



# The Florida Senate

Interim Report 2012-124

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Committee on Governmental Oversight and Accountability

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## TRANSPARENCY OF LOCAL GOVERNMENT RETIREMENT PLANS' FINANCIAL DATA

### Issue Description

During the 2011 Regular Session, the Florida Senate undertook an effort to address the long-term sustainability of local government pension plans, and passed Senate Bill 1128 as a result of that effort. Though pension funding and benefits were the primary foci of the bill, the transparency of pension plan data was also a concern, and a provision that did not remain in the final version of the bill would have created a task force to examine the transparency of local pension plan data. Currently, financial data from local government retirement plans is reported to the Department of Management Services' Division of Retirement (division), while data related to city finances is reported to the Department of Financial Services, and required audit reports are submitted to the Auditor General. Taxpayers, retirement plan members, and policy-makers may find it difficult to synthesize relevant financial data to understand the comprehensive financial picture of a municipality and its retirement plans, or to make meaningful comparisons between the retirement plans of different municipalities. Though SB 1128 will require that some data is presented in a way to increase transparency and facilitate comparisons between plans, the purpose of the project leading to this report is to determine what, if any, steps ought to be taken to enhance the transparency of local government pension plan data.

### Background

There are numerous statutory reporting requirements related to local government pension plans, and broader local government financial data.

#### Local Plan Reporting Requirements to the Department of Management Services Related to Pension Liabilities

##### *Section 112.63, F.S., Actuarial Reports and Statements of Actuarial Impact*

Each retirement system or plan subject to the provisions of the "Florida Protection of Public Employee Retirement Benefits Act"<sup>1</sup> must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary. The actuarial report must consist of, but shall not be limited to, the following:

- Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system 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, which must include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.
- A plan to amortize any unfunded liability pursuant to s. 112.64 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.

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<sup>1</sup> Part VII of Ch. 112, F.S.

- 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.

The frequency of actuarial reports must be at least every 3 years commencing from the last actuarial report of the plan or system. The results of each actuarial report must be filed with the plan administrator within 60 days of certification. Thereafter, the results of each actuarial report must be made available for inspection upon request. Additionally, each retirement system or plan covered by this act which is not administered directly by the Department of Management Services (DMS) must furnish a copy of each actuarial report to DMS within 60 days after receipt from the actuary. The requirements of this section are supplemental to actuarial valuations necessary to comply with the requirements of s. 218.39, F.S.

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, consistent with the actuarial review, and has furnished a copy of such statement to the division.

Upon receipt of an actuarial report or a statement of actuarial impact, DMS must acknowledge such receipt, but shall only review and comment on each retirement system's or plan's actuarial valuations at least on a triennial basis. If the department finds that the actuarial valuation is not complete, accurate, or based on reasonable assumptions or otherwise materially fails to satisfy the requirements of this part, if the department requires additional material information necessary to complete its review of the actuarial valuation of a system or plan or material information necessary to satisfy the duties of the department pursuant to s. 112.665(1), F.S., or if the department does not receive the actuarial report or statement of actuarial impact, the department must notify the administrator of the affected retirement system or plan and the affected governmental entity and request appropriate adjustment, the additional material information, or the required report or statement.

Beginning July 1, 2011, the actuarial report must include 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.<sup>2</sup> The current FRS assumed rate of return is 7.75%.<sup>3</sup>

### ***Section 112.661, F.S., Investment Policies***

The investment policy of any local retirement system or plan must require that, for each actuarial valuation, the board of trustees determine the total expected annual rate of return for the current year, for each of the next several years, and for the long term thereafter. This determination must be filed promptly with DMS and with the plan's sponsor and the consulting actuary. The department must use this determination only to notify the board, the plan's sponsor, and consulting actuary of material differences between the total expected annual rate of return and the actuarial assumed rate of return.

Upon adoption by the board, the investment policy shall be promptly filed with DMS and the plan's sponsor and consulting actuary. The effective date of the investment policy, and any amendment thereto, must be the 31st calendar day following the filing date with the plan sponsor.

The investment policy must provide for the valuation of illiquid investments for which a generally recognized market is not available or for which there is no consistent or generally accepted pricing mechanism. If those investments are utilized, the investment policy must include the criteria set forth in s. 215.47(6), except that submission to the Investment Advisory Council is not required. The investment policy shall require that, for each

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<sup>2</sup> Section 1, Ch. 2011-216, L.O.F.

