HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 1309	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	State Affairs Committee; Government Operations Subcommittee; Drake	81 **Y's**	37 **N's**
COMPANION BILLS:	CS/SB 242	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/CS/HB 1309 passed the House on April 16, 2015. The bill was amended by the Senate on April 27, 2015, and subsequently passed the House on April 28, 2015.

The Florida Protection of Public Employee Retirement Benefits Act requires the plan administrators for all publicly-funded pension plans to submit actuarial reports at least every three years. In addition to the triennial actuarial reporting requirements, local firefighter and police officer pension plans have actuarial reporting requirements in chapters 175 and 185, F.S. The board of trustees for a local government pension plan is permitted to choose the mortality table used in the actuarial valuation report for determining the actuarially required contributions for the plan. As of September 30, 2014, there are 491 defined benefit pension plans sponsored by 249 local governments.

Effective January 1, 2016, the bill requires local government pension plans, when conducting the actuarial valuation of the plans, to use the mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. It requires appropriate risk and collar adjustments to be made based on plan demographics. The bill requires the tables to be used for assumptions for preretirement and postretirement mortality. The bill also revises the mortality tables used in the actuarial disclosures in financial statements submitted to the Department of Management Services, effective January 1, 2016.

In addition, the bill delays the time period for each defined benefit retirement system or plan to comply with certain reporting requirements that were established in 2013, effective January 1, 2016. Rather than require a plan to comply with the reporting requirements after the close of the plan year that ends on or after June 30, 2014, the bill requires a plan to comply after the close of the plan year that ends on or after December 31, 2015.

The bill may have an indeterminate negative fiscal impact on certain local governments.

The bill was approved by the Governor on June 11, 2015, ch. 2015-157, L.O.F., and became effective on that date, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

State Constitution Requirements
Section 14, Art. X of the State Constitution provides that a governmental unit responsible for a retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide an increase in benefits to members or beneficiaries without concurrent provisions for funding the increase on a sound actuarial basis.

The Florida Protection of Public Employee Retirement Benefits Act
Part VII of chapter 112, F.S., the Florida Protection of Public Employee Retirement Benefits Act (act) was adopted by the Legislature to implement the provisions of s. 14, Art. X of the State Constitution. The act establishes minimum standards for operating and funding public employee retirement systems and plans. It is applicable to all units of state, county, special district, and municipal governments participating in, operating, or administering a retirement system for public employees, which is funded in whole or in part by public funds.[1] Responsibility for administration of the act has been assigned primarily to the Department of Management Services (department), Division of Retirement (division).

A unit of local government may not agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system and furnished a copy of such statement to the division.[2] In addition, the statement is required to indicate whether the proposed changes are in compliance with s. 14, Art. X of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

Municipal Firefighters' Pension Trust Fund and Police Officers' Retirement Trust Fund
The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts[3] declare a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters and municipal police officers. All municipal and special district firefighters and all municipal police officers retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters' and police officers' pension trust funds.[4]

Local firefighter pension plans are governed by chapter 175, F.S., which is known as the Marvin B. Clayton Firefighters' Pension Trust Fund Act. Chapter 175, F.S., was originally enacted in 1939 to provide an incentive--access to premium tax revenues--to encourage the establishment of firefighter retirement plans by cities. Fourteen years later, the Legislature enacted chapter 185, F.S., the Marvin B. Clayton Police Officers' Pension Trust Fund Act, which provides a similar funding mechanism for municipal police officers. In 1993, special fire control districts became eligible to participate under chapter 175, F.S.

The acts set forth the minimum benefits or minimum standards for pensions for municipal firefighters and police officers. The benefits provided in the acts may not be reduced by municipalities; however, the benefits provided in a local plan may vary from the provisions in that act so long as the minimum standards are met.

Funding for these pension plans comes from four sources:

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[1] Section 112.62, F.S.
[2] *See* s. 112.63, F.S.
[3] *See* chapters 175 and 185, F.S.
[4] *See* ss. 175.021(1) and 185.01(1), F.S.

- Net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the premium tax);
- Employee contributions;
- Other revenue sources; and
- Mandatory payments by the city to fund the normal cost and any unfunded actuarial liabilities of the plan.

The Firefighters' Pension Trust Fund is funded through an excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or district.[5] The Police Officers' Retirement Trust Fund is funded through an excise tax of 0.85 percent imposed on the gross premiums of casualty insurance policies covering property within the boundaries of the municipality.[6] The excise tax is payable by the insurers to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.[7]

To qualify for insurance premium tax dollars, plans must meet requirements found in chapters 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the division; however, the day-to-day operational control rests with the local boards of trustees. The board of trustees must invest and reinvest the assets of the fund according to s. 175.071, F.S., or s. 185.06, F.S., as applicable, unless specifically authorized to vary from the law.

