A bill to be entitled
An act relating to publicly funded retirement
programs; amending s. 112.63, F.S.; revising minimum
requirements for actuarial reports for retirement
systems or plans subject to part VII of ch. 112, F.S.;
requiring the governing body responsible for the
retirement system or plan to review the enrolled
actuary’s statement within a specified timeframe;
requiring the governing body to provide a written
explanation if differing actuarial assumptions are
adopted; increasing the frequency by which the
Department of Management Services must review and
comment on a retirement system’s or plan’s actuarial
valuations; requiring each local government retirement
system or plan to submit certain information
accompanying its actuarial report to the department;
amending s. 112.64, F.S.; requiring the unfunded
liability of retirement systems or plans established
on or after a certain date to be amortized within a
specified timeframe; revising requirements for
determining payroll growth assumptions for unfunded
liability amortization schedules; amending s. 112.664,
F.S.; modifying requirements for annual reports
prepared by each defined benefit retirement system or
plan; amending s. 112.665, F.S.; revising duties of
the department as to the oversight of local retirement
systems or plans; amending s. 121.031, F.S.; requiring
the administrator of the Florida Retirement System to
provide the results of the system’s actuarial study to
the Governor and the presiding officers of the Legislature annually; revising minimum requirements for the actuarial study; amending s. 121.0312, F.S.; requiring the Governor and the presiding officers of the Legislature to acknowledge and review the actuarial valuation report after receipt; specifying minimum requirements for such review; requiring the department to publish the written acknowledgments in a certain manner; amending ss. 121.4501 and 212.055, F.S.; conforming cross-references; providing a declaration of important state interest; providing effective dates.

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

Section 1. Section 112.63, Florida Statutes, is 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 part must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary. The actuarial report must consist of, but is not limited to, the following:

(a) 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 shall include a valuation of present assets, based on market and actuarial statement value, and current and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.

(b) A plan to amortize any unfunded liability pursuant to s. 112.64 and a description of actions taken to reduce the unfunded liability.

(c) A description and explanation of actuarial assumptions.

(d) A schedule illustrating the amortization of unfunded liabilities, if any.

(e) A list of preretirement and postretirement benefits provided to employees, including, but not limited to, life insurance; health insurance; dental care; vision care; fitness programs, discounts, or reimbursements; continuing education or tuition credit programs; cost-of-living adjustments; payment for unused leave; disability insurance; and health savings accounts or flexible spending accounts.

(f) 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.

(g) Effective January 1, 2016, 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. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.
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 part act.

1. The statement must include an analysis of the assumed rate of return established by the plan’s governing body. The analysis must include specific recommendations regarding an appropriate assumed rate of return.

2. The plan’s governing body shall, within 30 days after receipt, review the statement of the enrolled actuary. If the governing body adopted actuarial assumptions other than those recommended by the enrolled actuary producing the actuarial valuation report, the plan’s governing body must provide a written explanation as to why actuarial assumptions other than those recommended were adopted. The written explanation must be published as an addendum to the report.

The actuarial cost methods used utilized for establishing the amount of the annual actuarial normal cost to support the promised benefits must shall only be those methods approved in the Employee Retirement Income Security Act of 1974 and as authorized permitted under regulations prescribed by the Secretary of the Treasury.

(2) The frequency of actuarial reports must be at least every 3 years commencing from the last actuarial report of the plan or system or October 1, 1980, if no actuarial report has been issued within the 3-year period before prior to October 1, 1979. The results of each actuarial report must shall be filed with the plan administrator within 60 days after of
certification. Thereafter, the results of each actuarial report must shall be made available for inspection upon request. Additionally, each retirement system or plan covered by this part act which is not administered directly by the Department of Management Services shall furnish a copy of each actuarial report to the Department of Management Services 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.

(3) A no unit of local government may not shall agree to a proposed change in retirement benefits unless the administrator of the system, before prior to adoption of the change by the governing body, and before 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. Such statement must shall also indicate whether the proposed changes are in compliance with s. 14, Art. X of the State Constitution and with s. 112.64.

(4) Upon receipt, pursuant to subsection (2), of an actuarial report, or, pursuant to subsection (3), of a statement of actuarial impact, the Department of Management Services shall acknowledge such receipt, and but shall only review and comment on each retirement system’s or plan’s actuarial valuations at least on a triennial basis.

(a) 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; 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); or does not receive
the actuarial report or statement of actuarial impact, the
department shall 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. The
notification must inform the administrator and the affected
governmental entity of the consequences for failing to comply
with the requirements of this subsection.

(b) If, after a reasonable period of time, a satisfactory
adjustment is not made or the report, statement, or additional
material information is not provided, the department 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 which are
payable to the affected governmental entity until the adjustment
is made or the report, statement, or additional material
information is provided to the department. The Department of
Management Services shall specify the date such action is to
begin and notify the Department of Revenue, the Department of
Financial Services, and the affected governmental entity 30 days
before the specified date.

