



Government Operations Subcommittee

Wednesday, February 20, 2013

11:30 AM

Webster Hall (212 Knott)

MEETING PACKET

Will Weatherford
Speaker

Jason T. Brodeur
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Operations Subcommittee

Start Date and Time: Wednesday, February 20, 2013 11:30 am

End Date and Time: Wednesday, February 20, 2013 02:30 pm

Location: Webster Hall (212 Knott)

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 599 Publicly-Funded Defined Benefit Retirement Plans by Caldwell

NOTICE FINALIZED on 02/13/2013 16:15 by Sims-Davis.Linda

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 599 Publicly-Funded Defined Benefit Retirement Plans
SPONSOR(S): Caldwell and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 534

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Harrington	Williamson <i>[Signature]</i>
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Publicly-funded defined benefit retirement plans are provided through both the Florida Retirement System and through local government pension plans. The Florida Protection of Public Employee Retirement Benefits Act requires the plan administrators for all publicly-funded pension plans to submit an actuarial report 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 Florida Retirement System Act also provides that the Florida Retirement System must complete an annual actuarial report.

The bill provides that the state is not liable for shortfalls in local government retirement systems or plans.

The bill increases the reporting requirements of both the Florida Retirement System and local plans. Effective July 1, 2013, and for every other plan year completed after January 1, 2013, it requires each defined benefit system or plan to report the following information to the Department of Management Services:

- The long-term funded ratio, including the market value of its assets, the value of its actuarial liabilities, and the amount of its unfunded accrued liability, if any;
- The dollar value of the unfunded accrued liability of the plan, if any;
- The number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits; and
- The recommended contributions to the plan stated as an annual dollar value and a percentage of valuation payroll.

The bill provides for the use of standardized assumptions and methods for purposes of determining the information in the report.

The defined benefit plan sponsor is required to publish the information contained in the report, as well as the funded ratio of the system or plan as determined in the most recent actuarial valuation, on any website that contains budget information relating to the plan sponsor or to actuarial or performance information related to the system or plan. Local government plans also must provide the information on any municipal website when tentative budgets are published.

The bill provides that if the plan sponsor fails to submit the required information, the plan will be in noncompliance with the law.

The bill has a fiscal impact on state and local governments. See Fiscal Analysis and Economic Impact Statement section for further discussion.

This bill may be a county or municipality mandate. See Section III.A.1. of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED 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 Florida Department of Management Services, 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.

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.³

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 an indefinite future;
- 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;
- 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

¹ Section 112.62, F.S.

² See s. 112.63, F.S.

³ Section 112.63(1), F.S., requires an enrolled actuary to certify the scheduled actuarial reports.

assumed rate of return, in order to promote the comparability of actuarial data between local plans; and

- 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.

Section 112.63(1), F.S., provides that the actuarial cost methods for determining the annual actuarial normal costs to support the promised benefits must only be those methods approved by the Employee Retirement Income Security Act of 1974, and as permitted under the regulations prescribed by the Secretary of the Treasury. In addition, s. 112.64, F.S., provides guidelines for the amortization of unfunded liabilities.

If the governmental entity does not submit complete and adequate data necessary for the division to perform its statutory functions, the division must request additional information.⁴ The division, upon completing a review, may notify the governmental entity about concerns it has regarding the actuarial soundness of the plan. If after a reasonable period of time, a satisfactory adjustment has not been made, the Department of Management Services may notify the Department of Revenue and the Department of Financial Services of the noncompliance and those agencies may withhold any funds not pledged for satisfaction of bonds until such adjustment is made to the report.⁵ If the entity failing to make the adjustment is a special district, the Department of Management Services also must notify the Department of Economic Opportunity.⁶ The affected governmental entity may petition for a hearing.⁷

Municipal Firefighters' Pension Trust Fund and Police Officers' Retirement Trust Fund

The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts⁸ 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.⁹

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. Special fire control districts became eligible to participate under chapter 175, F.S., in 1993.

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:

- 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 of the normal cost of the plan.

⁴ Section 112.63(4)(a), F.S.

⁵ Section 112.63(4)(b), F.S.

⁶ Section 112.63(4)(d), F.S.

