

1 A bill to be entitled

2 An act relating to publicly funded defined benefit
3 retirement plans; amending s. 112.63, F.S.; deleting
4 the requirement that required actuarial reports for
5 retirement plans include a disclosure of the present
6 value of the plan's benefits; amending s. 112.66,
7 F.S.; providing that the state is not liable for
8 shortfalls in local government retirement systems or
9 plans; creating s. 112.664, F.S.; requiring a defined
10 benefit system or plan to report certain information
11 to the Department of Management Services by a certain
12 date; requiring the plan sponsor to make certain
13 information available on certain websites; providing
14 consequences for failure to timely submit the required
15 information; providing a method for a plan sponsor to
16 request a hearing to contest such consequences;
17 amending s. 112.665, F.S.; requiring the department to
18 provide a fact sheet specifying certain information;
19 providing a declaration of important state interest;
20 providing an effective date.

21
22 WHEREAS, in 2012, there were 492 local government employee
23 defined benefit pension plans in Florida, providing pension
24 benefits to approximately 79,000 retirees. The interests of
25 participants in many of these plans may have property rights
26 implications under state law, and

27 WHEREAS, local government employee defined benefit pension
28 plans are becoming a large financial burden on certain local

29 governments and have already resulted in tax increases and the
30 reduction of services, and

31 WHEREAS, the 2012 Florida Local Government Retirement
32 Systems Annual Report published by the Department of Management
33 Services specifies the total unfunded actuarial accrued
34 liability of all local government defined benefit pension plans
35 at approximately \$10 billion, and

36 WHEREAS, some economists and observers have stated that the
37 extent to which state or local government employee defined
38 benefit pension plans are underfunded is obscured by
39 governmental accounting rules and practices, particularly as
40 they relate to the valuation of plan assets and liabilities.
41 This results in a misstatement of the value of plan assets and
42 an understatement of plan liabilities, a situation that poses a
43 significant threat to the soundness of state and local budgets,
44 and

45 WHEREAS, there is currently a lack of meaningful disclosure
46 regarding the value of state or local government employee
47 defined benefit pension plan assets and liabilities. This lack
48 of meaningful disclosure poses a direct and serious threat to
49 the financial stability of such plans and their sponsoring
50 governments, impairs the ability of state and local government
51 taxpayers and officials to understand the financial obligations
52 of their government, and reduces the likelihood that state and
53 local government processes will be effective in assuring the
54 prudent management of their plans, and

55 WHEREAS, the financial health of state or local government
56 employee pension benefit plans can have statewide public

57 | repercussions, and the meaningful disclosure of the value of
58 | their assets and liabilities is necessary and desirable in order
59 | to adequately protect plan participants and their beneficiaries
60 | as well as the general public, and to further efforts to provide
61 | for the general welfare and the free flow of commerce, NOW,
62 | THEREFORE,

63 |

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

65 |

66 | Section 1. Paragraphs (f) and (g) of subsection (1) of
67 | section 112.63, Florida Statutes, are amended to read:

68 | 112.63 Actuarial reports and statements of actuarial
69 | impact; review.—

70 | (1) Each retirement system or plan subject to the
71 | provisions of this act shall have regularly scheduled actuarial
72 | reports prepared and certified by an enrolled actuary. The
73 | actuarial report shall consist of, but shall not be limited to,
74 | the following:

75 | ~~(f) A disclosure of the present value of the plan's~~
76 | ~~accrued vested, nonvested, and total benefits, as adopted by the~~
77 | ~~Financial Accounting Standards Board, using the Florida~~
78 | ~~Retirement System's assumed rate of return, in order to promote~~
79 | ~~the comparability of actuarial data between local plans.~~

80 | (f) ~~(g)~~ A statement by the enrolled actuary that the report
81 | is complete and accurate and that in his or her opinion the
82 | techniques and assumptions used are reasonable and meet the
83 | requirements and intent of this act.

84 |

85 The actuarial cost methods utilized for establishing the amount
86 of the annual actuarial normal cost to support the promised
87 benefits shall only be those methods approved in the Employee
88 Retirement Income Security Act of 1974 and as permitted under
89 regulations prescribed by the Secretary of the Treasury.

90 Section 2. Subsection (14) is added to section 112.66,
91 Florida Statutes, to read:

92 112.66 General provisions.—The following general
93 provisions relating to the operation and administration of any
94 retirement system or plan covered by this part shall be
95 applicable:

96 (14) The state is not liable for any obligation relating
97 to any current or future shortfall in any local government
98 retirement system or plan.

99 Section 3. Section 112.664, Florida Statutes, is created
100 to read:

101 112.664 Reporting standards for defined benefit retirement
102 plans or systems.—

103 (1) In addition to the other reporting requirements of
104 this part, within 60 days after receipt of the certified
105 actuarial report submitted after the close of the plan year that
106 ends on or after June 30, 2014, and thereafter in each year
107 required under s. 112.63(2), each defined benefit retirement
108 system or plan, excluding the Florida Retirement System, shall
109 prepare and electronically report the following information to
110 the Department of Management Services in a format prescribed by
111 the department:

112 (a) Annual financial statements that are in compliance

113 with the requirements of the Government Accounting and Standard
114 Board's Statement No. 67, Financial Reporting for Pension Plans
115 and Statement No. 68, Accounting and Financial Reporting for
116 Pensions, using RP-2000 Combined Healthy Participant Mortality
117 Tables, by gender, with generational projection by Scale AA.