(c) Within 21 days after receipt of the notice, the
affected governmental entity 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 of Management Services or if the Department of Revenue or the Department of Financial Services determines its interests may be adversely affected by the hearing.

1. If the administrative law judge recommends in favor of the department, the department shall perform an actuarial review, prepare the statement of actuarial impact, or collect the requested material information. The cost to the department of performing the actuarial review, preparing the statement, or collecting the requested material information shall be charged to the affected governmental entity whose employees are covered by the retirement system or plan. If payment is not received by the department within 60 days after the affected governmental entity receives the request for payment, the department shall certify to the Department of Revenue and the Department of Financial Services the amount due, and the Department of Revenue and the Department of Financial Services shall pay such amount to the Department of Management Services from funds not pledged for satisfaction of bond debt service which are payable to the affected governmental entity.

2. If the administrative law judge recommends in favor of the affected governmental entity and the department performs an actuarial review, prepares the statement of actuarial impact, or collects the requested material information, the cost to the department shall be paid by the Department of Management Services.

(d) In the case of an affected special district, the Department of Management Services shall also notify the
Department of Economic Opportunity. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.067.

1. Failure of a special district to provide a required report or statement, to make appropriate adjustments, or to provide additional material information after the procedures specified in s. 189.067(1) are exhausted shall be deemed final action by the special district.

2. The Department of Management Services may notify the Department of Economic Opportunity of those special districts that failed to come into compliance. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.067(4).

(5) Payments made to the fund as required by this chapter shall be based on the normal and past service costs contained in the most recent actuarial valuation, subject to being state-accepted.

(6) Beginning October 1, 2018 July 1, 1980, each retirement system or plan of a unit of local government shall maintain and submit to the Department of Management Services along with the actuarial report required under this section, in an accurate and accessible format prescribed by the Department of Management Services, the following information:

(a) For each active and inactive member of the system, a number or other means of identification; date of birth; sex; date of employment; period of credited service, split, if required, between prior service and current service; and occupational classification.

(b) For each active member, current pay rate, cumulative
contributions together with accumulated interest, if credited, age at entry into system, and current rate of contribution.

(c) For each inactive member, average final compensation or equivalent and age at which deferred benefit is to begin.

(d) For each retired member and other beneficiary, a number or other means of identification, date of birth, sex, beginning date of benefit, type of retirement and amount of monthly benefit, and type of survivor benefit.

Section 2. Present subsections (4) through (7) of section 112.64, Florida Statutes, are renumbered as subsections (5) through (8), respectively, a new subsection (4) is added to that section, and subsection (3) and present subsection (5) of that section are amended, to read:

112.64 Administration of funds; amortization of unfunded liability.—

(3) For a retirement system or plan with its first plan year beginning between October 1, 1980, and October 1, 2018 which comes into existence after October 1, 1980, the unfunded liability, if any, shall be amortized within 40 years of the first plan year.

(4) For a retirement system or plan that comes into existence after October 1, 2018, the unfunded liability, if any, shall be amortized within 30 years of the first plan year.

(6)(5)(a) If the amortization schedule for unfunded liability is to be based on a contribution derived in whole or in part from a percentage of the payroll of the system or plan membership, the assumption as to payroll growth shall not exceed the average payroll growth for the 3 10 years before prior to the latest actuarial valuation of the system or plan.
unless a transfer, merger, or consolidation of government functions or services occurs, in which case the assumptions for payroll growth may be adjusted and may be based on the membership of the retirement plan or system subsequent to such transfer, merger, or consolidation.

(b) An unfunded liability amortization schedule that includes a payroll growth assumption and is in existence on September 30, 1996, or is established thereafter, may be continued using the same payroll growth assumption, or one not exceeding the payroll growth assumption established at the start of the schedule, regardless of the actual 10-year average payroll growth rate, provided that:

1. The assumptions underlying the payroll growth rate are consistent with the actuarial assumptions used to determine unfunded liabilities, including, but not limited to, the inflation assumption; and

2. The payroll growth rate is reasonable and consistent with future expectations of payroll growth.

(c) An unfunded liability amortization schedule that does not include a payroll growth assumption and is in existence on September 30, 1996, or is established thereafter, may be continued or modified to include a payroll growth assumption, provided that such assumption does not exceed the 10-year average payroll growth rate as of the actuarial valuation date such change in the amortization schedule commences. Such schedule may be continued thereafter, subject to the reasonable and consistent requirements in paragraph (b).

Section 3. Paragraph (d) of subsection (1) of section 112.664, Florida Statutes, is amended 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 December 31, 2015, 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:

(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, and a percentage of the annual revenue of the plan sponsor.

