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The 2017 Florida Statutes

[Title XII](#)
MUNICIPALITIES

[Chapter 175](#)
FIREFIGHTER PENSIONS

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175.061 Board of trustees; members; terms of office; meetings; legal entity; costs; attorney's fees.—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) In each municipality and in each special fire control district there is hereby created a board of trustees of the firefighters' pension trust fund, which shall be solely responsible for administering the trust fund. Effective October 1, 1986, and thereafter:

(a) The membership of the board of trustees for a chapter plan consists of five members, two of whom, unless otherwise prohibited by law, must be legal residents of the municipality or special fire control district and must be appointed by the governing body of the municipality or special fire control district, and two of whom must be full-time firefighters as defined in s. [175.032](#) who are elected by a majority of the active firefighters who are members of such plan. With respect to any chapter plan or local law plan that, on January 1, 1997, allowed retired firefighters to vote in such elections, retirees may continue to vote in such elections. The fifth member shall be chosen by a majority of the previous four members as provided herein, and such person's name shall be submitted to the governing body of the municipality or special fire control district. Upon receipt of the fifth person's name, the governing body of the municipality or special fire control district shall, as a ministerial duty, appoint such person to the board of trustees. The fifth member shall have the same rights as each of the other four members, shall serve as trustee for a period of 2 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the governing body at whose pleasure he or she serves, and may succeed himself or herself as a trustee. Each firefighter member shall serve as trustee for a period of 2 years, unless he or she sooner leaves the employment of the municipality or special fire control district as a firefighter, whereupon a successor shall be chosen in the same manner as an original appointment. Each firefighter may succeed himself or herself in office. The terms of office of the appointed and elected members may be amended by municipal ordinance, special act of the Legislature, or resolution adopted by the governing body of the special fire control district to extend the terms from 2 years to 4 years. The length of the terms of office shall be the same for all board members.

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

1. If a municipality or special fire control district has a pension plan for firefighters only, the provisions of paragraph (a) apply.
2. If a municipality has a pension plan for firefighters and police officers, the provisions of paragraph (a) apply, except that one member of the board must be a firefighter and one member of the board must be a police officer as defined in s. [185.02](#), respectively elected by a majority of the active firefighters or police officers who are members of the plan.
3. A board of trustees operating a local law plan on July 1, 1999, which is combined with a plan for general employees shall hold an election of the firefighters, or firefighters and police officers, if included, to determine whether a plan is to be established for firefighters only, or for firefighters and police officers where included. Based on the election results, a new board shall be established as provided in subparagraph 1. or subparagraph 2., as appropriate. The municipality or fire control district shall enact an ordinance or resolution to implement the new board by October 1, 1999. The newly established board shall take whatever action is necessary to determine

the amount of assets attributable to firefighters, or firefighters and police officers where included. Such assets include all employer, employee, and state contributions made by or on behalf of firefighters, or firefighters and police officers where included, and any investment income derived from such contributions. All such moneys shall be transferred into the newly established retirement plan, as directed by the board.

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

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

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

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

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

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

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

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

(8)(a) The board of trustees shall:

1. Provide a detailed accounting report of its expenses for each fiscal year to the plan sponsor and the Department of Management Services and make the report available to each member of the plan and post the report on the board's website, if the board has a website. The report must include all administrative expenses that, for purposes of this subsection, are expenses relating to any legal counsel, actuary, plan administrator, and all other consultants, and all travel and other expenses paid to or on behalf of the members of the board of trustees or anyone else on behalf of the plan.

2. Operate under an administrative expense budget for each fiscal year, provide a copy of the budget to the plan sponsor, and make available a copy of the budget to plan members before the beginning of the fiscal year. If

the board of trustees amends the administrative expense budget, the board must provide a copy of the amended budget to the plan sponsor and make available a copy of the amended budget to plan members.