If the division deems that a firefighter or police officer pension plan, created pursuant to these chapters, is not in compliance, the sponsoring municipality may be denied its insurance premium tax revenues until it comes into compliance.

<u>Reporting Requirements for Publicly-Funded Retirement Plans</u>

Triennial Report

To help ensure that each retirement system or plan maintains funding of retirement systems at an appropriate level, governmental entities are required to submit regularly scheduled actuarial reports to the division for its review and approval.[8]

Section 112.63, F.S., requires the plan administrators for all publicly-funded pension plans to submit an actuarial report at least every three years and requires the actuarial reports to consist of, but not be limited to, the following information:

- Adequacy of employer and employee contribution rates in meeting levels of employee benefits and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system;
- A plan to amortize any unfunded liability pursuant to s. 112.64, F.S., and a description of actions taken to reduce the unfunded liability;
- A description and explanation of actuarial assumptions;
- A schedule illustrating the amortization of unfunded liabilities, if any;
- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports; and

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[5] Section 175.101, F.S.

[6] Section 185.08, F.S.

[7] In 2013, premium tax distributions to municipalities and special fire districts from the Firefighters' Pension Trust Fund amounted to $74.7 million, and premium tax distributions to municipalities from the Police Officers' Retirement Trust Fund amounted to $64.8 million. A copy of the 2013 Premium Tax Distribution report is available online at: http://www.dms.myflorida.com/human_resource_support/retirement/local_retirement_plans/municipal_police_and_fire_plans (last visited March 12, 2015).

[8] Section 112.63(1), F.S., requires an enrolled actuary to certify the scheduled actuarial reports.

- A statement by the enrolled actuary that the report is complete and accurate and that, in his or her opinion, the techniques and assumptions used are reasonable and meet the requirements and intent of the act.

The actuarial cost methods utilized for establishing the amount of the annual actuarial normal cost to support the promised benefits must only be those methods approved in the Employee Retirement Income Security Act of 1974 and as permitted under regulations prescribed by the Secretary of the Treasury.[9] In addition, s. 112.64, F.S., provides guidelines for the amortization of unfunded liabilities.

If the division determines that a governmental entity has not submitted a complete, accurate or reasonable actuarial valuation or required reports, the division must notify the plan administrator of the deficiency and request an appropriate adjustment or the required information.[10] If after a reasonable period of time a satisfactory adjustment has not been made, or the required report has not been provided, the department may notify DOR and the Department of Financial Services of the noncompliance and those agencies must withhold any funds not pledged for satisfaction of bonds until such adjustment is made to the report.[11] The affected governmental entity may petition the department for a hearing.[12]

In 2013, the Legislature expanded the reporting requirements for defined benefit retirement systems or plans. In addition to the triennial reporting described above, each defined benefit retirement system or plan, excluding the Florida Retirement System (FRS), must electronically report the following information to the department:[13]

- Annual financial statements that are in compliance with the requirements of the Government Accounting Standard Board's Statement No. 67,[14] Financial Reporting for Pension Plans and Statement No. 68, Accounting and Financial Reporting for Pensions, using RP-2000 Combined Healthy Participant Mortality Tables, by gender, with generational projection by Scale AA;
- Annual financial statements similar to those submitted above, but which use an assumed rate of return on investments and an assumed discount rate that is equal to 200 basis points less than the plan's assumed rate of return;
- Information indicating the number of months or years for which the current market value of assets is adequate to sustain the payment of expected retirement benefits; and
- Using the financial statements above, the recommended contributions to the plan stated as an annual dollar value and a percentage of valuation payroll.

The information must first be submitted to the department within 60 days after receipt of the certified actuarial report submitted after the close of the plan year that ends on or after June 30, 2014.[15] After the initial reporting period, each defined benefit retirement system or plan is required to submit the report in each year required by s. 112.63(2), F.S.[16]

In addition, each defined benefit retirement system or plan, excluding the FRS, must provide the funded ratio of the system or plan as determined in the most recent actuarial valuation as well as the information in the report required by s. 112.664, F.S., as part of the disclosures required under s. 166.241(3), F.S.,[17] and on any website that contains budget information relating to the plan sponsor

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[9] *Id.*
[10] Section 112.63(4)(a), F.S.
[11] Section 112.63(4)(b), F.S.
[12] Section 112.63(4)(c), F.S.
[13] Section 112.664(1), F.S.
[14] The Government Accounting Standards Board (GASB) is the independent organization that establishes and improves standards of accounting and financial reporting for U.S. state and local governments. More information about GASB can be found online at www.gasb.org.
[15] Section 112.664(1), F.S.
[16] *Id.* Section 112.63(2), F.S., refers to the triennial reporting requirements for all defined benefit retirement systems or plans.
[17] Section 166.241(3), F.S., requires municipalities to upload tentative budgets to the municipal website at least two days prior to any budget hearing.