⁷ Section 112.63(4)(c), F.S.

⁸ See chapters 175 and 185, F.S.

⁹ See ss. 175.021(1) and 185.01(1), F.S.

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.¹⁰ It is payable by the insurers to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division. In 2011, premium tax distributions to municipalities and special fire districts from the Firefighters' Pension Trust Fund amounted to \$71.7 million.¹¹

The Police Officers' Retirement Trust Fund is funded through an excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of the municipality.¹² Similar to the Firefighters' Pension Trust Fund, the excise tax is payable to the DOR, and the net proceeds are transferred to the appropriate fund at the division. In 2011, premium tax distributions to municipalities from the Police Officers' Retirement Trust Fund amounted to \$59.6 million.¹³

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 firefighters or police pension plan created pursuant to these chapters is not in compliance with those chapters, the sponsoring municipality could be denied its insurance premium tax revenues.

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 either 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.¹⁴ This report is in addition to the reporting requirements in s. 112.63, F.S.

Department of Management Services

The Department of Management Services (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.¹⁵ 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.¹⁶ 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.¹⁷

¹⁰ Section 175.101, F.S.

¹¹ A copy of the 2011 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

¹² Section 185.08, F.S.

¹³ *Supra* at n. 11.

¹⁴ Sections 175.261 and 185.221, F.S.

¹⁵ Section 112.665(1), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

According to the department, there are currently 492 local government defined benefit pension plans with 111,267 active participants. As of September 30, 2012, the local government plans had approximately \$23.9 billion in plan assets. The average funding percentage for all local plans, which includes chapters 175 and 185, F.S., plans, was 76.1 percent.

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the pension plan, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹⁸ The FRS is a contributory system, with all members contributing 3 percent of their salaries.

The FRS is governed by the Florida Retirement System Act.¹⁹ The FRS, which is a multi-employer, contributory plan, provides retirement income benefits to 623,011 active members,²⁰ 334,682 retired members and beneficiaries, and 40,556 members of the Deferred Retirement Option Program.²¹ It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 185 cities and 257 independent hospitals and special districts that have elected to join the system.²²

Section 121.031, F.S., requires an actuarial study of the FRS to be made at least annually. The actuarial study is required to conform to the requirements in s. 112.63, F.S., with specific exceptions and additions, which are specifically provided in law. The Governor, Chief Financial Officer, and Attorney General, sitting as the Board of Trustees of the State Board of Administration, review the actuarial valuation report and the process by which FRS contribution rates are determined.²³ The valuations are also reviewed by the Office of Program Policy Analysis and Government Accountability.²⁴ As of July 1, 2012, the FRS was 86.9 percent funded.

Effect of the Bill

The bill contains multiple whereas clauses. It appears that the clauses have been partially drawn from the department's 2012 annual report, *Florida Local Government Retirement Systems*, and from the Public Employee Pension Transparency Act, H.R. 567, 112th Congress (2011).

The bill provides that the state is not liable for any obligation relating to any current or future shortfall in any local government retirement system or plan.²⁵

The bill creates additional reporting standards for defined benefit retirement plans or systems. Effective July 1, 2013, and for every other plan year completed after January 1, 2013, each defined benefit

¹⁸ *The Florida Retirement System Annual Report*, July 1, 2010 – June 30, 2011, at 38. A copy of the report can be found online at: http://www.dms.myflorida.com/human_resource_support/retirement/publications/system_information/annual_reports.

¹⁹ Chapter 121, F.S.

²⁰ As of June 30, 2012, the FRS defined benefit plan, also known as the pension plan, had 517,756 members, and the defined contribution plan, also known as the investment plan, had 105,255 members. Email from staff of the Division of Retirement, Department of Management Services, October 16, 2012 (on file with the Government Operations Subcommittee).

²¹ *Id.*

²² Florida Retirement System Participating Employers for Plan Year 2012-13, prepared by the Department of Management Services, Division of Retirement, Revised September 2012, at 8. A copy of the document can be found online at: http://www.dms.myflorida.com/human_resource_support/retirement/publications/informational_booklets.

²³ Section 121.0312, F.S.