<sup>3</sup> July 1, 2010, Florida Retirement System actuarial valuation report.

actuarial valuation, the board must verify the determination of the fair market value for those investments and ascertain that the determination complies with all applicable state and federal requirements. The investment policy shall require that the board disclose to the Department of Management Services and the plan's sponsor each such investment for which the fair market value is not provided.

***Sections 175.261 and 185.221, F.S., Annual Reports to the Division of Retirement; Actuarial Valuations***

For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan, the board of trustees for every chapter plan and local law plan must submit the following reports to the division:

- With respect to chapter plans<sup>4</sup>, each year, by February 1, the board of trustees of each pension trust fund operating under a chapter plan must file a report with the division which contains:
  - A statement of whether in fact the municipality or special fire control district is within the provisions of s. 175.041.
  - An independent audit by a certified public accountant if the fund has \$250,000 or more in assets, or a certified statement of accounting if the fund has less than \$250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year.
  - A statement of the amount the municipality or special fire control district, or other income source, has contributed to the retirement fund for the most recent plan year and the amount the municipality or special fire control district will contribute to the retirement fund during its current plan year.
  - If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the insured benefits to the benefits provided by this chapter as well as the name of the insurer and information about the basis of premium rates, mortality table, interest rates, and method used in valuing retirement benefits.
  - In addition to annual reports provided above, by February 1 of each triennial year, an actuarial valuation of the chapter plan must be made by the division at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans.
- With respect to local law plans<sup>5</sup>, each year, on or before March 15, the trustees of the retirement plan must submit the following information to the division in order for the retirement plan of such municipality or special fire control district to receive a share of the state funds for the then-current calendar year:
  - A certified copy of each and every instrument constituting or evidencing the plan.
  - An independent audit by a certified public accountant if the fund has \$250,000 or more in assets, or a certified statement of accounting if the fund has less than \$250,000 in assets, for the most recent plan year, showing a detailed listing of assets and a statement of all income and disbursements during the year.
  - A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.
  - A statistical exhibit showing the total number of firefighters, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired firefighters and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

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<sup>4</sup> A "chapter plan" is defined in sections 175.025(2) and 185.02(3), F.S., to mean a separate defined benefit pension plan for firefighters or police officers which incorporates by reference the provisions of Chapters 175 or 186, F.S., and has been adopted by the governing body of a municipality or special district.

<sup>5</sup> A "local law plan" is defined in sections 175.025(11) and 185.02(10), F.S., to mean a defined benefit pension plan for firefighters or police officers, as described in ss. 175.351 and 185.35, F.S., established by municipal ordinance, special district resolution, or special act of the Legislature, which enactment sets forth all plan provisions.

- A certified statement describing the methods, factors, and actuarial assumptions used in determining the cost.
- A certified statement by an enrolled actuary showing the results of the latest actuarial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results.
- A statement of the amount the municipality or special fire control district, or other income source, has contributed toward the plan for the most recent plan year and will contribute toward the plan for the current plan year.
- In addition to annual reports provided above, an actuarial valuation of the retirement plan must be made at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the division within 3 months after the date of valuation.

***Section 175.401 (2) and (10), and 185.50 (2) and (10), F.S., Retiree Health Insurance Subsidy***

Any municipality or special fire control district having a firefighters' and police officers' pension trust fund system or plan may, in its discretion, establish by ordinance or resolution, as appropriate, a health insurance subsidy trust fund. Prior to the second reading of the ordinance before the municipal legislative body, or of the resolution before the governing body, an actuarial valuation must be performed by an enrolled actuary as provided in s. 112.63, and copies of the valuation and the proposed implementing ordinance or resolution must be furnished to the division.

The board of trustees, or the plan trustees in the case of local law plans, shall be solely responsible for administering the health insurance subsidy trust fund. As part of its administrative duties, no less frequently than every 3 years, the board must have an actuarial valuation of the retiree health insurance subsidy trust fund prepared as provided in s. 112.63 by an enrolled actuary, covering the same reporting period or plan year used for the pension plan, and must submit a report of the valuation, including actuarial assumptions and type and basis of funding, to the division. By February 1 of each year, the trustees must file a report with the division, containing an independent audit by a certified public accountant if the fund has \$250,000 or more in assets, or a certified statement of accounting if the fund has less than \$250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year.

