

Pension Bargaining

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Public Employee Collective Bargaining: Legal Framework

- **Part II, Ch. 447, Florida Statutes**

- Certification of unions to represent employees in bargaining unit
- Bargaining required for wages, hours and terms & conditions of employment of bargaining unit employees
- Impasse procedure if negotiated agreement cannot be reached
- Financial urgency



Other Laws

- **Part VII, Ch. 112, Florida Statutes**
 - Actuarial funding of public pension plans
 - Administration & investments
 - Amortization of unfunded liability
 - Limitation on benefits
- **Chapters 175 & 185, Florida Statutes**
 - Rules governing police & fire pension plans
 - Use of premium tax revenues



Confidentiality

- **Sec. 447.605, F.S.**

- All discussions between the chief executive officer of the public employer, or his or her representative, and the legislative body relative to collective bargaining shall be closed and exempt from the provisions of s. 286.011 [Sunshine Law]
- All work products developed by the public employer in preparation for negotiations, and during negotiations, shall be confidential and exempt from the provisions of s. 119.07 [Public Records Act]
- Collective bargaining negotiations are public



Bargaining Team

- **Designate Team Members:**

- Chief Executive Officer
- Chief Negotiator
- HR or Labor Relations Director
- Finance Director
- Department Heads
- Pension attorney
- Actuary



An Independent Actuary is Important

- Works for city/district – not pension board
- “What if” studies can be kept confidential
- Actuary can evaluate current assumptions and recommend different assumptions for studies
- Actuary can anticipate and address pushback from plan actuary, attorney and members
- Actuary can provide 30 year projections of contributions and unfunded liability under different scenarios



Develop Goals for Bargaining

- **Economic**

- Wages
- Non-pension benefits
- Pension

- **Non-Economic**

- Operational
- Organizational
- Management rights



Identify Pension Options & Objectives

- **Plan Structure**

- Defined Benefit (“DB”)?
- Defined Contribution (“DC”)?
- Hybrid?

- **Plan Type**

- Ch. 175 / 185 – fire & police
- Florida Retirement System



Pension Reform Options

- Reduce benefits for new hires (2 Tier)
- Reduce benefits for all employees
- Set up Defined Contribution (DC) plan
- Set up Hybrid DB + DC plan
- Join FRS
- Increase employee contributions
- Contract out services



Typical Defined Benefit Changes

- **DB Benefit Changes**
 - Multiplier
 - Normal retirement date
 - Compensation definition
 - Average final compensation
 - COLA / supplemental benefit



Pension Reform - Legal Guidelines

- Changes in retirement benefits and employee contributions are mandatory subjects of collective bargaining.
- Accrued pension benefits (benefits earned in the past) cannot be reduced or taken away.
- Future benefits can be reduced for current employees who have not reached retirement status.
- City/district is ultimately responsible for unfunded pension liabilities, even if current plan is closed, frozen or terminated.



Chapters 175 & 185

Police & Fire Pension Plans

- Chapters 175 & 185, F.S. provide for a rebate of the state excise tax on property and casualty insurance premiums to cities and districts that have firefighter and police pension plans.
- **Premium taxes are paid by local taxpayers.**
- The premium tax monies must be used exclusively for fire and police pensions, and the local pension plan must comply with the requirements of Ch. 175 & 185.
- **Local governments can opt out of Ch. 175/185, but local taxpayers must still pay premium taxes.**



Ch. 175 & 185: What the Law Requires

- **Plan must meet minimum benefits and standards**
 - 2.75% multiplier for all years of service
 - Normal retirement at age 55 with 10 years of service or age 52 with 25 years of service
 - Avg. final compensation = best 5 of last 10 years
 - 10 year vesting
 - “Share Plan” required – but does not have to be funded
 - No COLA or DROP required



Ch. 175 & 185: “Share Plan”

- Defined contribution plan component of defined benefit plan
- Individual member accounts
- Provides “special benefits” in addition to DB benefits
- Funded by Ch. 175/185 premium tax revenues - but does not have to be funded
- Who is eligible and how allocations are made determined by the parties



Ch. 175 & 185: Use of Premium Taxes

2015 Legislation on Use of Premium Taxes

- **Default Rules** – 2012 amount (or 2002 amount if greater) of premium tax revenues used to reduce city/district contributions; amount in excess of 2012 amount split 50/50, with half used to reduce city/district contributions and half used to fund share plan. Accumulated excess premium tax revenues must be split 50/50, with half used to pay down unfunded liability and half used to fund share plan.
- **Mutual Consent** -- default rules can be modified by mutual agreement of the city/district and union, or by a majority of active plan members if there is no union.



