



2010 Session: Retirement/Pension Legislation

Florida's Budget

Both the House and Senate passed their budgets from their respective chambers during week 5, and the final numbers put them about \$3 billion apart. The Senate bill is close to \$70 billion in funding and was approved unanimously, largely because of the Senate's decision to restore some cuts contingent on enhanced FMAP (Medicaid) funds. The House bill comes in at approximately \$67.2 billion and the vote there was strictly on party lines.

Now the bodies will move toward a conference to reconcile the differences in their bills. However, in order to begin the House and Senate must agree on conference allocations, which is the total amount of funding to be provided in each budget area. That may be difficult since the Senate has accounted for FMAP dollars while the House has not. The earliest that the Legislature could have an indication about the FMAP funds is April 12th, when the Congress returns from recess.

Substantial changes to the Florida Retirement System (FRS) are moving through the process this session. We have taken this opportunity to pull together the latest information on the FRS proposed changes and submit the following for your review.

As always, please let us know if you have questions or need further information on issues as session continues.

Retirement/Pension Legislation

Florida Retirement System

There have been a number of proposed modifications to the state retirement system as the entire system is facing major shortfalls in the near future. This week, the House and Senate met in session to pass their respective budgets.

As this was a short week 5 because of the Passover and Easter holiday schedule, the Senate met in session Wednesday and the House met both Wednesday and Thursday.

The state is facing an approximately \$15 billion shortfall in the FRS fund and several proposals have been put forth. The budget chairman in the Senate, Senator Alexander has

sponsored legislation which would require public employees to individually contribute to their pension plans. This legislation would require public employees to pay one-quarter of one percent of their gross pay into the Florida Retirement System. The Senate additionally would require state employees to contribute to their health insurance coverage.

The House budget does contain a 3 % cut for all state employees, however there is language that would allow agency heads the discretion to make layoffs and/or reclassify employees to make up the amount that would equal a 3% across the board cut. The Senate bill does not have this language at this time.

Below are the several bills related to retirement and pension issues. Should you have any further questions please call or email us at any time.

HB 5701 (PCB CEED 10-04), by Representative Rivera

This proposed committee substitute was heard this week and renamed HB 5701. In summary, this bill would eliminate a subsidy for state retirees meant to help them with insurance costs. Currently, state retirees get an extra \$5 a month for every five years of service up to \$150 a month on top of their pension. With the elimination of this subsidy, the state will save approximately \$200 million.

- **This bill was heard on the floor on 3/31/10 and will now roll to third reading.**

HB 5607, Retirement, by Government Operations Appropriations Committee and Representative Hays

Section 121.031, F.S., requires that an actuarial study of the Florida Retirement System (FRS) be provided by the administrator of the system (the Department of Management Services) and for the results to be reported to the Legislature by December 31 of each year. Thereafter, the Legislature establishes uniform contribution rates in law during the next legislative session. Participating employers in the Florida Retirement System must make monthly contributions to fund the FRS based upon those rates.

The bill revises s. 121.71, F.S., to establish the required employer payroll contribution rates for each membership class and subclass of the defined benefit plan and the optional retirement plans within the FRS for the fiscal years beginning July 1, 2010 and July 1, 2011.

The bill provides a determination and declaration of important state interest and treats all similarly situated FRS employers in the same manner. Thus, the bill meets the exception requirements of Article VII, Section 18, of the Florida Constitution, which excuses local government from state mandates unless certain requirements are met.

The bill conforms the laws to the proposed House of Representatives FY 2010-11 General Appropriations Act (GAA) as the retirement contributions are funded in the GAA.

The fiscal impact to the state is \$252.2 million in General Revenue and \$42.2 million in trust funds. The fiscal impact to local governments and other entities participating in the FRS is \$166.4 million. The bill provides an effective date of July 1, 2010.

- **This bill was heard on 3/31/10 and rolled to third reading.**

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**HB 5703 Retirement, by Full Appropriations Council on Education & Economic Development and Representative Rivera**

Section 121.031, F.S., provides for an annual actuarial study of the Florida Retirement System (FRS) and for a report of the results to the Legislature by December 31 of each year. Thereafter, the Legislature establishes uniform contribution rates in law annually. Participating employers in the FRS are required to make monthly contributions, based on these rates, to fund the system.