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, publish, and maintain complete, computerized data information on all public employee retirement systems or plans in the state based upon receipt and 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 for compliance with the requirements of this part;

(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, a report to the President of the Senate and the Speaker of the House of Representatives which 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 the plan’s actuarial status. The fact sheet should provide a summary of the plan’s most current actuarial data minimum funding requirements stated as a percentage of pay, dollar value, and a percentage of the annual revenue of the plan sponsor; 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, a report to the Special District Accountability Program of the Department of Economic Opportunity which 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 specified in part I of chapter 121; and
(g) Adopt reasonable rules to administer this part.

Section 5. Subsections (3) and (4) of section 121.031, Florida Statutes, are amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(3) The administrator shall cause an actuarial study of the system to be made at least annually and shall report the results of such study to the Governor, the President of the Senate, and the Speaker of the House of Representatives Legislature by December 31 before the next regular legislative session. The study shall, at a minimum, conform to the requirements of s. 112.63, with the following exceptions and additions:

(a) The valuation of plan assets must be based on a 5-year averaging methodology as such as that specified in the United States Department of Treasury Regulations, 26 C.F.R. s. 1.412(c)(2)-1 in effect on August 16, 2006, or a similar accepted approach designed to attenuate fluctuations in asset values.

(b) The study shall include a narrative explaining the changes in the covered group over the period between actuarial valuations and the impact of those changes on actuarial results.

(c) When substantial changes in actuarial assumptions have been made, the study shall reflect the results of an actuarial assumption as of the current date based on the assumptions utilized in the prior actuarial report.

(d) The study shall include an analysis of the changes in actuarial valuation results by the factors generating those changes. Such analysis shall reconcile the current actuarial
valuation results with those results from the prior valuation.

(e) The study must include measures of funding status and funding progress designed to facilitate the assessment of trends over several actuarial valuations with respect to the overall solvency of the system. Such measures shall be adopted by the department and shall be used consistently in all actuarial valuations performed on the system.

(f) The study must include an analysis of the assumed rate of return adopted by the Florida Retirement System Actuarial Assumption Conference pursuant to s. 216.136(10). The analysis must include specific recommendations regarding an appropriate assumed rate of return.

(g) The actuarial model used to determine the adequate level of funding for the Florida Retirement System must include a specific rate stabilization mechanism, as prescribed herein. It is the intent of the Legislature to maintain as a reserve a specific portion of any actuarial surplus, and to use such reserve for the purpose of offsetting future unfunded liabilities caused by experience losses, thereby minimizing the risk of future increases in contribution rates. It is further the intent of the Legislature that the use of any excess above the reserve to offset retirement system normal costs must be in a manner that will allow system employers to plan appropriately for resulting cost reductions and subsequent cost increases. The rate stabilization mechanism operates as follows:

1. The actuarial surplus must be the value of actuarial assets over actuarial liabilities, as is determined on the preceding June 30 or as may be estimated on the preceding
December 31.

2. The full amount of any experience loss shall be offset, to the extent possible, by any actuarial surplus.

3. If the actuarial surplus exceeds 5 percent of actuarial liabilities, one-half of the excess may be used to offset total retirement system costs. In addition, if the actuarial surplus exceeds 10 percent of actuarial liabilities, an additional one-fourth of the excess above 10 percent may be used to offset total retirement system costs. In addition, if the actuarial surplus exceeds 15 percent of actuarial liabilities, an additional one-fourth of the excess above 15 percent may be used to offset total retirement system costs.

4. Any surplus amounts available to offset total retirement system costs pursuant to subparagraph 3. should be amortized each year over a 10-year rolling period on a level-dollar basis.

(4) Notwithstanding the provisions of s. 112.64(5) or 112.64(4) to the contrary, the net increase, if any, in unfunded liability under the system arising from significant system amendments adopted or changes in assumptions must shall be amortized within 30 plan years.

Section 6. Effective July 1, 2019, section 121.0312, Florida Statutes, is amended to read:

121.0312 Acknowledgment of review; actuarial valuation report; contribution rate determination process.—

(1) The Governor, Chief Financial Officer, and Attorney General, sitting as the Board of Trustees of the State Board of Administration, shall review the actuarial valuation report prepared in accordance with the provisions of this chapter. The state board shall review the process by which Florida Retirement
System contribution rates are determined and recommend and submit any comments regarding the process to the Legislature.

(2) The Governor, the President of the Senate, and the Speaker of the House of Representatives shall, within 30 days after receipt, acknowledge in writing their acceptance and review of the actuarial valuation report prepared in accordance with this chapter and any recommendations regarding actuarial assumptions contained therein. The review must contain an explanation from each principal as to why actuarial assumptions other than those recommended by the enrolled actuary producing the actuarial valuation report were adopted by the Florida Retirement System Actuarial Assumption Conference. The department shall publish the written acknowledgments as addenda to the report.

