

CHAPTER 2013-100

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 534

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

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

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

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

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

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

reduces the likelihood that state and local government processes will be effective in assuring the prudent management of their plans, and

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

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

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, the following:

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

~~(f)(g)~~ 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 this act.

The actuarial cost methods utilized for establishing the amount of the annual actuarial normal cost to support the promised benefits shall 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.

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

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

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

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

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

(1) In addition to the other reporting requirements of this part, 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, and thereafter in each year required under s. 112.63(2), each defined benefit retirement system or plan, excluding the Florida Retirement System, shall prepare and electronically report the following information to the Department of Management Services in a format prescribed by the department:

(a) Annual financial statements that are in compliance with the requirements of the Government Accounting and Standard Board's Statement No. 67, 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.

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

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

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

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

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

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

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

2. 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.

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

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

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

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

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

112.665 Duties of Department of Management Services.—

(1) The Department of Management Services shall:

(a) 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;

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

(c) 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;

(d) Annually issue, by January 1 ~~annually~~, a report to the President of the Senate and the Speaker of the House of Representatives, which ~~report~~

details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations;

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

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

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

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

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

Approved by the Governor May 31, 2013.

Filed in Office Secretary of State May 31, 2013.