



MEMORANDUM

TO: ALL FLORIDA PENSION CLIENTS

FROM: KLAUSNER, KAUFMAN, JENSEN & LEVINSON

RE: 2017 Legislative Update

DATE: June 19, 2017

No new municipal pension bills were adopted during the 2017 regular session of the Florida Legislature. Nevertheless, the following six bills are worthy of discussion. While none of these bills *directly* relate to municipal pension plans, we are requesting that Administrators include this memo in the next agenda under the Attorney Report.

1) Public records pre-suit written notice – SB 80 (Chapter No. 2017-21):

In response to perceived abuses of the fee provisions of the Sunshine Law, SB 80 was adopted to require 5 days written notice prior to bringing a public records suit. The written notice must identify the public records request at least 5 business days before filing suit. When a court determines that a public records suit is brought for an improper purpose the court shall award reasonable fees against the complainant. The term “improper purpose” is defined as a request to inspect or copy a public record, or to participate in the civil action “primarily to cause a violation” of Chapter 119, or for a “frivolous purpose.”

The 5 day written notice provision only applies if the agency has posted contact information for the records custodian in its “primary administrative building in which public records are routinely created, sent, received, maintained, and requested,” and on the agency’s website.

http://laws.flrules.org/files/Ch_2017-021.pdf

2) Public records exemption for retired firefighters – SB 1108 (Chapter No. 2017-96):

Passed unanimously by both the House and Senate, SB 1108 expands the existing firefighter public records exemption to cover the following information for retired firefighters and their spouses and children: home addresses; telephone numbers; photographs; dates of birth; places of employment of the spouses and children; and the names and locations of schools and day care facilities. The exemption will sunset in 2022 unless reenacted by the Legislature.

<http://laws.flrules.org/2017/96>

3) **Omnibus FRS bill - SB 7022 (Chapter No. 2017-88):**

This year's annual FRS bill was part of a benefits package for state employees which contained the following amendments:

- Changes the FRS default option for non-public safety employees hired after January 1, 2018. If a new employee does not submit an election, they will be defaulted into the FRS "investment plan" rather than the FRS defined benefit "pension plan."
- Expands the initial election period for new employees from 6 to 9 months.
- Adopts the FY 2018 new contribution rates for FRS employers.
- Permits renewed membership in the FRS investment plan for rehired retirees.
- Retroactively expands the death benefit for investment plan members killed in the line of duty since 2002.
- Provides for pay raises for most state workers and permits the offering of new types of health insurance products under the State Group Insurance Program.

<http://laws.flrules.org/2017/88>

4) **Disabled public safety property tax exemption – HB 455 (Chapter 2017-105):**

In November of 2016 voters approved Amendment 3, which created a new 100% ad valorem property tax exemption for first responders disabled in the line of duty and their surviving spouses. HB 455 implements Amendment 3 using a particularly strict disability standard to define "total and permanent" disability as the inability to engage in "any substantial gainful occupation" which is reasonably certain to continue for life. According to Amendment 3, a line of duty causal connection is required to be established according to general law, without the customary disability presumptions.

HB 455 sets forth the documentation and certification requirements to receive the exemption and establishes penalties for willfully submitting false information to claim an exemption. The required "physician certificate" form can be found in Section 196.102(5)(c), Fla.Stat. Documentation from the Social Security Administration is prima facie evidence of eligibility. HB 455 is retroactive to January 1, 2017.

First responders who have received a disability determination from Social Security satisfy the "totally and permanently disabled" requirement by providing their property appraiser with certification from a Florida-licensed physician, attesting that they are totally and permanently disabled. The required documentation from Social Security and the physician certification must be provided to the local property appraiser within three months of issuance.

First responders who have not received a disability determination from Social Security may qualify for the exemption by providing disability certifications from two professionally unrelated Florida-licensed physicians that the disability renders the applicant a quadriplegic, paraplegic, hemiplegic, legally blind, or otherwise confined to a wheelchair for mobility purposes. This option applies to first responders who lack sufficient work history to qualify for Social Security and those who worked for an agency that does not participate in Social Security.

A line of duty causal connection may be proved by submitting a letter from the public employer, including a statement that the injury was directly and proximately caused by service in the line of duty, without willful negligence by the first responder, and that the injury is the sole cause of the first responder's total and permanent disability. The employer's certification must be accompanied by supporting documentation such as an incident report or insurance claim.

In cases of cardiac events (defined as a heart attack, stroke or vascular rupture), certification from a treating cardiologist is also required establishing that 1) non-routine stressful or strenuous activity directly and proximately caused the cardiac event that gave rise to the total and permanent disability; and 2) the cardiac event was not caused by a preexisting condition.

After being granted an exemption, an applicant has a continuing duty to notify the property appraiser of any changes in status with Social Security or employment, which affect qualification for the exemption.

<http://laws.flrules.org/2017/105>

5) Body camera bill – HB 305 (Chapter No. 2017-15):

Passed unanimously by both the House and Senate, HB 305 permits law enforcement officers to access their body camera footage before providing a statement or writing a report regarding any event arising within the scope of their official duties. The requirement that law enforcement agencies establish policies and procedures governing body cameras is set forth in Section 943.1718, Fla.Stat. While HB 305 does not pertain to pensions, it illustrates that body camera footage and other electronic records are increasingly likely to be used for disability, forfeiture and other evidentiary hearings before pension boards.

http://laws.flrules.org/files/Ch_2017-015.pdf

6) Proposed additional \$25,000 homestead exemption – HB 7107 (Chapter No. 2017-35):

HB 7107 and HB 7105 propose a constitutional amendment and related statutory revisions to increase the ad valorem homestead exemption from \$50,000 to \$75,000. If the proposed constitutional amendment is approved by voters it would apply to all non-school district property tax levies, on the assessed value of homestead property greater than \$100,000 and up to \$125,000. The financial impact on local government is estimated to be \$644 million in the first year. The new homestead exemption would be effective January 1, 2019, if passed by a 60% vote at the November 2018 general election.

http://laws.flrules.org/files/Ch_2017-035.pdf