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

History.—s. 1, ch. 63-249; s. 2, ch. 81-168; s. 3, ch. 86-41; s. 15, ch. 93-193; s. 919, ch. 95-147; s. 5, ch. 99-1; s. 3, ch. 2002-66; s. 7, ch. 2004-21; s. 4, ch. 2009-97; s. 5, ch. 2011-216; s. 3, ch. 2015-39.

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The 2017 Florida Statutes

[Title XII](#)
MUNICIPALITIES

[Chapter 185](#)
MUNICIPAL POLICE PENSIONS

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

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

(a) The membership of the board of trustees for chapter plans consists of five members, two of whom, unless otherwise prohibited by law, must be legal residents of the municipality and must be appointed by the legislative body of the municipality, and two of whom must be police officers as defined in s. [185.02](#) who are elected by a majority of the active police officers who are members of such plan. With respect to any chapter plan or local law plan that, on January 1, 1997, allowed retired police officers to vote in such elections, retirees may continue to vote in such elections. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the legislative body of the municipality. Upon receipt of the fifth person's name, the legislative body shall, as a ministerial duty, appoint such person to the board of trustees. The fifth member shall have the same rights as each of the other four members appointed or elected, shall serve as trustee for a period of 2 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the legislative body at whose pleasure the member serves, and may succeed himself or herself as a trustee. Each police officer member shall serve as trustee for a period of 2 years, unless he or she sooner leaves the employment of the municipality as a police officer, whereupon a successor shall be chosen in the same manner as an original appointment. Each police officer may succeed himself or herself in office. The terms of office of the appointed and elected members of the board of trustees may be amended by municipal ordinance or special act of the Legislature to extend the terms from 2 years to 4 years. The length of the terms of office shall be the same for all board members.

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

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

2. If a municipality has a pension plan for police officers and firefighters, the provisions of paragraph (a) apply, except that one member of the board shall be a police officer and one member shall be a firefighter as defined in s. [175.032](#), respectively, elected by a majority of the active firefighters and police officers who are members of the plan.

3. Any board of trustees operating a local law plan on July 1, 1999, which is combined with a plan for general employees shall hold an election of the police officers, or police officers and firefighters if included, to determine whether a plan is to be established for police officers only, or for police officers and firefighters where included. Based on the election results, a new board shall be established as provided in subparagraph 1. or subparagraph 2., as appropriate. The municipality shall enact an ordinance to implement the new board by October 1, 1999. The newly established board shall take whatever action is necessary to determine the amount of assets which is attributable to police officers, or police officers and firefighters where included. Such assets shall include all employer, employee, and state contributions made by or on behalf of police officers, or police officers and firefighters where included, and any investment income derived from such contributions. All such moneys shall be transferred into the newly established retirement plan, as directed by the board.

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

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

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

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

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

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

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

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

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

(8)(a) The board of trustees shall:

1. Provide a detailed accounting report of its expenses for each fiscal year to the plan sponsor and the Department of Management Services and make the report available to each member of the plan and post the report on the board's website, if the board has a website. The report must include all administrative expenses that, for purposes of this subsection, are expenses relating to any legal counsel, actuary, plan administrator, and all other consultants, and all travel and other expenses paid to or on behalf of the members of the board of trustees or anyone else on behalf of the plan.

2. Operate under an administrative expense budget for each fiscal year, provide a copy of the budget to the plan sponsor, and make available a copy of the budget to plan members before the beginning of the fiscal year. If

the board of trustees amends the administrative expense budget, the board must provide a copy of the amended budget to the plan sponsor and make available a copy of the amended budget to plan members.

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

History.—s. 2, ch. 28230, 1953; s. 2, ch. 59-320; s. 2, ch. 61-119; s. 4, ch. 86-42; s. 41, ch. 93-193; s. 940, ch. 95-147; s. 45, ch. 99-1; s. 6, ch. 2002-66; s. 8, ch. 2004-21; s. 10, ch. 2009-97; s. 9, ch. 2011-216; s. 10, ch. 2015-39.

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