²⁴ Section 112.658, F.S., directs the Office of Program Policy Analysis and Government Accountability to review the actuarial valuation of the FRS Pension Plan to determine whether the valuation complies with the Florida Protection of Public Employee Retirement Benefits Act.

²⁵ Sections 175.051 and 185.04, F.S., provide that the state is not liable for actuarial deficits arising under those chapters.

retirement system or plan, including the Florida Retirement System, must electronically report the following information to the department:

- The long-term funded ratio, including the market value of its assets, the value of its actuarial liabilities, and the amount of its unfunded accrued liability, if any;
- The dollar value of the unfunded accrued liability of the plan, if any;
- The number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits; and
- The recommended contributions to the plan stated as an annual dollar value and a percentage of valuation payroll.

The above information must be submitted to the department within 180 days after the close of the plan year, together with appropriate signed actuarial certification as established by the department. In the initial year of implementation, for plans ending between January 1, 2013, and July 1, 2013, the bill provides a submission deadline of October 1, 2013.

The bill requires all pension plans in the state to use a standardized method for submitting the required information. The bill requires each defined benefit retirement system or plan to use the following assumptions and methods in determining the information that the system or plan is required to submit biennially, as follows:

- The actuarial cost method, which is the Entry Age Normal method;
- The assumed rate of return on investments and the assumed discount rate, which are the adjusted 24-month average corporate bond segment rates determined under s. 430(h)(2)(C)(iv) of the Internal Revenue Code;
- Preretirement and postretirement mortality calculated using the RP-2000 Mortality Tables for male and female employees;
- The asset valuation method, which is the market value less the value of any deferred retirement option program accounts; and
- All other assumptions and methods used by the system or plan in its latest valuation.

In addition to the previously discussed report, each defined benefit retirement system or plan must provide the most recent actuarial valuation. Both must be included as part of the disclosures required under s. 166.241(3), F.S.,²⁶ and on any website that contains budget information relating to the plan sponsor or actuarial or performance information related to the system or plan.

The bill provides that any plan established under either chapter 175, F.S., or chapter 185, F.S., which fails to submit the above information on a timely basis is in noncompliance with chapters 175 and 185, F.S., as applicable. As a result, the division could withhold insurance premium tax revenues from a municipality for being noncompliant with those chapters.

Any local government defined benefit pension plan that fails to submit the information on a timely basis is in noncompliance with part VII of chapter 112, F.S.

The bill provides that the act takes effect on July 1, 2013.

B. SECTION DIRECTORY:

Section 1 amends s. 112.66, F.S., providing that the state is not liable for shortfalls in local government retirement systems or plans.

Section 2 creates s. 112.664, F.S., requiring a defined benefit system or plan to report certain information to the department and specifying the assumptions and methods to be used in determining the information submitted; requiring the plan sponsor to make information available on certain websites;

²⁶ 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.

providing a time certain for submission of the information; providing consequences for failure to submit the required information.

Section 3 provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the Department of Management Services (department), the bill would increase administrative costs to the Division of Retirement (division), including staff and actuarial work, to comply with the reporting requirements in the bill. According to the department's bill analysis, it estimates that the fiscal impact would be as follows:²⁷

The new disclosure requirements do not affect the actuarial contributions for funding purposes for the FRS; however, there will be an administrative cost associated with preparing the new disclosures. The consulting actuary estimates that the additional reporting requirement would cost about \$20,000 in the first year and \$10,000 in each subsequent year.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	\$20,000	\$10,000	\$10,000
Non-recurring	-	-	-

In addition, one additional government analyst position would be required to insure that implementing and maintaining the actuarial database with these additional disclosure items does not negatively impact the timely accomplishment of current statutory responsibilities.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	\$57,693	\$57,693	\$57,693
Non-recurring	\$3,762	-	-

Additionally, the actuarial costs for the chapter plans under chapters 175 and 185, F.S., are paid for from the police and firefighter's trust fund.²⁸ The bill creates an additional annual expenditure requirement for reporting in order to qualify for premium tax distributions.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	\$30,000	\$20,000	\$20,000
Non-recurring	-	-	-

²⁷ Department of Management Services, Bill Analysis 2013, HB 599, dated February 8, 2013 (on file with the Government Operations Subcommittee).

