officers'  
22          retirement trust fund to be revised under  
23          certain circumstances; amending s. 185.06,  
24          F.S.; requiring such a board of trustees to  
25          perform its functions subject to certain  
26          fiduciary standards and ethics provisions;  
27          revising the percentage of assets of a  
28          municipal police officers' retirement trust  
29          fund which the board of trustees may invest in  
30          foreign securities; authorizing the board of  
31          trustees to designate persons other than the

1 chair and secretary to sign drafts drawn on the  
2 trust fund and prescribing qualifications for  
3 such persons; providing severability; providing  
4 an effective date.

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6 Be It Enacted by the Legislature of the State of Florida:

7  
8 Section 1. Paragraph (a) of subsection (8) of section  
9 175.032, Florida Statutes, is amended to read:

10 175.032 Definitions.--For any municipality, special  
11 fire control district, chapter plan, local law municipality,  
12 local law special fire control district, or local law plan  
13 under this chapter, the following words and phrases have the  
14 following meanings:

15 (8)(a) "Firefighter" means any person employed solely  
16 by a constituted fire department of any municipality or  
17 special fire control district who is certified as a  
18 firefighter as a condition of employment in accordance with  
19 the provisions of s. 633.35 and whose duty it is to extinguish  
20 fires, to protect life, or to protect property. The term  
21 includes all certified supervisory and command personnel whose  
22 duties include, in whole or in part, the supervision,  
23 training, guidance, and management responsibilities of  
24 full-time firefighters, part-time firefighters, or auxiliary  
25 firefighters, but does not include part-time firefighters or  
26 auxiliary firefighters. However, for purposes of this chapter  
27 only, "firefighter" also includes public safety officers who  
28 are responsible for performing both police and fire services,  
29 who are certified as police officers or firefighters, and who  
30 are certified by their employers to the Chief Financial  
31 Officer as participating in this chapter prior to October 1,

1 1979. Effective October 1, 1979, public safety officers who  
2 have not been certified as participating in this chapter shall  
3 be considered police officers for retirement purposes and  
4 shall be eligible to participate in chapter 185. Any plan may  
5 provide that the fire chief shall have an option to  
6 participate, or not, in that plan.

7 Section 2. Paragraph (a) of subsection (1) of section  
8 175.061, Florida Statutes, is amended to read:

9 175.061 Board of trustees; members; terms of office;  
10 meetings; legal entity; costs; attorney's fees.--For any  
11 municipality, special fire control district, chapter plan,  
12 local law municipality, local law special fire control  
13 district, or local law plan under this chapter:

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

19 (a) The membership of the board of trustees for a  
20 chapter plan shall consist of five members, two of whom,  
21 unless otherwise prohibited by law, shall be legal residents  
22 of the municipality or special fire control district, who  
23 shall be appointed by the governing body of the municipality  
24 or special fire control district, and two of whom shall be  
25 full-time firefighters as defined in s. 175.032 who shall be  
26 elected by a majority of the active firefighters who are  
27 members of such plan. With respect to any chapter plan or  
28 local law plan that, on January 1, 1997, allowed retired  
29 firefighters to vote in such elections, retirees may continue  
30 to vote in such elections. The fifth member shall be chosen by  
31 a majority of the previous four members as provided for

1 | herein, and such person's name shall be submitted to the  
2 | governing body of the municipality or special fire control  
3 | district. Upon receipt of the fifth person's name, the  
4 | governing body of the municipality or special fire control  
5 | district shall, as a ministerial duty, appoint such person to  
6 | the board of trustees as its fifth member. The fifth member  
7 | shall have the same rights as each of the other four members  
8 | appointed or elected as herein provided, shall serve as  
9 | trustee for a period of 2 years, and may succeed himself or  
10 | herself in office. Each resident member shall serve as  
11 | trustee for a period of 2 years, unless sooner replaced by the  
12 | governing body at whose pleasure he or she shall serve, and  
13 | may succeed himself or herself as a trustee. Each firefighter  
14 | member shall serve as trustee for a period of 2 years, unless  
15 | he or she sooner leaves the employment of the municipality or  
16 | special fire control district as a firefighter, whereupon a  
17 | successor shall be chosen in the same manner as an original  
18 | appointment. Each firefighter may succeed himself or herself  
19 | in office. Effective upon this act becoming a law, the terms  
20 | of office of the appointed and elected members of the board  
21 | may be amended by municipal ordinance, special act of the  
22 | Legislature, or resolution adopted by the governing body of  
23 | the special fire control district to extend the terms of  
24 | office from 2 years to 4 years. The length of the terms of  
25 | office must be the same for all board members.