118 (b) Annual financial statements similar to those required
119 under paragraph (a), but which use an assumed rate of return on
120 investments and an assumed discount rate that are equal to 200
121 basis points less than the plan's assumed rate of return.

122 (c) Information indicating the number of months or years
123 for which the current market value of assets are adequate to
124 sustain the payment of expected retirement benefits as
125 determined in the plan's latest valuation and under the
126 financial statements prepared pursuant to paragraphs (a) and
127 (b).

128 (d) Information indicating the recommended contributions
129 to the plan based on the plan's latest valuation, and the
130 contributions necessary to fund the plan based on financial
131 statements prepared pursuant to paragraphs (a) and (b), stated
132 as an annual dollar value and a percentage of valuation payroll.

133 (2) Each defined benefit retirement system or plan,
134 excluding the Florida Retirement System, and its plan sponsor:

135 (a) Shall provide the information required by this section
136 and the funded ratio of the system or plan as determined in the
137 most recent actuarial valuation as part of the disclosures
138 required under s. 166.241(3) and on any website that contains
139 budget information relating to the plan sponsor or actuarial or
140 performance information related to the system or plan.

141 (b) That has a publicly available website shall provide on
142 that website:

143 1. The plan's most recent financial statement and
144 actuarial valuation, including a link to the Division of
145 Retirement Actuarial Summary Fact Sheet for that plan.

146 2. For the previous 5 years, beginning with 2013, a side-
147 by-side comparison of the plan's assumed rate of return compared
148 to the actual rate of return, as well as the percentages of
149 cash, equity, bond, and alternative investments in the plan
150 portfolio.

151 3. Any charts and graphs of the data provided in
152 subparagraphs 1. and 2., presented in a standardized, user-
153 friendly, and easily interpretable format as prescribed by the
154 department.

155 (3) The plan shall be deemed to be in noncompliance if it
156 has not submitted the required information to the Department of
157 Management Services within 60 days after receipt of the
158 certified actuarial report for the plan year for which the
159 information is required to be submitted to the department.

160 (a) The Department of Management Services may notify the
161 Department of Revenue and the Department of Financial Services
162 of the noncompliance, and the Department of Revenue and the
163 Department of Financial Services shall withhold any funds not
164 pledged for satisfaction of bond debt service and which are
165 payable to the plan sponsor until the information is provided to
166 the department. The department shall specify the date the
167 withholding is to begin and notify the Department of Revenue,
168 the Department of Financial Services, and the plan sponsor 30

169 days before the specified date.

170 (b) Within 21 days after receipt of the notice, the plan
 171 sponsor may petition the Department of Management Services for a
 172 hearing under ss. 120.569 and 120.57. The Department of Revenue
 173 and the Department of Financial Services may not be parties to
 174 the hearing, but may request to intervene if requested by the
 175 department or if the Department of Revenue or the Department of
 176 Financial Services determines its interests may be adversely
 177 affected by the hearing.

178 Section 4. Subsection (1) of section 112.665, Florida
 179 Statutes, is amended to read:

180 112.665 Duties of Department of Management Services.—

181 (1) The Department of Management Services shall:

182 (a) Gather, catalog, and maintain complete, computerized
 183 data information on all public employee retirement systems or
 184 plans in the state, based upon a review of audits, reports, and
 185 other data pertaining to the systems or plans;

186 (b) Receive and comment upon all actuarial reviews of
 187 retirement systems or plans maintained by units of local
 188 government;

189 (c) Cooperate with local retirement systems or plans on
 190 matters of mutual concern and provide technical assistance to
 191 units of local government in the assessment and revision of
 192 retirement systems or plans;

193 (d) Annually issue, by January 1 ~~annually~~, a report to the
 194 President of the Senate and the Speaker of the House of
 195 Representatives, which ~~report~~ details division activities,
 196 findings, and recommendations concerning all governmental

197 retirement systems. The report may include legislation proposed
198 to carry out such recommendations;

199 (e) Provide a fact sheet for each participating local
200 government defined benefit pension plan which summarizes
201 ~~summarizing~~ the plan's actuarial status. The fact sheet should
202 provide a summary of the plan's most current actuarial data,
203 minimum funding requirements as a percentage of pay, and a 5-
204 year history of funded ratios. The fact sheet must include a
205 brief explanation of each element in order to maximize the
206 transparency of the local government plans. The fact sheet must
207 also contain the information specified in s. 112.664(1). These
208 documents shall be posted on the department's website. Plan
209 sponsors that have websites must provide a link to the
210 department's website;

211 (f) Annually issue, by January 1 ~~annually~~, a report to the
212 Special District Information Program of the Department of
213 Economic Opportunity which ~~that~~ includes the participation in
214 and compliance of special districts with the local government
215 retirement system provisions in s. 112.63 and the state-
216 administered retirement system provisions ~~as~~ specified in part I
217 of chapter 121; and

218 (g) Adopt reasonable rules to administer ~~the provisions of~~
219 this part.

220 Section 5. The Legislature finds that a proper and
221 legitimate state purpose is served when employees and retirees
222 of the state and its political subdivisions, and the dependents,
223 survivors, and beneficiaries of such employees and retirees, are
224 extended the basic protections afforded by governmental

CS/CS/HB 599

2013

225 | retirement systems that provide fair and adequate benefits and
226 | that are managed, administered, and funded in an actuarially
227 | sound manner as required by s. 14, Article X of the State
228 | Constitution and part VII of chapter 112, Florida Statutes.
229 | Therefore, the Legislature determines and declares that this act
230 | fulfills an important state interest.

231 | Section 6. This act shall take effect July 1, 2013.