

Police and Fire Pensions in Florida: A Historical Perspective and Cause for Future Concerns

Compensation & Benefits Review
XX(X) 1-7
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DOI: 10.1177/0886368711403684
<http://cbr.sagepub.com>


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Abstract

Supplementary contributions to pension plans are predicted to increase for some Florida municipal governments because of the funding source used for police and fire plans. This article examines the history of local government pensions and focuses on Chapter 175 and 185 Pension Plans, which access funding through a tax on property insurance premiums. The notable legislative changes, Attorney General Opinions and court cases are also briefly assessed. This study research examines a sample of 32 pension funds in 20 Florida cities and indicates that the cost of providing these pensions is increasing because of legislative mandates for use of these revenues. This is evidenced by a historical decrease in the funding ratios of the funds of the cities sampled.

Keywords

Florida municipal pension plans, F.S. Chapter 175 and 185 pensions, increasing supplementary contributions, decreasing funding ratios

Michael Cotter's article on the migration of pension plans' structures from defined benefit plans to defined contribution plans in the March/April 2009 issue of *Compensation & Benefits Review* describes the onset of the boomer generation's retirement, with longer life spans and higher medical costs, as "perhaps our country's biggest financial crisis hiding in plain site."¹ Although Cotter's interest in that article is the overall solvency of private sector plans and their ability to sufficiently fund the increasing cost of postcareer life that will be experienced by their participants, there are similar issues arising within public sector retirement plans.

One looming crisis that appears to be compounding the effect of retiring boomers was derived from a funding source for retirement benefit programs for certain municipal first responders that was legislatively authorized in Florida midway through the last century. This employment class has the largest estimated costs beginning at retirement and contributes substantially to a projected \$3.4 trillion dollar national shortfall in public employee pension costs.² The risk to the solvency of plans for first responder benefits by the boomer generations' retirement is increased by its participants' classification as "special risk members" whose "normal retirement date" in Florida can begin after

25 years of service regardless of the participant's age or disability status. This allows them to begin collecting benefits immediately.³

This factor effectively increases the size of contributions required for sufficient plan funding by the potentially longer benefit periods of plan participants and the fact that the funding sources' revenues must be used to provide benefits above those granted to other classes of participants. The State of Florida enabled the funding source for pension benefits for municipal police and firefighters through the sharing of a local tax on property and casualty insurance policy premiums. The nature of the implementing legislation has been evolving through the imposition of legislative changes and judicial rulings.

The sum effect of these changes, along with the economic downturn of the past several years, has been to make these pension plans increasingly dependent on municipal employers' contributions for plan solvency. In an environment

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where the tax base of Florida local governments is eroding at record rates, property tax increases have been limited by the terms of an amendment to the state's constitution and financial markets are producing lowered rates of return on pension plan investments, the solvency of these plans appears threatened. This article briefly describes the origins and evolution of public sector pensions and provides a study of the changes in benefits and the recent deterioration of funding ratios in a sample of Florida municipalities that have adopted these plans.

History of Government Pensions

To have a rational understanding of the funding problems that public sector pensions have generated, it is best to have at least some topical understanding of their history. Governments have provided pensions for public workers as far back as the Roman Empire.⁴ To entice them into service, Roman soldiers, who until 197 B.C. were required to remain unmarried, were provided a pension after 25 years of service as a legionnaire.⁵ Viewed broadly, most early pension plans were for military or military-type personnel and were largely intended to provide compensation for their service or disabilities incurred through service.

Military pensions have a particularly lengthy history in the United States, where pensions for retired and disabled U.S. military personnel predate the signing of the Constitution.^{6,7} James Dougherty, a member of General George Washington's personal guard at Valley Forge, was granted a small tract of land and a pension of \$9 per month at the end of the Revolutionary War.⁸ Decades before the states or the federal government provided pension plans to nonmilitary personnel, some larger American cities provided pensions to some of their employees—primarily police, firefighters and teachers. The City of New York established the first ever public pension plan for police officers.⁹ Initially, these were disability benefits that were expanded in 1878 to include a retirement feature.¹⁰

The second major category of public sector employees to be granted pension benefits was school teachers. The first teachers' pension plan was established in 1894, again in New York City.¹¹ Early teacher plans were mostly created by cities and later merged into statewide pension plans.¹² Even private sector pension plans are relatively new in our country's history with the provision of employer plans not beginning until the late 19th century.¹³

Between 1900 and 1920, at least one U.S. Congressional bill was introduced each legislative session to provide pensions for nonmilitary personnel in the federal government.¹⁴ These initiatives ultimately resulted in the passage of the Federal Employees Retirement Act of 1920. That act included mandatory retirement ages, employee contributions, use of average salary over 10 years for

calculating benefits and differing retirement ages depending on the type of service.