26 |           Section 3. Subsection (1) of section 175.071, Florida  
27 | Statutes, is amended to read:

28 |           175.071 General powers and duties of board of  
29 | trustees.--For any municipality, special fire control  
30 | district, chapter plan, local law municipality, local law  
31 |

1 special fire control district, or local law plan under this  
2 chapter:

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

6 (a) Invest and reinvest the assets of the  
7 firefighters' pension trust fund in annuity and life insurance  
8 contracts of life insurance companies in amounts sufficient to  
9 provide, in whole or in part, the benefits to which all of the  
10 participants in the firefighters' pension trust fund shall be  
11 entitled under the provisions of this chapter and pay the  
12 initial and subsequent premiums thereon.

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

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

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

25 3. Bonds issued by the State of Israel.

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

30 a. The corporation is listed on any one or more of the  
31 recognized national stock exchanges or on the National Market

1 System of the NASDAQ Stock Market and, in the case of bonds  
2 only, holds a rating in one of the three highest  
3 classifications by a major rating service; and

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

11  
12 This paragraph shall apply to all boards of trustees and  
13 participants. However, in the event that a municipality or  
14 special fire control district has a duly enacted pension plan  
15 pursuant to, and in compliance with, s. 175.351, and the  
16 trustees thereof desire to vary the investment procedures  
17 herein, the trustees of such plan shall request a variance of  
18 the investment procedures as outlined herein only through a  
19 municipal ordinance, special act of the Legislature, or  
20 resolution by the governing body of the special fire control  
21 district; where a special act, or a municipality by ordinance  
22 adopted prior to July 1, 1998, permits a greater than  
23 50-percent equity investment, such municipality shall not be  
24 required to comply with the aggregate equity investment  
25 provisions of this paragraph. Notwithstanding any other  
26 provision of law to the contrary, nothing in this section may  
27 be construed to take away any preexisting legal authority to  
28 make equity investments that exceed the requirements of this  
29 paragraph. The board of trustees may invest up to 20 ~~10~~  
30 percent of plan assets in foreign securities.

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

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

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

16           Section 4. Paragraph (a) of subsection (1) of section  
17 185.05, Florida Statutes, is amended to read:

18           185.05 Board of trustees; members; terms of office;  
19 meetings; legal entity; costs; attorney's fees.--For any  
20 municipality, chapter plan, local law municipality, or local  
21 law plan under this chapter:

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

27           (a) The membership of the board of trustees for  
28 chapter plans shall consist of five members, two of whom,  
29 unless otherwise prohibited by law, shall be legal residents  
30 of the municipality, who shall be appointed by the legislative  
31 body of the municipality, and two of whom shall be police