²⁸ The division conducts the actuarial valuations of chapter plans. See ss. 175.032(2) and 185.02(3), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The additional reporting requirements may require additional expenditures to comply with the reporting requirements pertaining to local defined benefit retirement plans. According to the League of Cities, the fiscal impact for each reporting cycle could range between \$500,000 and \$2.5 million.²⁹

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The website posting requirements will have an indeterminate fiscal impact on state and local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Art. VII, s. 18 of the State Constitution may apply because this bill requires cities and counties to spend money or take an action that requires the expenditure of money; however, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. The exceptions to the mandates provision of Art. VII, s. 18 of the State Constitution appear to be inapplicable because the bill does not articulate a threshold finding of serving an important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The constitutional separation of powers doctrine prevents the Legislature from delegating its constitutional duties. Because legislative power involves the exercise of policy-related discretion over the content of law, any discretion given an agency to implement a law must be "pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program."³⁰ The bill requires the Department of Management Services to implement certain provisions of the bill, and s. 112.665, F.S., grants rulemaking authority to the department for such implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Deferred Retirement Option Program (DROP)

The bill appears to require a publicly-funded defined benefit retirement plan or system to include the value of the DROP liabilities while excluding the value of any DROP assets from the valuation calculation. Thus, it appears this could negatively skew the asset valuation.

²⁹ The estimated costs are based on approximately 500 plans with the cost of compliance ranging from \$1,000 to \$5,000 per plan report, per year.

³⁰ *Askew v. Cross Key Waterways*, 372 So.2d 913, 925 (Fla. 1978).

Other Comments: Florida Retirement System

The bill specifies that the new reporting requirements also apply to the Florida Retirement System; however, this appears unnecessary as part VII of chapter 112, F.S., already applies to the FRS unless stated otherwise.

Other Comments: Initial Reporting Period

The bill requires all defined benefit pension plans with plan years ending between January 1, 2013, and July 1, 2013, to complete the required reporting by October 1, 2013. For plans that end on or near July 1, 2013, the period to complete the initial report would be approximately 90 days, whereas other plans would have a full 180 days to complete the report.

Other Comments: Penalty Provision

The bill provides that local government defined benefit pension plans that fail to comply with the reporting requirements are deemed to be in noncompliance with part VII of chapter 112, F.S.; however, that part does not appear to have a penalty for noncompliance.

Drafting Issues:

On line 40, the word "direct" should be changed to "defined" as the clause pertains to defined benefit pension plan assets and liabilities.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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 and specifying the assumptions
 9 and methods to be used in determining the information
 10 submitted; requiring the plan sponsor to make the
 11 information available on certain websites; providing a
 12 time certain for submission of the information;
 13 providing consequences for failure to submit the
 14 required information; providing an effective date.

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

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

25 WHEREAS, the 2012 Florida Local Government Retirement
 26 Systems Annual Report published by the Department of Management
 27 Services specifies the total unfunded actuarial accrued
 28 liability of all local government-defined benefit pension plans

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29 at approximately \$10 billion, and

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

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

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

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

Section 1. 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 are ~~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 2. 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, effective July 1, 2013, and for every other plan year completed on or after January 1, 2013, each defined benefit retirement system or plan, including the Florida Retirement System, shall electronically report the following information to the Department of Management Services in a format established by the department:

(a) The long-term funded ratio calculated in a manner similar to the Government Accounting Standards Board's Statement No. 67, Financial Reporting for Pension Plans, including the market value of its assets, the value of its actuarial liabilities, and the amount of its unfunded accrued liability,