The July 1, 2009 Actuarial Valuation was completed and submitted to the Legislature in December of 2009. For the first time since July 1, 1997, the fund was no longer operating in a surplus. In fact, the results of the Valuation determined that the fund had dropped from an actuarial funded ratio of 106.7 percent the previous year to 88.5 percent. The primary reason for the decline was a significant drop in market values. As of July 1, 2009, the date on which the Valuation is based, the market value of the FRS was \$99.9 billion, down from \$126.9 billion on July 1, 2008. By design and necessity, the value of the fund is a snapshot taken at a specific point in time. By chance, the Valuation date was at a point in a record economic downturn where the value of the fund was particularly low. In comparison, as of March 15, 2010, the market value of the fund, per the State Board of Administration, had returned to \$115.6 billion. The fund being in a deficit creates an unfunded actuarial liability (UAL), which under various current statutes must be funded.

There are also 489 defined benefit plans for municipalities and special districts whose actuarial funding is overseen by the Department of Management Services, but are not participants in the FRS. Total plan assets were valued at \$23.1 billion as of September 30, 2009.

This bill temporarily suspends, for up to three years, the requirements for public retirement plans to pay the full contribution rate if the public retirement plan was actuarially funded at 90 percent or more for the valuation performed in the plan year ending during calendar year 2008. Approximately, 30 percent of local government retirement plans that reported data to the Division of Retirement, as well as the FRS, meet this requirement. The FRS covers nearly 1000 public employers, including required participation by state government, state universities, county school boards, state community colleges, and county governments, as well as optional participation by municipalities and certain other public entities.

The bill conforms the laws to the proposed House of Representatives Fiscal Year 2010-11 General Appropriations Act as the retirement contributions are funded in the GAA.

Based on the results of the 2009 FRS Valuation, the annual system-wide increase in contributions necessary to fund the UAL for the state would be approximately \$428.4 million in General Revenue and \$84.7 million in trust funds. For cities and other public entities electing to participate in the FRS, the increase in contributions necessary to fund the UAL would be \$350.3 million. The fiscal impacts on local governments, which do not participate in the FRS, will be dependent on how many are eligible for and ultimately opt to use the exemption. The bill provides an effective date of July 1, 2010.

- **This bill was heard and amended and will now roll to third reading.**

**SB 2022 Florida Retirement System by Senator Alexander**

This bill provides for employee and employer contributions to the Florida Retirement System. The bill establishes the required employer payroll contribution rates for anyone enrolled as an employee and in the Florida Retirement System (FRS) retirement plan for the fiscal year beginning July 1, 2010. In addition, the bill changes the FRS from a noncontributory system to a contributory system by requiring each active member of the FRS, the Senior Management Service Optional Annuity Program, the State University Optional Retirement Program and the Community College Optional Retirement Program to contribute 0.25% of gross salary to fund retirement benefits, effective January 1, 2011.

Senator Al Lawson introduced an amendment to reduce employee contributions was voted down 14-23.

- **This bill heard and approved and will now roll to third reading.**

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HB 1307 State Financial Matters, by Representative Schenck

The State Board of Administration is composed of the Governor as chair, the Chief Financial Officer and the Attorney General and this board manages 36 separate statutory investment portfolios, the largest one of which is the multi-employer Florida Retirement System.

This bill includes changes to the FRS Investment Plan that codify practices and policies being used in administration of the plan.

In addition this bill also makes changes to the investment authorizations for the FRS Pension Plan by increasing the permitted holdings for foreign equity from 25 percent to 35 percent of the total fund; Permits proceeds of bonds issued on behalf of the Florida Hurricane Catastrophe Fund (CAT Fund) to be invested without limitation in certain federal tax-exempt obligations; Permits the SBA executive director to extend an expiration of moratoriums on contributions and withdrawals to the Local Government Investment Pool in cases where an emergency meeting of the Trustees of the SBA cannot be convened

within the current 48 hour moratorium window; Reduces the employer contribution rate to fund the administration of the FRS Investment Plan from .05 to .03 percent on July 1, 2010, then up to .04 percent July 1, 2014; Provides additional time for FRS employers to pay invoices for member losses; Authorizes the SBA to secure trademarks, copyrights, and patents on behalf of the FRS or any other fund under its jurisdiction.

Finally, the bill addresses governance changes to the SBA. It requires the Board to produce annual financial statements as reported by an independent audit firm, requires minimum qualifications for the executive director, increases the number of members on the Investment Advisory Council from six to nine, and provides for transparency and accountability of the Board through implementing policies, guidelines and procedures.

The reduction in the employer contribution rate will generate an overall cost savings to FRS employers of approximately \$6.4 million dollars. Any potential revenue associated with the SBA being provided the ability to secure trademarks, copyrights, and patents on behalf of the FRS is indeterminate.