1 officers as defined in s. 185.02 who shall be elected by a  
2 majority of the active police officers who are members of such  
3 plan. With respect to any chapter plan or local law plan that,  
4 on January 1, 1997, allowed retired police officers to vote in  
5 such elections, retirees may continue to vote in such  
6 elections. The fifth member shall be chosen by a majority of  
7 the previous four members, and such person's name shall be  
8 submitted to the legislative body of the municipality. Upon  
9 receipt of the fifth person's name, the legislative body of  
10 the municipality shall, as a ministerial duty, appoint such  
11 person to the board of trustees as its fifth member. The  
12 fifth member shall have the same rights as each of the other  
13 four members appointed or elected as herein provided, shall  
14 serve as trustee for a period of 2 years, and may succeed  
15 himself or herself in office. Each resident member shall serve  
16 as trustee for a period of 2 years, unless sooner replaced by  
17 the legislative body at whose pleasure the member shall serve,  
18 and may succeed himself or herself as a trustee. Each police  
19 officer member shall serve as trustee for a period of 2 years,  
20 unless he or she sooner leaves the employment of the  
21 municipality as a police officer, whereupon the legislative  
22 body of the municipality shall choose a successor in the same  
23 manner as an original appointment. Each police officer may  
24 succeed himself or herself in office. Effective upon this act  
25 becoming a law, the terms of office of the appointed and  
26 elected members of the board may be amended by municipal  
27 ordinance or special act of the Legislature to extend the  
28 terms of office from 2 years to 4 years. The length of the  
29 terms of office must be the same for all board members.

30 Section 5. Subsection (1) of section 185.06, Florida  
31 Statutes, is amended to read:



1           185.06 General powers and duties of board of  
2 trustees.--For any municipality, chapter plan, local law  
3 municipality, or local law plan under this chapter:

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

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

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

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

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

25           3. Bonds issued by the State of Israel.

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

30           a. The corporation is listed on any one or more of the  
31 recognized national stock exchanges or on the National Market

1 System of the NASDAQ Stock Market and, in the case of bonds  
2 only, holds a rating in one of the three highest  
3 classifications by a major rating service; and

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

11  
12 This paragraph shall apply to all boards of trustees and  
13 participants. However, in the event that a municipality has a  
14 duly enacted pension plan pursuant to, and in compliance with,  
15 s. 185.35 and the trustees thereof desire to vary the  
16 investment procedures herein, the trustees of such plan shall  
17 request a variance of the investment procedures as outlined  
18 herein only through a municipal ordinance or special act of  
19 the Legislature; where a special act, or a municipality by  
20 ordinance adopted prior to July 1, 1998, permits a greater  
21 than 50-percent equity investment, such municipality shall not  
22 be required to comply with the aggregate equity investment  
23 provisions of this paragraph. Notwithstanding any other  
24 provision of law to the contrary, nothing in this section may  
25 be construed to take away any preexisting legal authority to  
26 make equity investments that exceed the requirements of this  
27 paragraph. The board of trustees may invest up to 20 ~~10~~  
28 percent of plan assets in foreign securities.

29       (c) Issue drafts upon the municipal police officers'  
30 retirement trust fund pursuant to this act and rules and  
31 regulations prescribed by the board of trustees. All such

1 drafts shall be consecutively numbered, be signed by the chair  
2 and secretary or by two individuals designated by the board  
3 who are subject to the same fiduciary standards as required  
4 for the board of trustees under this subsection, and state  
5 upon their faces the purposes for which the drafts are drawn.  
6 The city treasurer or other depository shall retain such  
7 drafts when paid, as permanent vouchers for disbursements  
8 made, and no money shall otherwise be drawn from the fund.

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

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

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

15 Section 6. If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 invalidity does not affect other provisions or applications of  
18 the act which can be given effect without the invalid  
19 provision or application, and to this end the provisions of  
20 this act are severable.

21 Section 7. This act shall take effect upon becoming a  
22 law.

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25 SENAIE SUMMARY

26 Redefines the term "firefighter" for purposes of  
27 firefighter pensions. Authorizes the extension of the  
28 terms of office of members of the board of trustees of a  
29 firefighters' pension trust fund or a municipal police  
30 officers' retirement trust fund. Requires such boards to  
31 perform their functions subject to statutory requirements  
relating to fiduciary standards and the Code of Ethics.  
Increases the amount of fund assets which may be invested  
in foreign securities. Authorizes a board of trustees to  
designate persons other than the chair and secretary who  
meet specified qualifications to sign drafts drawn on the  
trust fund.