85 if any.
 86 (b) The dollar value of the unfunded accrued liability, if
 87 any, of the plan.
 88 (c) The number of months or years for which the current
 89 market value of assets are adequate to sustain the payment of
 90 expected retirement benefits.
 91 (d) The recommended contributions to the plan under the
 92 calculations required under paragraph (a) stated as an annual
 93 dollar value and a percentage of valuation payroll.
 94 (2) Each defined benefit retirement system or plan shall
 95 use the following assumptions and methods in determining the
 96 information required under subsection (1):
 97 (a) The actuarial cost method, which is the Entry Age
 98 Normal method.
 99 (b) The assumed rate of return on investments and the
 100 assumed discount rate, which are the adjusted 24-month average
 101 corporate bond segment rates determined under s.
 102 430(h) (2) (C) (iv) of the Internal Revenue Code by the Department
 103 of the Treasury.
 104 (c) Preretirement mortality calculated using the RP-2000
 105 Mortality Tables for male and female employees. Postretirement
 106 mortality is calculated using the RP-2000 Mortality Tables for
 107 healthy white-collar employees, as projected from the year 2000
 108 to the valuation year using Projection Scale AA.
 109 (d) The asset valuation method, which is the market value
 110 less the value of any deferred retirement option program
 111 accounts.
 112 (e) All other assumptions and methods used by the system

113 | or plan in its latest valuation.

114 | (3) Each defined benefit retirement system or plan and its
 115 | plan sponsor shall provide the information required by this
 116 | section and the funded ratio of the system or plan as determined
 117 | in the most recent actuarial valuation as part of the
 118 | disclosures required under s. 166.241(3) and on any website that
 119 | contains budget information relating to the plan sponsor or
 120 | actuarial or performance information related to the system or
 121 | plan.

122 | (4) Each retirement system or plan shall submit the
 123 | information required by this section to the department within
 124 | 180 days after the close of the plan year together with
 125 | appropriate signed actuarial certification as established by the
 126 | department. For those plan years ending between January 1, 2013,
 127 | and July 1, 2013, the due date for the submission of information
 128 | is October 1, 2013.

129 | (5) A plan established under chapter 175 or chapter 185
 130 | that fails to submit the information on a timely basis shall be
 131 | deemed to be in noncompliance with chapters 175 and 185, as
 132 | applicable.

133 | (6) Any local government-defined benefit pension plan that
 134 | fails to submit the information on a timely basis shall be
 135 | deemed to be in noncompliance with this part.

136 | Section 3. This act shall take effect July 1, 2013.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
2 Subcommittee

3 Representative Caldwell offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (14) is added to section 112.66,
8 Florida Statutes, to read:

9 112.66 General provisions.—The following general
10 provisions relating to the operation and administration of any
11 retirement system or plan covered by this part shall be
12 applicable:

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

16 Section 2. Section 112.664, Florida Statutes, is created
17 to read:

18 112.664 Reporting standards for defined benefit retirement
19 plans or systems.—



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20 (1) In addition to the other reporting requirements of
21 this part, within 180 days after the close of the first plan
22 year that ends on or after June 30, 2013, and thereafter in each
23 year required under s. 112.63(2), each defined benefit
24 retirement system or plan, including the Florida Retirement
25 System, shall electronically report the following information to
26 the Department of Management Services in a format prescribed by
27 the department:

28 (a) The long-term funded ratio calculated in a manner
29 similar to the Government Accounting Standards Board's Statement
30 No. 67, Financial Reporting for Pension Plans, including the
31 market value of its assets, the value of its actuarial
32 liabilities, and the amount of its unfunded accrued liability,
33 if any.

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

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

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

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

45 (a) The actuarial cost method, which is the Entry Age
46 Normal method.



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47 (b) The assumed rate of return on investments and the
48 assumed discount rate, which are the adjusted 24-month average
49 corporate bond segment rates determined under s.
50 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department
51 of the Treasury.

52 (c) Preretirement mortality calculated using the RP-2000
53 Mortality Tables for male and female employees. Postretirement
54 mortality is calculated using the RP-2000 Mortality Tables for
55 healthy white-collar employees, as projected from the year 2000
56 to the valuation year using Projection Scale AA.

57 (d) The asset valuation method, which is the market value
58 less the value of any deferred retirement option program
59 accounts.

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

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

64 (3) Each defined benefit retirement system or plan and its
65 plan sponsor shall provide the information required by this
66 section and the funded ratio of the system or plan as determined
67 in the most recent actuarial valuation as part of the
68 disclosures required under s. 166.241(3) and on any website that
69 contains budget information relating to the plan sponsor or
70 actuarial or performance information related to the system or
71 plan. The Executive Office of the Governor shall comply with
72 this subsection by making the information and funded ratio
73 relating to the Florida Retirement System available on the



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74 website described in s. 215.985 which contains state financial
75 information.

