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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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	.	

The Committee on Community Affairs (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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13 the following:

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

19 ~~(f)(g)~~ A statement by the enrolled actuary that the report
20 is complete and accurate and that in his or her opinion the
21 techniques and assumptions used are reasonable and meet the
22 requirements and intent of this act.

23
24 The actuarial cost methods utilized for establishing the amount
25 of the annual actuarial normal cost to support the promised
26 benefits shall only be those methods approved in the Employee
27 Retirement Income Security Act of 1974 and as permitted under
28 regulations prescribed by the Secretary of the Treasury.

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

31 112.66 General provisions.—The following general provisions
32 relating to the operation and administration of any retirement
33 system or plan covered by this part shall be applicable:

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

37 Section 3. Section 112.664, Florida Statutes, is created to
38 read:

39 112.664 Reporting standards for defined benefit retirement
40 plans or systems.—

41 (1) In addition to the other reporting requirements of this



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42 part, within 180 days after the close of the first plan year
43 that ends on or after June 30, 2013, and thereafter in each year
44 required under s. 112.63(2), each defined benefit retirement
45 system or plan, excluding the Florida Retirement System, shall
46 prepare and electronically report the following information to
47 the Department of Management Services in a format prescribed by
48 the department:

49 (a) Annual financial statements that are in compliance with
50 the requirements of the Government Accounting and Standard
51 Board's Statement No. 67, Financial Reporting for Pension Plans
52 and Statement No. 68, Accounting and Financial Reporting for
53 Pensions.

54 (b) Annual financial statements similar to those required
55 under paragraph (a), but which use an assumed rate of return on
56 investments and an assumed discount rate that are based on the
57 adjusted 24-month average corporate bond segment rates
58 determined by the Department of the Treasury under s.
59 430(h)(2)(c)(iv) of the Internal Revenue Code.

60 (c) Information indicating the number of months or years
61 for which the current market value of assets are adequate to
62 sustain the payment of expected retirement benefits as
63 determined in the plan's latest valuation and under the
64 financial statements prepared pursuant to paragraphs (a) and
65 (b).

66 (d) Information indicating the recommended contributions to
67 the plan based on the plan's latest valuation, and the
68 contributions necessary to fund the plan based on financial
69 statements prepared pursuant to paragraphs (a) and (b), stated
70 as an annual dollar value and a percentage of valuation payroll.



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

73 (a) Shall provide the information required by this section
74 and the funded ratio of the system or plan as determined in the
75 most recent actuarial valuation as part of the disclosures
76 required under s. 166.241(3) and on any website that contains
77 budget information relating to the plan sponsor or actuarial or
78 performance information related to the system or plan.

79 (b) That have a publicly available website shall provide
80 the plan's most recent financial statement and actuarial
81 valuation on that website.

82 (3) The plan shall be deemed to be in noncompliance if it
83 has not submitted the required information to the Department of
84 Management Services within 60 days after receipt of the
85 certified actuarial report for the plan year for which the
86 information is required to be submitted to the department.

87 (a) The Department of Management Services may notify the
88 Department of Revenue and the Department of Financial Services
89 of the noncompliance, and the Department of Revenue and the
90 Department of Financial Services shall withhold any funds not
91 pledged for satisfaction of bond debt service and which are
92 payable to the plan sponsor until the information is provided to
93 the department. The department shall specify the date the
94 withholding is to begin and notify the Department of Revenue,
95 the Department of Financial Services, and the plan sponsor 30
96 days before the specified date.

97 (b) Within 21 days after receipt of the notice, the plan
98 sponsor may petition the Department of Management Services for a
99 hearing under ss. 120.569 and 120.57. The Department of Revenue



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100 and the Department of Financial Services may not be parties to
101 the hearing, but may request to intervene if requested by the
102 department or if the Department of Revenue or the Department of
103 Financial Services determines its interests may be adversely
104 affected by the hearing.

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

107 112.665 Duties of Department of Management Services.—

108 (1) The Department of Management Services shall:

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

113 (b) Receive and comment upon all actuarial reviews of
114 retirement systems or plans maintained by units of local
115 government;

116 (c) Cooperate with local retirement systems or plans on
117 matters of mutual concern and provide technical assistance to
118 units of local government in the assessment and revision of
119 retirement systems or plans;

120 (d) Annually issue, by January 1 ~~annually~~, a report to the
121 President of the Senate and the Speaker of the House of
122 Representatives, which ~~report~~ details division activities,
123 findings, and recommendations concerning all governmental
124 retirement systems. The report may include legislation proposed
125 to carry out such recommendations;