Ch. 175 & 185: Mutual Consent

Many mutual consent agreements have been reached that provide for all Ch. 175/185 premium tax revenues to be used to reduce city/district pension contributions



Ch. 175 & 185

Sample Mutual Consent Agreement

In accordance with section 175.351((6) / 185.35(6), F.S., a defined contribution plan component (“share plan”) is hereby established as part of the defined benefit pension plan, to be funded entirely with Ch. 175/185 premium tax revenues. However, the city and union have mutually agreed that no Ch. 175/185 premium tax revenues will be allocated to the share plan at this time. The city and union have further agreed that the share plan shall not be activated until the parties mutually agree that Ch. 175/185 premium tax revenues will be allocated to the share plan. At such time as Ch. 175/185 premium tax revenues are allocated to the share plan, the parties will negotiate the details of the share plan.



Ch. 175 & 185: Special Rules

- Benefits below minimum benefits on 10/1/12 – may be maintained as long as no other benefits are reduced
- Existing arrangement for use of premium tax revenues in special act plan or in supplemental plan municipality as of 7/1/15 – must be maintained until different arrangement is made by mutual consent
- Multiplier less than 2.75% on 7/1/15 may be maintained as long as all other benefits meet Ch. 175/185 minimums
- Plans that relied on “Naples Letter” between 8/14/12 and 3/3/15 may keep current benefits until a new agreement is reached or 10/1/18



Ch. 175 & 185 Plans Created After 3/1/15

- All premium tax revenues split 50/50:
 - 50% to fund defined benefit plan
 - 50% to fund share plan
- Can be modified by mutual agreement



Ch. 175 & 185: Pension Benefit Reductions

Pension benefits in excess of the Ch. 175 & 185 minimum benefits may be reduced, as long as:

- The plan continues to meet the Ch. 175 & 185 minimum benefits and standards – including the 2.75% multiplier.
- The amount of premium tax revenues previously used to fund the benefits in excess of the Ch. 175 & 185 minimum benefits before the reduction must be split 50/50, with 50% used to reduce city/district pension contributions and 50% used to fund share plan benefits.
- Share plan benefits in effect as of 9/30/14 are not reduced (share plan funding may not be reduced below the amount distributed to the share plan for the 2012 calendar year).



Florida Retirement System Facts

As of July 1, 2017, FRS had:

- \$150.6 billion in assets
- \$178.6 billion in liabilities
- **Funded Ratio = 84.3%**
- 518,622 active members
- 402,791 retirees and beneficiaries
- More than 1,000 participating agencies, including more than 100 cities
- **Investment return assumption = 7.5%**



FRS Employer Contribution Rates

FRS Membership Class	Current Rates Effective July 1, 2017			New Rates Effective July 1, 2018		
	Normal Cost	UAL Rate	Total	Normal Cost	UAL Rate	Total
Regular Class	2.90%	3.30%	6.20%	3.04%	3.50%	6.54%
Special Risk Class	11.86%	9.69%	21.55%	12.18%	10.60%	22.78%
Special Risk Administrative Support Class	3.83%	29.08%	32.91%	3.64%	29.62%	33.26%
Elected Officer's Class						
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	6.45%	42.69%	49.14%	6.65%	48.38%	55.03%
• Justices and Judges	11.67%	26.25%	37.92%	12.00%	27.05%	39.05%
• Local Officers	8.54%	35.24%	43.78%	8.50%	38.48%	46.98%
Senior Management Service Class	4.29%	16.70%	20.99%	4.45%	17.89%	22.34%
Deferred Retirement Program Option	4.17%	7.43%	11.60%	4.41%	7.96%	12.37%



Option: Close Local Plan and Join FRS

(Current Employees Can Stay in City Plan or Join FRS)

Advantages

- Reduced cost over time
- Competitive FRS benefits
- Can continue receiving premium tax revenues
- Portability – easier to attract employees from other FRS agencies
- Gets local government out of pension business (eventually)

Disadvantages

- No immediate savings -- may take years to achieve savings because unfunded liability of local plan must still be paid off.
- Portability – easier for employees to move to another FRS employer and take their pension with them
- State legislature sets benefits and contributions
- Joining FRS is irrevocable



Joining FRS – Cost or Savings?

- Additional cost or savings depends on how many current employees elect to join FRS.
- The more employees who join FRS, the greater the savings for the city/district.
- Short Term: joining FRS will likely mean increased contributions for a period of years, until unfunded liability of local pension plan is paid off.
- Long Term: significant savings are possible – but actuarial study required.



Steps for Joining FRS

- 1) **Collective Bargaining** – agreement to allow city/district to join FRS and give current members the option to join FRS.
- 2) **First Ballot** – majority of current employees must vote to allow City to join FRS.
- 3) **Second Ballot** – members individually elect to join FRS or stay in local plan.
- 4) **Paperwork:**
 - Adopt ordinance amending local pension plan
 - Adopt FRS resolution
 - Sign agreement with state



Questions?

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