

By the Committees on Community Affairs; and 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. 112.63, 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

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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

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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 accrued~~
76 ~~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

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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 provisions
93 relating to the operation and administration of any retirement
94 system or plan covered by this part shall be applicable:

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

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

100 112.664 Reporting standards for defined benefit retirement
101 plans or systems.—

102 (1) In addition to the other reporting requirements of this
103 part, within 180 days after the close of the first plan year
104 that ends on or after June 30, 2013, and thereafter in each year
105 required under s. 112.63(2), each defined benefit retirement
106 system or plan, excluding the Florida Retirement System, shall
107 prepare and electronically report the following information to
108 the Department of Management Services in a format prescribed by
109 the department:

110 (a) Annual financial statements that are in compliance with
111 the requirements of the Government Accounting and Standard
112 Board's Statement No. 67, Financial Reporting for Pension Plans
113 and Statement No. 68, Accounting and Financial Reporting for
114 Pensions, using RP-2000 Combined Healthy Participant Mortality
115 Tables, by gender, with generational projection by Scale AA.

116 (b) Annual financial statements similar to those required

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117 under paragraph (a), but which use an assumed rate of return on
118 investments and an assumed discount rate that are equal to 200
119 basis points less than the plan's assumed rate of return.

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

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

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

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

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

142 (3) The plan shall be deemed to be in noncompliance if it
143 has not submitted the required information to the Department of
144 Management Services within 60 days after receipt of the
145 certified actuarial report for the plan year for which the

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146 information is required to be submitted to the department.

147 (a) The Department of Management Services may notify the
148 Department of Revenue and the Department of Financial Services
149 of the noncompliance, and the Department of Revenue and the
150 Department of Financial Services shall withhold any funds not
151 pledged for satisfaction of bond debt service and which are
152 payable to the plan sponsor until the information is provided to
153 the department. The department shall specify the date the
154 withholding is to begin and notify the Department of Revenue,
155 the Department of Financial Services, and the plan sponsor 30
156 days before the specified date.

157 (b) Within 21 days after receipt of the notice, the plan
158 sponsor may petition the Department of Management Services for a
159 hearing under ss. 120.569 and 120.57. The Department of Revenue
160 and the Department of Financial Services may not be parties to
161 the hearing, but may request to intervene if requested by the
162 department or if the Department of Revenue or the Department of
163 Financial Services determines its interests may be adversely
164 affected by the hearing.

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

167 112.665 Duties of Department of Management Services.—

168 (1) The Department of Management Services shall:

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

173 (b) Receive and comment upon all actuarial reviews of
174 retirement systems or plans maintained by units of local

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175 government;

176 (c) Cooperate with local retirement systems or plans on
177 matters of mutual concern and provide technical assistance to
178 units of local government in the assessment and revision of
179 retirement systems or plans;

180 (d) Annually issue, by January 1 ~~annually~~, a report to the
181 President of the Senate and the Speaker of the House of
182 Representatives, which ~~report~~ details division activities,
183 findings, and recommendations concerning all governmental
184 retirement systems. The report may include legislation proposed
185 to carry out such recommendations;

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

198 (f) Annually issue, by January 1 ~~annually~~, a report to the
199 Special District Information Program of the Department of
200 Economic Opportunity which ~~that~~ includes the participation in
201 and compliance of special districts with the local government
202 retirement system provisions in s. 112.63 and the state-
203 administered retirement system provisions ~~as~~ specified in part I

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204 of chapter 121; and

205 (g) Adopt reasonable rules to administer ~~the provisions of~~
206 this part.

207 Section 5. The Legislature finds that a proper and
208 legitimate state purpose is served when employees and retirees
209 of the state and its political subdivisions, and the dependents,
210 survivors, and beneficiaries of such employees and retirees, are
211 extended the basic protections afforded by governmental
212 retirement systems that provide fair and adequate benefits and
213 that are managed, administered, and funded in an actuarially
214 sound manner as required by s. 14, Article X of the State
215 Constitution and part VII of chapter 112, Florida Statutes.
216 Therefore, the Legislature determines and declares that this act
217 fulfills an important state interest.

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