

SPECIAL REPORT Labor & Employment

RETIREMENT Governments struggle with unfunded liabilities

Bills would reform government pension plans

Commentary by **Brett J. Schneider**

It's no secret that Gov. Rick Scott and many of his contemporaries in the Florida Legislature campaigned on a pledge to reform state and local public sector pension plans. It's also no secret that, based on the rapid decline in property values and the impact of that decline on property tax revenue, local governments are struggling with significant unfunded pension liabilities. Thus, it should come as no surprise that two bills have been filed that, if enacted, would substantially reform public sector pension plans.

THE PAST

Although not required to provide employees with defined benefit pension plans, the state and many local governments historically have offered employees the opportunity to join defined benefit pension plans as an inducement to accept public employment. The Florida Retirement System provides retirement benefits to about 572,000 active and 319,000 retired members and beneficiaries of its more than 900 state and local government public employers. Participating employees in FRS defined benefit plans currently are not required to contribute anything to fund



Schneider

their respective pension benefits. As an alternative, many local governments have created their own defined benefit pension plans. As of last Sept. 30, 239 local governments sponsored a total of 489 public defined benefit plans in Florida.

THE PRESENT

The state Legislature commenced its regular session earlier this month. If enacted, Senate Bills 1128 and 1130 could alter defined benefit pension plans in several material ways.

First, SB 1128 would generally prohibit defined benefit plans from including in the calculation of retirement benefits any accrued unused sick or annual leave belonging to a plan member at retirement.

Second, SB 1128 would likely decrease the benefit current employees could expect upon their retirement by capping at 300 hours the amount of overtime pay that can be included in the calculation of a member's retirement benefit.

SB 1128 also would enable local governments to expand the use of premium tax revenues that they receive from the state to fund unfunded police and fire pension liabilities. Currently, those revenues can be used only to fund new enhanced retirement benefits for police

and fire employees.

Similarly, SB 1130 would reform FRS by, among other things, closing its defined benefit plans to certain members enrolled in FRS starting July 1. Those new hires who are prohibited from joining FRS' defined benefit plans would be allowed to enter one of FRS's defined contribution plans. SB 1130 also would require some members of FRS's defined benefit plans to begin making contributions into FRS to help fund their pensions. The bill also likely would decrease a participant's retirement benefit by capping the amount of overtime pay and accumulated annual leave that can be included in calculating a member's retirement benefit.

In addition to legislative efforts, public sector employers in Florida have taken steps to minimize their unfunded pension liabilities. For example, public sector employers have attempted to minimize their liability by, among other things: creating two-tier pension plans that provide reduced benefits to future employees, closing their defined benefit pension plans to future employees and reducing the potential defined pension benefit current employees will receive at retirement.

THE FUTURE

Despite the efforts of the Legislature and local governments to reform de-

defined benefit pension plans, the future of public sector defined benefit pension plans is unsettled. We can and should expect a long battle as public sector employees and their unions are likely to use any and all avenues at their disposal to challenge any state or local measures to eliminate or decrease their pensions.

At the state level, public sector unions are expected to apply their political muscle to challenge SB 1128 and 1130. On the local level, individual employees and unions that represent them are expected to continue to take strong positions during collective bargaining against pension reform. Moreover, should local governments attempt to impose pension reform on their employees, they and their unions are likely to initiate litigation against their employers to block reform.

Given the proposed changes in the laws governing public sector pension plans and the apparent growing public support for pension reform, it's expected to be an interesting legislative session and remainder of the year when it comes to the struggle over the future of public sector defined benefit pension plans in Florida.

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