or actuarial or performance information related to the plan.[18] Each defined benefit system or plan, excluding the FRS, that has a publicly available website also must provide on that website:[19]

- The plan's most recent financial statement and actuarial valuation, including a link to the division's fact sheet for the plan;
- For the previous 5 years, beginning with 2013, a side-by-side comparison of the plan's assumed rate of return compared to the actual rate of return, as well as the percentages of cash, equity, bond, and alternative investments in the plan portfolio; and
- Any charts and graphs of the data provided in a standardized, user-friendly, and easily interpretable format as prescribed by department rule.

Annual Report for Chapter 175 and Chapter 185 Plans
Chapters 175 and 185, F.S., require every chapter plan and local law plan to submit an annual report to the division, which must include:

- An independent audit by a certified public accountant or certified statement of accounting, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year;
- Statistical information about the members in the plan, including ineligible members, disabled members, and retired members;
- A statement of the amount contributed to the retirement fund; and
- Information pertaining to whether any benefits are insured with a commercial insurance company.[20]

This report is in addition to the reporting requirements in s. 112.63, F.S.

<u>Department of Management Services Oversight of Local Plans</u>
The department is required to gather, catalog, and maintain complete, computerized data information on all public employee retirement systems or plans in the state, based upon a review of audits, reports, and other data pertaining to the systems or plans.[21] The department must receive and comment on the actuarial reviews maintained by units of local government, as well as cooperate with local retirement systems or plans on matters of mutual concern, and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans.[22] In addition, the department must provide a fact sheet for each participating local government defined benefit pension plan summarizing the plan's actuarial status. The fact sheet must include a brief explanation of each element in order to maximize the transparency of the local government plans.[23] As of September 30, 2014, the department reports there are 491 defined benefit plans sponsored by 249 local governments.[24]

<u>Mortality Tables</u>
The FRS uses different mortality tables for its general employees and special risk classes for non-disability retirement. The 2014 FRS Valuation used the RP 2000 mortality table with Scale BB with varying mixes of white collar and blue collar. Non-disability retirements have a separate mortality basis for Special Risk Class members compared to all other membership classes.

[18] Section 112.664(2), F.S.
[19] *Id.*
[20] Sections 175.261 and 185.221, F.S.
[21] Section 112.665(1), F.S.
[22] *Id.*
[23] *Id.*
[24] *Florida Local Government Retirement Systems*, 2014 Annual Report, pg. 4 (January 1, 2015). A copy of the report can be found online at:
http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports (last visited March 12, 2015).

The board of trustees for a local government pension plan is permitted to choose the mortality table used in the actuarial valuation report for purposes of determining the actuarially required contributions for the plan. The table below shows the various mortality tables used by local government retirement plans and the frequency of use among the plans.[25]

Mortality Table	Number of local government plans using the table
1983 Group Annuity Mortality (GAM 83)	18
1994 Group Annuity Mortality (GAM 94)	10
1994 Group Annuity Mortality with Scale AA (GAR 94)	7
Uninsured Population 1994 (UP 94)	3
Retirement Plans 2000 (RP 2000)	440
Internal Revenue Service Prescribed	5
Other	8
Total	491

Effect of the Bill

Mortality Tables
Effective January 1, 2016, the bill requires local government pension plans, when conducting the actuarial valuations of their pension plans, to use the mortality tables used in either of the two most recently published actuarial valuation reports of the FRS, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality. Similarly, the bill revises the mortality tables used in the actuarial disclosures in financial statements submitted to the department, effective January 1, 2016.

2013 Triennial Reporting
The bill delays the time period for each defined benefit retirement system or plan to comply with additional reporting requirements that were established in 2013. Rather than require compliance after the close of the plan year that ends on or after June 30, 2014, the bill requires a plan to comply after the close of the plan year that ends on or after December 31, 2015. However, this section of law is not effective until January 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

[25] The chart illustrates the mortality assumptions as of February 16, 2015.

2. Expenditures:

   The bill requires all local government pension plans to use the same mortality table used in either of the two most recently published FRS actuarial valuation reports. Actuarial standards require, to the extent possible, that assumptions used approximate the actual experience of the plan. While several plans are using very dated mortality tables, it is unknown the extent of any adjustments that have been made to align the tables with actual plan experience over time. To the extent that the use of the tables used by the FRS requires significant changes from the current mortality tables used by the local plan, there may be a significant indeterminate negative fiscal impact on those entities. However, the majority of local governments currently use the same mortality table as the FRS and should not be affected by the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.