

# **Municipal Pensions Overview**

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**Florida League of Cities, Inc.**

# General Information

- 411 municipalities (cities, towns, villages)
- No requirement to provide a pension plan
- Most provide either voluntarily or through collective bargaining

# General Information

- Municipal employees have the right to collectively bargain for retirement benefits (Florida Supreme Court case, City of Tallahassee v. Public Employees Relations Commission, 410 S2d 487 (Fla. 1982))
- Pensions and pension benefit increases must be funded on a sound actuarial basis (Article X, Section 14, Florida Constitution, and Part VII, Chapter 112, Florida Statutes)

# General Information

## Options for Municipal Pension or Retirement Programs

- Defined Benefit Plan
- Defined Contribution Plan
- Chapter 175 (Firefighter) or Chapter 185 (Police) Defined Benefit Plan
- Deferred Compensation Plan
- Florida Retirement System
- Any Combination of the Above

# General Information

- About 200 cities provide approximately 450 different municipal Defined Benefit pension plans (some cities have more than 1: general employee, police, fire, etc.)
- Approximately 100 cities provide a Defined Contribution pension plan for a class of city employees (typically general employees).
- (Primary information source: Department of Management Services, Florida Local Government Retirement Systems, 2014 Annual Report)

# General Information

- The total asset market value of Defined Benefit plans is approximately \$30 billion with approximately 97,000 active employees and 87,000 retirees/beneficiaries/DROP.
- The total unfunded actuarial accrued liability (UAAL) is approximately \$10.5 billion.
- Assets to liabilities funding ratio: 74%

# General Information

- Approximately 200 cities operate a Defined Benefit plan under Ch. 175 or 185, F.S.
- Of the 450 city DB plans, approximately 340 operate under Ch. 175 (firefighter) or 185 (police), F.S., (175 police and 171 fire plans).
- This is 75% of all city DB plans.

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- In 1939 the Municipal Firefighters' Pension Fund and in 1953 the Municipal Police Officers' Pension Fund were created by the legislature.
- Insurance premium tax revenues were provided to cities to encourage the creation of defined benefit pensions for city firefighters and police officers.



# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- **Insurance premium tax for Fire (175) is 1.85% on premiums for property insurance policies covering property within city limits.**
- **Insurance premium tax for Police (185) is 0.85% on premiums for casualty insurance policies covering property within city limits.**

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- Over the past 50 years, cities and state regulators of Ch. 175 and 185 (currently the Division of Retirement) and police/fire unions have often had a contentious relationship.
- The Division frequently views its role as that of “guardian” of Ch. 175 and 185, even going so far as to negate city and local police/fire union agreements on pension benefits or the use of insurance premium tax revenues.

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

**Legislative Actions having Significant Fiscal  
Impacts on City Police/Fire Pensions:**

- Boards of Trustees (composition & authority)**
- Pension Benefit Levels/Use of Insurance  
Premium Tax Revenues**
- Disability Presumptions**

# Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs

- Police/Fire pensions under Ch. 175 or 185 operate under a bifurcated funding and administration system.
- The checkbook (city funding) is bifurcated from plan administration (board of trustees).
- Cities (plan sponsors) adopt a plan and make any benefit changes.

# Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs

- In 1986, the legislature changed the composition of a plan's board of trustees to include five members: two members selected by the city, two members selected by the plan participants/employees, and the 5th member selected by the other four. (Sections 175.061 & 185.05, F.S.)
- A board of trustees could have a majority of the board also be pension plan members or retirees.

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer)**

## **Municipal Pension Programs**

- Boards of trustees, as established and authorized under Ch. 175 and 185: administer the plans; make all investment decisions; make pension eligibility, including disability pension, determinations; hire plan lawyers, actuaries, and other professionals; determine actuarial assumptions; and operate without any budget oversight or accountability to the plan sponsors (cities).
- Plan sponsors must pay any under funding of the plan.

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- Prior to 1999, cities were largely free to bargain with local police and fire unions, or provide for their non-unionized police and firefighters, the pension benefits that best fit the priorities and needs of the city and its police officers and firefighters.
- Caveat: “City of Naples” interpretation by Department of Management Services, August, 2012.