**Retirement reporting by the Department of Management Services**

Section 112.665(1), F.S., specifies DMS reporting requirements related to governmental retirement systems. DMS must provide an annual report to the Legislature detailing Division of Retirement activities, findings, and recommendations concerning all governmental retirement systems, including legislation proposed to carry out such recommendations, and submit an annual report to the Special District Information Program of the Department of Community Affairs 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.

Effective July 1, 2011, DMS is required to provide a fact sheet for each participating local government defined benefit pension plan summarizing the plan's actuarial status.<sup>6</sup> 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. These documents must be posted on the DMS website. Plan sponsors that have websites must provide a link to the DMS website.

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<sup>6</sup> Section 3, Ch. 2011-216, L.O.F.

## Local Government Annual Financial Reports to the Department of Financial Services

### *Reporting to DFS*

Section 218.32, F.S., specifies the requirements for local governmental entities to provide annual financial reports to the Department of Financial Services (DFS). Each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district as defined in s. 189.403, must submit to DFS a copy of its annual financial report for the previous fiscal year in a format prescribed by the department.

Each local governmental entity that is required to provide for an audit in accordance with s. 218.39(1) must submit the annual financial report with the audit report. A copy of the audit report and annual financial report must be submitted to the department within 45 days after the completion of the audit report but no later than 12 months after the end of the fiscal year. Each local governmental entity that is not required to provide for an audit report in accordance with s. 218.39 must submit the annual financial report to DFS no later than April 30 of each year.

Entities required to submit the annual financial report must do so through the Local Government Electronic Reporting (LOGER) system, consistent with rules adopted in Chapter 69I-51, F.A.C. Pension expenditures are reported only as a single lump sum line item.<sup>7</sup>

### *DFS Reporting*

DFS must annually by December 1 file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Information Program of the Department of Community Affairs showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report. The report must include, but is not limited to:

- The total revenues and expenditures of each local governmental entity that is a component unit included in the annual financial report of the reporting entity.
- The amount of outstanding long-term debt by each local governmental entity. The term “long-term debt” means any agreement or series of agreements to pay money, which, at inception, contemplate terms of payment exceeding 1 year in duration.

## Annual Financial Audit Reports to the Auditor General

Pursuant to s. 218.39, F.S., if, by the first day in any fiscal year, a local governmental entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, each of the following entities shall have an annual financial audit of its accounts and records completed within 12 months after the end of its fiscal year by an independent certified public accountant retained by it and paid from its public funds:

- Each county.
- Any municipality with revenues or the total of expenditures and expenses in excess of \$250,000.
- Any special district with revenues or the total of expenditures and expenses in excess of \$100,000.
- Each district school board.
- Each charter school established under s. 1002.33.
- Each charter technical center established under s. 1002.34.
- Each municipality with revenues or the total of expenditures and expenses between \$100,000 and \$250,000 that has not been subject to a financial audit pursuant to s. 218.39(1), F.S., for the 2 preceding fiscal years.
- Each special district with revenues or the total of expenditures and expenses between \$50,000 and \$100,000 that has not been subject to a financial audit pursuant to s. 218.39(1), F.S., for the 2 preceding fiscal years.

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<sup>7</sup> Account code 518.00.

A management letter must be prepared and included as a part of each financial audit report. By definition, a “financial audit” must be conducted in accordance with generally accepted auditing standards and government auditing standards as adopted by the Board of Accountancy and as prescribed by rules of the Auditor General.<sup>8</sup> The Auditor general has promulgated the Local Government Audit Report Review Guidelines to assist auditors in complying with generally accepted government auditing standards (GAGAS), generally accepted accounting principles (GAAP), and applicable laws, rules, and regulations.