Section 7. Paragraph (f) of subsection (4) of section 121.4501, Florida Statutes, is amended to read:

121.4501 Florida Retirement System Investment Plan.—

(4) PARTICIPATION; ENROLLMENT.—

(f) After the period during which an eligible employee had the choice to elect the pension plan or the investment plan, or the month following the receipt of the eligible employee’s plan election, if sooner, the employee shall have one opportunity, at the employee’s discretion, to choose to move from the pension plan to the investment plan or from the investment plan to the pension plan. Eligible employees may elect to move between plans only if they are earning service credit in an employer-employee relationship consistent with s. 121.021(17)(b), excluding leaves of absence without pay. Effective July 1, 2005, such elections are effective on the first day of the month following the
receipt of the election by the third-party administrator and are not subject to the requirements regarding an employer-employee relationship or receipt of contributions for the eligible employee in the effective month, except when the election is received by the third-party administrator. This paragraph is contingent upon approval by the Internal Revenue Service.

1. If the employee chooses to move to the investment plan, the provisions of subsection (3) govern the transfer.

2. If the employee chooses to move to the pension plan, the employee must transfer from his or her investment plan account, and from other employee moneys as necessary, a sum representing the present value of that employee’s accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan and service in the investment plan. Benefit commencement occurs on the first date the employee is eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the pension plan liabilities in the most recent actuarial valuation. For any employee who, at the time of the second election, already maintains an accrued benefit amount in the pension plan, the then-present value of the accrued benefit is deemed part of the required transfer amount. The division must ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary. A refund of any employee contributions or additional member payments made which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the investment plan is not permitted.
3. Notwithstanding subparagraph 2., an employee who chooses to move to the pension plan and who became eligible to participate in the investment plan by reason of employment in a regularly established position with a state employer after June 1, 2002; a district school board employer after September 1, 2002; or a local employer after December 1, 2002, must transfer from his or her investment plan account, and from other employee moneys as necessary, a sum representing the employee’s actuarial accrued liability. A refund of any employee contributions or additional member payments made which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the investment plan is not permitted.

4. An employee’s ability to transfer from the pension plan to the investment plan pursuant to paragraphs (a) and (b), and the ability of a current employee to have an option to later transfer back into the pension plan under subparagraph 2., shall be deemed a significant system amendment. Pursuant to s. 121.031(4), any resulting unfunded liability arising from actual original transfers from the pension plan to the investment plan must be amortized within 30 plan years as a separate unfunded actuarial base independent of the reserve stabilization mechanism defined in s. 121.031(3)(g) or s. 121.031(3)(f). For the first 25 years, a direct amortization payment may not be calculated for this base. During this 25-year period, the separate base shall be used to offset the impact of employees exercising their second program election under this paragraph. The actuarial funded status of the pension plan will not be affected by such second program elections in any significant
manner, after due recognition of the separate unfunded actuarial base. Following the initial 25-year period, any remaining balance of the original separate base shall be amortized over the remaining 5 years of the required 30-year amortization period.

5. If the employee chooses to transfer from the investment plan to the pension plan and retains an excess account balance in the investment plan after satisfying the buy-in requirements under this paragraph, the excess may not be distributed until the member retires from the pension plan. The excess account balance may be rolled over to the pension plan and used to purchase service credit or upgrade creditable service in the pension plan.

Section 8. Paragraphs (d) and (e) of subsection (9) of section 212.055, Florida Statutes, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(9) PENSION LIABILITY SURTAX.—
(d) The local government may use the pension liability surtax proceeds in the following manner:

1. If the proceeds of the pension liability surtax have been actuarially recognized as provided in s. 112.64(7) or 112.64(6), the local government must distribute the proceeds to an eligible defined benefit retirement plan or system, not including the Florida Retirement System.

2. If the proceeds of the pension liability surtax have not been actuarially recognized, the local government is authorized to distribute the proceeds to an eligible defined benefit retirement plan or system, not including the Florida Retirement System, to pledge the proceeds of the surtax to repay debts incurred for the purpose of making advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system, and to reimburse itself from the proceeds of the surtax for any borrowing costs associated with such debts.

(e) The ordinance providing for the imposition of the pension liability surtax must specify how the proceeds will be used:

1. The ordinance must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system if the proceeds of the pension liability surtax are actuarially recognized as provided in s. 112.64(7) or 112.64(6).

2. The ordinance must specify the local government’s intention to incur debt for the purpose of making advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system if the proceeds of the pension liability surtax are not actuarially recognized as provided in...
Section 9. 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 10. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2018.