

House Bill No. 1159

An act relating to the Florida Retirement System; amending s. 121.055, F.S.; during a specified period of time, permitting local government employees who are members of the Senior Management Service Class, who have withdrawn from the Florida Retirement System, to elect membership in the defined benefit program or the public employee optional retirement program of the system; prescribing requirements in making such election; providing for payment of the costs of such membership; amending s. 175.041, F.S.; providing that any municipality that provides fire protection services to another municipality under an interlocal agreement is eligible to receive premium taxes; authorizing the municipality that receives the fire protection services to enact an ordinance levying the tax; authorizing the Division of Retirement within the Department of Management Services to distribute the premium taxes; amending s. 175.101, F.S.; authorizing any municipality that has entered into an interlocal agreement for fire protection services with another municipality to impose an excise tax on entities that are engaged in the business of property insurance; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 121.055, Florida Statutes, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the “Senior Management Service Class,” which shall become effective February 1, 1987.

(1)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class shall be compulsory for the president of each community college, the manager of each participating city or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

a. Positions to be included in the class shall be designated by the local agency employer. Notice of intent to designate positions for inclusion in the class shall be published once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. Up to 10 nonelective full-time positions may be designated for each local agency employer reporting to the Department of Management Services; for local agencies with 100 or more regularly established positions,

additional nonelective full-time positions may be designated, not to exceed 1 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who is not subject to continuing contract and serves at the pleasure of the local agency employer without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. In lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class pursuant to the provisions of subparagraph 1. may withdraw from the Florida Retirement System altogether. The decision to withdraw from the Florida Retirement System shall be irrevocable for as long as the employee holds such a position. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Senior Management Service Class shall not be earned after such withdrawal. Such members shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

3. Effective January 1, 2006, through June 30, 2006, an employee who has withdrawn from the Florida Retirement System under subparagraph 2. has one opportunity to elect to participate in either the defined benefit program or the Public Employee Optional Retirement Program of the Florida Retirement System.

a. If the employee elects to participate in the Public Employee Optional Retirement Program, membership shall be prospective, and the applicable provisions of s. 121.4501(4) shall govern the election.

b. If the employee elects to participate in the defined benefit program of the Florida Retirement System, the employee shall, upon payment to the system trust fund of the amount calculated under sub-sub-subparagraph (I), receive service credit for prior service based upon the time during which the employee had withdrawn from the system.

(I) The cost for such credit shall be an amount representing the actuarial accrued liability for the affected period of service. The cost shall be calculated using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System defined benefit plan liabilities in the most recent actuarial valuation. The calculation shall include any service already maintained under the defined benefit plan in addition to the period of withdrawal. The actuarial accrued liability attributable to any service already maintained under the defined benefit plan shall be applied as a credit to the total cost resulting from the calculation. The division shall ensure that the transfer sum is prepared using a formula and methodology certified by an actuary.

(II) The employee must transfer a sum representing the net cost owed for the actuarial accrued liability in sub-sub-subparagraph (I) immediately fol-

lowing the time of such movement, determined assuming that attained service equals the sum of service in the defined benefit program and the period of withdrawal.

Section 2. Subsection (3) of section 175.041, Florida Statutes, is amended to read:

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

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

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

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

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

Section 3. Section 175.101, Florida Statutes, is amended to read:

175.101 State excise tax on property insurance premiums authorized; procedure.—For any municipality, special fire control district, chapter plan,

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

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

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

(3) This excise tax shall be payable annually on March 1 of each year after the passage of an ordinance, in the case of a municipality, or resolution, in the case of a special fire control district, assessing and imposing the tax authorized by this section. Installments of taxes shall be paid according to the provision of s. 624.5092(2)(a), (b), and (c).

This section also applies to any municipality consisting of a single consolidated government which is made up of a former county and one or more municipalities, consolidated pursuant to the authority in s. 3 or s. 6(e), Art. VIII of the State Constitution, and to property insurance policies covering property within the boundaries of the consolidated government, regardless of whether the properties are located within one or more separately incorporated areas within the consolidated government, provided the properties are being provided fire protection services by the consolidated government. This section also applies to any municipality, as provided in s. 175.041(3)(c), which has entered into an interlocal agreement to receive fire protection services from another municipality participating under chapter 175. The excise tax may be levied on all premiums collected on property insurance

policies covering property located within the corporate limits of the municipality receiving the fire protection services, but will be available for distribution to the municipality providing the fire protection services.

Section 4. This act shall take effect October 1, 2005.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.