Pursuant to s. 11.45(7), F.S., the Auditor General must review all audit reports, request any significant items that were omitted, and notify the Legislative Auditing Committee if any entity does not comply with the reporting requirements of s. 218.39, F.S. The Auditor General customarily posts all annual financial reports on the Auditor General’s internet website. The Auditor General must also annually report to the Legislature a summary of significant findings identified in the audit reports.<sup>9</sup>

### **Generally Accepted Accounting Principles and Pension Reporting Requirements**

The Governmental Accounting Standards Board (GASB) is responsible for establishing the generally accepted accounting principles for state and local governments. The current GASB statements that prescribe reporting requirements for pension plans and other postemployment benefits include:

- GASB Statement No. 25 – Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans;
- GASB Statement No. 27 – Accounting for pensions by State and Local Government Employers;
- GASB Statement No. 43 – Financial Reporting for Postemployment Benefit Plans Other than Pension Plans;
- GASB Statement No. 45 – Accounting and Financial Reporting by Employers for Postemployment Benefits Other than Pensions; and
- GASB Statement No. 50 – Pension Disclosures.

GASB promulgates new standards through statements that go through a public process, including issuance of exposure drafts for which public comment is solicited and considered. GASB has issued two exposure drafts proposing changes to the financial reporting on pensions by state and local governments. Among other things, the proposals would require that unfunded pension liabilities be reported on the employer’s financial statements (statements of net position and changes in plan net position), instead of just a footnote; allow only one actuarial method for calculating pension costs; modify requirements for discount rates used to calculate unfunded pension liabilities; and require governments in all types of covered pension plans to present more extensive note disclosures and required supplementary information.<sup>10</sup>

Reponses to the exposure drafts are due to GASB by September 30, 2011; the issuance of the statements is estimated for June 2012. Assuming this timetable remains accurate, local governments would be required to implement the improved pension reporting requirements for the 2013-14 fiscal year.<sup>11</sup>

## **Findings and/or Conclusions**

As discussed above, a significant amount of data related to municipal finances generally, and municipal pension finances specifically, is currently reported to relevant state agencies, which subsequently make that information publically available. Thorough data related to local pension plans resides in DMS’s annual reports on every local government retirement system. Voluminous appendices to the report detail such information as the financial and

<sup>8</sup> Section 218.31(17), F.S.

<sup>9</sup> The most recent of those reports, Report No. 2011-195, made four findings with respect to 2008-09 audit reports: Some reports were not submitted at all, or submitted untimely; some audit firms did not hold licenses at the time of the report; there were some instances of noncompliance with certain requirements; there were several instances of noncompliance with generally accepted government auditing standards and generally accepted accounting principles.

<sup>10</sup> Exposure Draft, Proposed Statement of the Governmental Accounting Standards Board, Accounting and Financial Reporting for Pensions an amendment of GASB Statement No. 27, No. 34-E June 27, 2011, available at <http://www.gasb.org>.

<sup>11</sup> The information related to the GASB standards was provided via email communication with staff of the Auditor General.

contribution data, benefit data, market value of assets, funding progress, actuarial data, population data, and funding progress.<sup>12</sup>

A report released by the Collins Institute in February 2011 recommended that localities should improve the accessibility of funding, actuarial reporting, and liabilities information to its taxpayers.<sup>13</sup> The report suggested requiring cities and special districts to make information about their pensions easily accessible to the public on the city's webpage, in a clear and easily understood manner using terminology and data that are uniform across the state's cities. The report also notes, however, that such requirements reduce local autonomy.

Section 12 of Ch. 2011-216, L.O.F., requires DMS to develop a plan for creating standardized ratings for classifying the financial strength of all local government defined benefit pension plans, and submit the plan to the Legislature by January 1, 2012. In the course of doing its due diligence in order to create such a plan, it is possible that DMS may have suggestions as to additional data reporting requirements for local government pension plans. As this report was being written, DMS was still working on its plan.

If the Legislature were to impose new reporting requirements on local governments, such a change should be considered in conjunction with attendant financial costs.

### Options and/or Recommendations

Given the amount of local government retirement plan data that already exists, there may not be a need for additional reporting requirements, but there may be room for improving the dissemination of existing data. To that end, the Legislature could require that existing actuarial reporting and investment policies be provided on local government internet websites.

The Legislature could also consider whether existing reporting requirements into state entities- DMS, DFS, and the Auditor General, could be made into one entity, which would act a repository for both public access and agency use of the data.

The Legislature may also receive useful input concerning financial data when DMS provides its plan for creating standardized ratings for classifying the financial strength of all local government defined benefit pension plans.

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<sup>12</sup> The Florida Local Government Retirement Systems report.

<sup>13</sup> *Trouble Ahead: Florida Local Governments and Retirement Obligations*, Leroy Collins Institute, February 2011.