76 (4) If a plan has not submitted the required information
77 to the Department of Management Services within 180 days after
78 the closing date of a plan year in which the information is
79 required to be submitted to the department, the plan shall be
80 deemed to be in noncompliance.

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

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

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



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102 112.665 Duties of Department of Management Services.—

103 (1) The Department of Management Services shall:

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

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

111 (c) Cooperate with local retirement systems or plans on
112 matters of mutual concern and provide technical assistance to
113 units of local government in the assessment and revision of
114 retirement systems or plans;

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

121 (e) Provide a fact sheet for each participating local
122 government defined benefit pension plan which summarizes
123 ~~summarizing~~ the plan's actuarial status. The fact sheet should
124 provide a summary of the plan's most current actuarial data,
125 minimum funding requirements as a percentage of pay, and a 5-
126 year history of funded ratios. The fact sheet must include a
127 brief explanation of each element in order to maximize the
128 transparency of the local government plans. The fact sheet must
129 also contain the information specified in s. 112.664(1). These



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130 documents shall be posted on the department's website. Plan
131 sponsors that have websites must provide a link to the
132 department's website;

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

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

142 Section 4. The Legislature finds that a proper and
143 legitimate state purpose is served when employees and retirees
144 of the state and its political subdivisions, and the dependents,
145 survivors, and beneficiaries of such employees and retirees, are
146 extended the basic protections afforded by governmental
147 retirement systems that provide fair and adequate benefits and
148 that are managed, administered, and funded in an actuarially
149 sound manner as required by s. 14, Article X of the State
150 Constitution and part VII of chapter 112, Florida Statutes.
151 Therefore, the Legislature determines and declares that this act
152 fulfills an important state interest.

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

154

155

156

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

157

Remove everything before the enacting clause and insert:



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158 A bill to be entitled
159 An act relating to publicly funded defined benefit
160 retirement plans; amending s. 112.66, F.S.; providing
161 that the state is not liable for shortfalls in local
162 government retirement systems or plans; creating s.
163 112.664, F.S.; requiring a defined benefit retirement
164 system or plan to report certain information to the
165 Department of Management Services by a certain date
166 and specifying the assumptions and methods to be used
167 in determining the information submitted; requiring
168 the plan sponsor to make the information available on
169 certain websites; providing consequences for failure
170 to timely submit the required information; providing a
171 method for a plan sponsor to request a hearing to
172 contest such consequences; amending s. 112.665, F.S.;
173 requiring the department to provide a fact sheet
174 specifying certain information; providing a
175 declaration of important state interest; providing an
176 effective date.

177
178 WHEREAS, in 2012, there were 492 local government employee
179 defined benefit pension plans in Florida, providing pension
180 benefits to approximately 79,000 retirees. The interests of
181 participants in many of these plans may have property rights
182 implications under state law, and

183 WHEREAS, local government employee defined benefit pension
184 plans are becoming a large financial burden on certain local



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185 governments and have already resulted in tax increases and the
186 reduction of services, and

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

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

201 WHEREAS, there is currently a lack of meaningful disclosure
202 regarding the value of state or local government employee
203 defined benefit pension plan assets and liabilities. This lack
204 of meaningful disclosure poses a direct and serious threat to
205 the financial stability of such plans and their sponsoring
206 governments, impairs the ability of state and local government
207 taxpayers and officials to understand the financial obligations
208 of their government, and reduces the likelihood that state and
209 local government processes will be effective in assuring the
210 prudent management of their plans, and

211 WHEREAS, the financial health of state or local government
212 employee pension benefit plans can have statewide public



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213 | repercussions, and the meaningful disclosure of the value of
214 | their assets and liabilities is necessary and desirable in order
215 | to adequately protect plan participants and their beneficiaries
216 | as well as the general public, and to further efforts to provide
217 | for the general welfare and the free flow of commerce, NOW,
218 | THEREFORE,