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ATTORNEYS AT LAW

MEMORANDUM

To: All Florida Pension Clients

From: Klausner Kaufman Jensen & Levinson

Re: House Bill 1309 (amending Sections 112.63 and 112.664, Florida Statutes)

Date: June 12, 2015

Overview

All Florida governmental defined benefit pension plans should be aware that Governor Scott approved House Bill 1309 (hereinafter "HB 1309"), which was adopted during the regular session of the Florida Legislature this year. The new legislation applies to police, fire and general employee plans. HB 1309 builds on other recent legislation aimed at providing more uniformity among Florida governmental defined benefit plans. HB 1309 will require the adoption of mortality tables used by the Florida Retirement System ("FRS"). It is expected that the use of the FRS mortality tables will impact contribution requirements for many plans, as will need to be calculated by the plan's actuary. In future years, as FRS amends its mortality tables, local plans will need to follow suit by using either of the two most recently published FRS tables.

Amendment to Section 112.63's funding requirements

By way of background, a defined benefit plan's annual funding requirements are determined by the regular actuarial valuations prepared by a plan's enrolled actuary. Section 112.63, Florida Statutes, sets forth the minimum requirements under Florida law, which are used to calculate the plan sponsor's annual contribution. HB 1309 amends Section 112.63 as follows:

(f) 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.

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According to the latest available data, approximately two dozen governmental plans in Florida currently use the 1983 Group Mortality Table. Approximately another two dozen governmental plans use the 1994 Group Mortality Table. Approximately 440 plans use a version of the RP 2000 mortality table. The cost of implementing the new FRS mortality tables will depend on which mortality table a plan is currently using.

Although HB 1309 is “effective January 1, 2016,” it is unclear whether the new requirements apply to the *October 1, 2015 valuation* or the *October 1, 2016 valuation*. In most cases, the October 1, 2015 valuation is adopted in early 2016 and sets the contribution for the 10/1/16 through 9/30/17 fiscal year. By contrast, the October 1, 2016 valuation sets the contribution for the 10/1/17 through 9/30/18 fiscal year.

We have requested guidance from the Division of Retirement and expect that HB 1309 will be interpreted as applying to the October 1, 2016 valuation (which will ordinarily be adopted in early 2017).

If the Division of Retirement agrees with this interpretation that HB 1309 applies to the October 1, 2016 valuation, plans will have the option of early adopting the FRS tables in the October 1, 2015 valuation. Early adoption will enable boards to phase in higher costs over two years rather than fully implementing HB 1309 in a single year.

Amendment to Section 112.664’s reporting requirements

Section 112.664 governs the controversial “reporting standards” for defined benefit plans, in contrast to the “funding” requirements under 112.63. Based on the regulations adopted by the Division of Retirement in April of this year, plans are required to begin complying with Section 112.664’s reporting standards 60 days after the board approves its actuarial valuation.

HB 1309 amends Section 112.664 to align reporting standards with funding standards. As a result, Section 112.664 reports will be based on the FRS tables rather than the RP 2000 Scale AA table. This amendment is effective plan years ending on or after December 31, 2015.

Recommendation

Actuaries around the state are already busy complying with the new reporting standards in Section 112.664. After the 112.664 reports are prepared and filed with the Division of Retirement, boards and plan sponsors are encouraged to consult with their actuary to determine the impact of HB 1309 on your plan and the schedule for compliance.