126 (e) Provide a fact sheet for each participating local
127 government defined benefit pension plan which summarizes
128 ~~summarizing~~ the plan's actuarial status. The fact sheet should



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129 provide a summary of the plan's most current actuarial data,
130 minimum funding requirements as a percentage of pay, and a 5-
131 year history of funded ratios. The fact sheet must include a
132 brief explanation of each element in order to maximize the
133 transparency of the local government plans. The fact sheet must
134 also contain the information specified in s. 112.664(1). These
135 documents shall be posted on the department's website. Plan
136 sponsors that have websites must provide a link to the
137 department's website;

138 (f) Annually issue, by January 1 ~~annually~~, a report to the
139 Special District Information Program of the Department of
140 Economic Opportunity which ~~that~~ includes the participation in
141 and compliance of special districts with the local government
142 retirement system provisions in s. 112.63 and the state-
143 administered retirement system provisions ~~as~~ specified in part I
144 of chapter 121; and

145 (g) Adopt reasonable rules to administer ~~the provisions of~~
146 this part.

147 Section 5. The Legislature finds that a proper and
148 legitimate state purpose is served when employees and retirees
149 of the state and its political subdivisions, and the dependents,
150 survivors, and beneficiaries of such employees and retirees, are
151 extended the basic protections afforded by governmental
152 retirement systems that provide fair and adequate benefits and
153 that are managed, administered, and funded in an actuarially
154 sound manner as required by s. 14, Article X of the State
155 Constitution and part VII of chapter 112, Florida Statutes.
156 Therefore, the Legislature determines and declares that this act
157 fulfills an important state interest.



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

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160 ===== T I T L E A M E N D M E N T =====

161 And the title is amended as follows:

162 Delete everything before the enacting clause
163 and insert:

164 A bill to be entitled
165 An act relating to publicly funded defined benefit
166 retirement plans; amending s. 112.63, F.S.; deleting
167 the requirement that required actuarial reports for
168 retirement plans include a disclosure of the present
169 value of the plan's benefits; amending s. 112.66,
170 F.S.; providing that the state is not liable for
171 shortfalls in local government retirement systems or
172 plans; creating s. 112.664, F.S.; requiring a defined
173 benefit system or plan to report certain information
174 to the Department of Management Services by a certain
175 date; requiring the plan sponsor to make certain
176 information available on certain websites; providing
177 consequences for failure to timely submit the required
178 information; providing a method for a plan sponsor to
179 request a hearing to contest such consequences;
180 amending s. 112.665, F.S.; requiring the department to
181 provide a fact sheet specifying certain information;
182 providing a declaration of important state interest;
183 providing an effective date.

184
185 WHEREAS, in 2012, there were 492 local government employee
186 defined benefit pension plans in Florida, providing pension



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187 benefits to approximately 79,000 retirees. The interests of
188 participants in many of these plans may have property rights
189 implications under state law, and

190 WHEREAS, local government employee defined benefit pension
191 plans are becoming a large financial burden on certain local
192 governments and have already resulted in tax increases and the
193 reduction of services, and

194 WHEREAS, the 2012 Florida Local Government Retirement
195 Systems Annual Report published by the Department of Management
196 Services specifies the total unfunded actuarial accrued
197 liability of all local government defined benefit pension plans
198 at approximately \$10 billion, and

199 WHEREAS, some economists and observers have stated that the
200 extent to which state or local government employee defined
201 benefit pension plans are underfunded is obscured by
202 governmental accounting rules and practices, particularly as
203 they relate to the valuation of plan assets and liabilities.
204 This results in a misstatement of the value of plan assets and
205 an understatement of plan liabilities, a situation that poses a
206 significant threat to the soundness of state and local budgets,
207 and

208 WHEREAS, there is currently a lack of meaningful disclosure
209 regarding the value of state or local government employee
210 defined benefit pension plan assets and liabilities. This lack
211 of meaningful disclosure poses a direct and serious threat to
212 the financial stability of such plans and their sponsoring
213 governments, impairs the ability of state and local government
214 taxpayers and officials to understand the financial obligations
215 of their government, and reduces the likelihood that state and



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216 local government processes will be effective in assuring the
217 prudent management of their plans, and

218 WHEREAS, the financial health of state or local government
219 employee pension benefit plans can have statewide public
220 repercussions, and the meaningful disclosure of the value of
221 their assets and liabilities is necessary and desirable in order
222 to adequately protect plan participants and their beneficiaries
223 as well as the general public, and to further efforts to provide
224 for the general welfare and the free flow of commerce, NOW,
225 THEREFORE,