

By the Committee on Governmental Oversight and Accountability;
and Senators Brandes and Bradley

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1 A bill to be entitled

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

20
21 WHEREAS, in 2012, there were 492 local government employee
22 defined benefit pension plans in Florida, providing pension
23 benefits to approximately 79,000 retirees. The interests of
24 participants in many of these plans may have property rights
25 implications under state law, and

26 WHEREAS, local government employee defined benefit pension
27 plans are becoming a large financial burden on certain local
28 governments and have already resulted in tax increases and the
29 reduction of services, and

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

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

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

54 WHEREAS, the financial health of state or local government
55 employee pension benefit plans can have statewide public
56 repercussions, and the meaningful disclosure of the value of
57 their assets and liabilities is necessary and desirable in order
58 to adequately protect plan participants and their beneficiaries

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59 as well as the general public, and to further efforts to provide
60 for the general welfare and the free flow of commerce, NOW,
61 THEREFORE,

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. Subsection (14) is added to section 112.66,
66 Florida Statutes, to read:

67 112.66 General provisions.—The following general provisions
68 relating to the operation and administration of any retirement
69 system or plan covered by this part shall be applicable:

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

73 Section 2. Section 112.664, Florida Statutes, is created to
74 read:

75 112.664 Reporting standards for defined benefit retirement
76 plans or systems.—

77 (1) In addition to the other reporting requirements of this
78 part, within 180 days after the close of the first plan year
79 that ends on or after June 30, 2013, and thereafter in each year
80 required under s. 112.63(2), each defined benefit retirement
81 system or plan shall electronically report the following
82 information to the Department of Management Services in a format
83 prescribed by the department:

84 (a) The long-term funded ratio calculated in a manner
85 similar to the Government Accounting Standards Board's Statement
86 No. 67, Financial Reporting for Pension Plans, including the
87 market value of its assets, the value of its actuarial

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88 liabilities, and the amount of its unfunded accrued liability,
89 if any.

90 (b) The dollar value of the unfunded accrued liability, if
91 any, of the plan.

92 (c) The number of months or years for which the current
93 market value of assets are adequate to sustain the payment of
94 expected retirement benefits.

95 (d) The recommended contributions to the plan under the
96 calculations required under paragraph (a) stated as an annual
97 dollar value and a percentage of valuation payroll.

98 (2) Each defined benefit retirement system or plan shall
99 use the following assumptions and methods in determining the
100 information required under subsection (1):

101 (a) The actuarial cost method, which is the Entry Age
102 Normal method.

103 (b) The assumed rate of return on investments and the
104 assumed discount rate, which are the adjusted 24-month average
105 corporate bond segment rates determined under s.
106 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department
107 of the Treasury.

108 (c) Preretirement mortality calculated using the RP-2000
109 Mortality Tables for male and female employees which accounts
110 for generational mortality improvements. Postretirement
111 mortality is calculated using the RP-2000 Mortality Tables for
112 healthy white-collar employees, as projected from the year 2000
113 to the valuation year using Projection Scale AA.

114 (d) The asset valuation method, which is the market value
115 less the value of any deferred retirement option program
116 accounts.

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117 (e) The actuarial accrued liabilities, excluding the value
118 of any deferred retirement option program accounts.

119 (f) All other assumptions and methods used by the system or
120 plan in its latest valuation.

121 (3) Each defined benefit retirement system or plan and its
122 plan sponsor:

123 (a) Shall provide the information required by this section
124 and the funded ratio of the system or plan as determined in the
125 most recent actuarial valuation as part of the disclosures
126 required under s. 166.241(3) and on any website that contains
127 budget information relating to the plan sponsor or actuarial or
128 performance information related to the system or plan.

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

132 (4) The plan shall be deemed to be in noncompliance if it
133 has not submitted the required information to the Department of
134 Management Services within 30 days after receipt of the
135 certified actuarial report for the plan year for which the
136 information is required to be submitted to the department.

137 (a) The department may notify the Department of Revenue and
138 the Department of Financial Services of the noncompliance, and
139 the Department of Revenue and the Department of Financial
140 Services shall withhold any funds not pledged for satisfaction
141 of bond debt service and which are payable to the plan sponsor
142 until the information is provided to the department. The
143 department shall specify the date the withholding is to begin
144 and notify the Department of Revenue, the Department of
145 Financial Services, and the plan sponsor 30 days before the

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146 specified date.

147 (b) Within 21 days after receipt of the notice, the plan
148 sponsor may petition the department for a hearing under ss.
149 120.569 and 120.57. The Department of Revenue and the Department
150 of Financial Services may not be parties to the hearing, but may
151 request to intervene if requested by the Department of
152 Management Services or if the Department of Revenue or the
153 Department of Financial Services determines its interests may be
154 adversely affected by the hearing.

155 Section 3. Subsection (1) of section 112.665, Florida
156 Statutes, is amended to read:

157 112.665 Duties of Department of Management Services.—

158 (1) The Department of Management Services shall:

159 (a) Gather, catalog, and maintain complete, computerized
160 data information on all public employee retirement systems or
161 plans in the state, ~~7~~ based upon a review of audits, reports, and
162 other data pertaining to the systems or plans;

163 (b) Receive and comment upon all actuarial reviews of
164 retirement systems or plans maintained by units of local
165 government;

166 (c) Cooperate with local retirement systems or plans on
167 matters of mutual concern and provide technical assistance to
168 units of local government in the assessment and revision of
169 retirement systems or plans;

170 (d) Annually issue, by January 1 ~~annually~~, a report to the
171 President of the Senate and the Speaker of the House of
172 Representatives, which ~~report~~ details division activities,
173 findings, and recommendations concerning all governmental
174 retirement systems. The report may include legislation proposed

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175 to carry out such recommendations;

176 (e) Provide a fact sheet for each participating local
177 government defined benefit pension plan which summarizes
178 ~~summarizing~~ the plan's actuarial status. The fact sheet should
179 provide a summary of the plan's most current actuarial data,
180 minimum funding requirements as a percentage of pay, and a 5-
181 year history of funded ratios. The fact sheet must include a
182 brief explanation of each element in order to maximize the
183 transparency of the local government plans. The fact sheet must
184 also contain the information specified in s. 112.664(1). These
185 documents shall be posted on the department's website. Plan
186 sponsors that have websites must provide a link to the
187 department's website;

188 (f) Annually issue, by January 1 ~~annually~~, a report to the
189 Special District Information Program of the Department of
190 Economic Opportunity which ~~that~~ includes the participation in
191 and compliance of special districts with the local government
192 retirement system provisions in s. 112.63 and the state-
193 administered retirement system provisions ~~as~~ specified in part I
194 of chapter 121; and

195 (g) Adopt reasonable rules to administer ~~the provisions of~~
196 this part.

197 Section 4. The Legislature finds that a proper and
198 legitimate state purpose is served when employees and retirees
199 of the state and its political subdivisions, and the dependents,
200 survivors, and beneficiaries of such employees and retirees, are
201 extended the basic protections afforded by governmental
202 retirement systems that provide fair and adequate benefits and
203 that are managed, administered, and funded in an actuarially

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204 sound manner as required by s. 14, Article X of the State
205 Constitution and part VII of chapter 112, Florida Statutes.
206 Therefore, the Legislature determines and declares that this act
207 fulfills an important state interest.

208 Section 5. This act shall take effect July 1, 2013.