- **This bill has passed the following committees: Governmental Affairs Policy Committee and the Government Operations Appropriations Committee and now goes to the Economic Development & Community Affairs Policy Council.**

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**Other bills filed regarding Retirement Issues include the following:**

**SB 1902 - Public Retirement Plans, by Senator Bennett**

This bill requires that new employees would be given retirement plans that give benefits equal to the base salary for the last five years of employment. These new hires would no longer be able to include what they would earn in overtime or unused leave. New hires would also be offered only defined contribution plans, not defined benefit plans, and cities and counties would have to report their pension fund liabilities and contributions annually. This bill also makes a number of changes to the firefighter and municipal police pension plan provisions.

- **This bill was temporarily postponed by the Committee on Community Affairs on 3/23/10 and has not been rescheduled at this point.**

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SB 660 Defined Contribution Retirement Program, by Senator Fasano

This bill would change the name of the Public Employee Optional Retirement Program to the Public Employee Retirement Investment Program and would limit the option of enrolling in the State Retirement System's defined benefit program or defined contribution program to public employees employed before January 1, 2011.

- **This bill has been referred to the following committees: Community Affairs; Governmental Oversight and Accountability; General Government Appropriations; Policy and Steering Committee on Ways and Means. No hearing has been scheduled as of today.**

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**HB 1319 Governmental Retirement Systems, by Representative Grady**

This bill designates the "Public Employee Retirement Preservation Act"; requires certain public employees to contribute an additional specified percentage of their gross income for certain purposes; provides requirements for certain retirement system or plan actuarial reports & experience studies; provides for closing of certain plans; provides maximum retirement benefit for certain retirement system or plan members; provides requirements for board of trustees of each retirement system or plan; provides membership requirements for special fire control district board of trustees; revises requirements for increasing firefighter member contributions; authorizes municipality or special fire control district to establish defined contribution retirement plan for certain purposes; requires municipalities & special fire control districts with their own pension plans for firefighters to provide certain extra benefits; provides membership requirements for municipality board of trustees; revises requirements for increasing police officer member contributions; authorizes municipality to establish defined contribution retirement plan for certain purposes; requires municipalities with their own pension plans for police officers to provide certain extra benefits; requires state & local government balance sheets to contain certain pension information; requires the Chief Financial Officer & officials of governing bodies of political subdivision of the state to issue specified reports; authorizes certain units of government to postpone compliance with provisions of this act under specified conditions; provides effective dates. Effective Date: July 1, 2010

- **This bill has been referred to the following committees: Governmental Affairs Policy Committee; Government Operations Appropriations Committee; Finance & Tax Council; Economic Development & Community Affairs Policy Council. No hearing has been scheduled as of today.**

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HB 413 Defined Contribution Retirement Program, by Representative Wood

This bill changes name of Public Employee Optional Retirement Program to Public Employee Retirement Investment Program; limits option of enrolling in State Retirement System's defined benefit program or defined contribution program to certain employees; requires certain public employees to enroll in defined contribution program; deletes obsolete provisions; deletes requirements for educational program that compares retirement programs; deletes provisions relating to having choice in retirement plans; provides conforming changes; provides directive to Division of Statutory Revision. Effective Date: July 1, 2010

- **This bill has been referred to the following committees: Governmental Affairs Policy Committee; Full Appropriations Council on Education & Economic Development. No hearing has been scheduled as of today.**

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**HB 1543 Public Retirement Plans, by Representative Zapata**

This bill limits benefits payable to certain members of retirement system; requires board of trustees of retirement system or plan to provide account report of its expenses; revises definition of terms "member," "special risk member," "normal retirement date," & "phased retirement program" for purposes of FRS to reduce system to two classes; revises calculations used for upgrading special risk member's contributions for past service; repeals Elected Officers' Class & Senior Management Service Class; limits factoring of overtime into pension benefit; reduces service credit for special risk members; revises provisions to conform to repeal of specified classes within system; revises applicability of ch. 175, F.S., to firefighters who are eligible for FRS; revises applicability of ch. 185, F.S., to police officers who are eligible for FRS; provides membership requirements for special fire control district & municipality board of trustees; revises requirements for increasing firefighter & police officer member contributions; revises provisions relating to firefighter & police officer benefits; provides that any elected official convicted of crime, or who is forced to resign office as result of plea bargain, shall forfeit any pension benefit administered by state or any political subdivision; provides declaration of important state interest.

- **This bill was withdrawn from further consideration on 3/24/10.**