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- The 1999 law (Chapter 99-1) made virtually all provisions of Chapters 175 and 185 expressly applicable to all participating police and firefighter pension plans.
- All plans were required to meet the specific “minimum benefit” standards (accrual rates normal retirement age, disability benefits, etc.).
- Benefits could not be lowered below the 1999 benefit level (city specific determination).



# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- **The requirement to provide “extra benefits” (Sections 175.351 & 185.35, F.S.).**
- **The 1999 law substantially revised how cities could use insurance premium tax revenues.**
- **Remember the original intent of the tax revenue was to encourage cities to create and fund pension plans for their police officers and firefighters.**

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- **Old DMS interpretation:** The 1999 law turned this revenue source on its head and provided that additional insurance premium tax revenues over a base amount must be used to provide additional or “extra” pension benefits in firefighter and police officer plans.
- **The legislature further defined the term “extra benefits” to mean benefits in addition to those given to general employees and in existence in a pension plan after March 12, 1999.**

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- **What this meant was if a city provided a new pension benefit under its firefighter or police officer pension plan on or before March 11, 1999, the city could not use additional insurance premium tax revenue to pay for the benefit; however, if the city had provided the exact same benefit on or after March 13, 1999, it could have used additional insurance premium tax revenues to pay for the benefit.**

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- This arbitrary date punished cities that offered heightened pension benefits to their firefighters and police officers prior to March 12, 1999.
- In aggregate numbers from 1999 to 2012, cities had to provide over \$500 million in “extra pension benefits” to firefighters and police officers since March 12, 1999. \$500 million is the amount of additional insurance premium tax revenues over the stated base amount.

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- The 1999 legislation did not specify exactly what “extra benefits” must be provided; rather, the legislature left this to be negotiated between cities and the unions representing their police officers and firefighters.

# Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs

- Examples of extra benefits that have been adopted include:
  - An increased benefit multiplier (multipliers of 3%, 3.5%, 4% and even higher)
  - Yearly cost-of-living adjustments
  - Lower retirement ages
  - A 13th monthly pension check
  - The creation of “share plans”, which is basically a defined contribution plan funded with additional insurance premium tax revenues and is in addition to the defined benefit plan

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- “City of Naples” interpretation by Department of Management Services, August, 2012.
- Previous interpretation of law on the required use of insurance premium tax revenues “appears inaccurate.”
- New test (complicated)

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- **Result: Flexibility in collective bargaining to negotiate pension benefit levels and use of insurance premium tax revenues.**
- **Opportunity during 2012, 2013, 2014 and now 2015 collective bargaining cycles to negotiate sustainable pensions.**
- **DMS interpretation required “compliance” in 2013 and 2014 annual 175 and 185 reports.**
- **Challenge ? ?**



# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- 2014 Legislative Session: SB 246, HB 7179, HB 7181 (FRS & Local) – All Failed.
- Limited agreement between Florida League of Cities and representatives of police and firefighter unions

# **Chapter 175 (Firefighter) and Chapter 185 (Police Officer) Municipal Pension Programs**

- **2015 Session: SB 172 - Florida League of Cities Opposes**
- **Significantly reduces flexibility in use of insurance premium tax revenues**
- **Significantly intrudes on collective bargaining authority**
- **Mandates increases in required minimum pension benefit levels.**

# Disability Presumptions

- Section 112.18, Florida Statutes, (and sections 175.231 and 185.34) establish a disability presumption for firefighters and police officers who suffer any health condition caused by hypertension or heart disease. The presumption is that the condition occurred because of the job.
- The presumption can only be “overcome” upon meeting a high evidentiary standard.
- Tobacco users are not excluded from the presumption.

# Disability Presumptions

- The presumption is frequently used to obtain workers' compensation and disability pension benefits.
- Removal of the presumption does not mean that firefighters and police officers are not entitled to workers' compensation or disability pension benefits, rather it means that they would have to show entitlement to the benefit just like every other benefit claimant.
- Task Force on Public Employee Disability Presumptions, Final Report, 2012.

**Thank you.**

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