Evolution of State and Local Pensions

With the exception of the aforementioned New York City plan, few other cities had pension plans before 1900. Most public sector workers at the local government level were not offered pensions until the first decade of the 20th century. At that time, teachers, firefighters and police officers were, again, typically the first nonmilitary workers to earn a pension.¹⁵

The use of pension benefits grew rapidly and, by 1917, 85% of cities with a population of more than 100,000 and 50% of cities with a population between 30,000 and 50,000 had pension plans; by 1928, police and fire plans were "practically universal."¹⁶ The basis for managing pension plans also evolved during this time period. By the late 1920s, states began using actuarial principles to determine the amount of contributions required to fund pension plans. They considered factors such as a worker's experience, age, earnings and life expectancy to create actuarially sound, defined benefit plans.¹⁷

During the 1930s, all federal employers and an increasing number of state and local government employers had begun providing pension plans for at least some of their employees.¹⁸ The practice became so common that, in 1941, the U.S. Census Bureau started collecting data on membership, assets, pension contributions and investment income.¹⁹

Defined benefit plans became the norm for state and local government pensions. By 1975, approximately 98% of all state and local government employees were covered by a defined benefit pension plan.²⁰ However, by 2009 that percentage had dropped to approximately 84%, as states followed the private sector in moving away from defined benefit pension plans.²¹

Comparatively, the 84% of private sector employees in medium to large companies with defined benefit pension plans in 1980 had shrunk to only 29% by 2009.²¹

After the 1980s, public sector compensation growth began to outpace private sector compensation growth. By the mid-1990s, the advantage for public sector workers was most pronounced in benefits.²² Because most public sector workers received defined benefit pensions, policy makers were able to expand promised benefits without incurring large short-term budget impacts. In addition, the full cost of benefits was often underestimated, causing underfunding in many of these plans.²³ In 2006, the federal government passed the Pension Protection Act, imposing more rigorous funding requirements on both public and private sector plans with the intent of improving their soundness.²⁴

F.S. 175 and 185 Pension Funding

The State of Florida's creation of the Municipal Firefighters' Pension Fund in 1939 and its subsequent creation of the Municipal Police Officers' Pension Fund in 1953²⁵ begin the chronology of this article's central focus. The primary purpose of these legislative initiatives was to provide uniform retirement systems for the benefit of firefighters and police officers, provide oversight and monitoring by the State Division of Retirement and local pension boards, provide minimum pension benefits—which have progressively increased over the years—and enable participating local governments to receive annual distributions of a portion of the state insurance premium tax collections on property and casualty insurance policies written within a city's or special district's limits or the boundaries of the participating plan.²⁶

The cities receiving the premium tax revenues must use this money exclusively for police and firefighter pensions, and the local plans must comply with the requirements of Chapters 175 and 185 of the Florida Statutes.²⁷ The cities can lose these shared premium tax monies if the current plan is closed, frozen or terminated or if the city joins the Florida Retirement System.²⁸

Most legislation is evolutionary and amended from time to time to adapt to new technologies, changing events and political preferences. The evolution of the Chapter 175 and 185 Plans involves several amendments since their initial legislation. Among the more notable amendments is 1953 legislation limiting the eligibility to levy premium excise taxes by municipalities without certifying the existence of an organized fire or police department.²⁹ What would become the most critical requirement of this legislation was the requirement that premium tax monies received in excess of a "frozen amount"—the total amount of premium tax dollars a municipality received in calendar year 1997—must be used for the provision of "extra benefits."

The most notable and controversial piece of pension legislation was passed by the Florida legislature in 1999. Referred to as 99-1, this legislation, among other things, revised the provisions of Chapters 175 and 185 by instituting minimum retirement benefits for police and firefighters and making receipt of premium tax revenue contingent on meeting both minimum operating standards and minimum benefits.

Moreover, the legislation also required that any "additional premium tax revenues" or future increases in premium tax revenues be used solely to pay for "extra retirement" benefits for police and firefighters. "Additional premium tax revenues" were defined to mean revenue received by a local government in excess of the amount received for calendar year 1997. The term *extra benefit* was defined to mean benefits additional to those provided to general employees of the municipality.

In 2004, additional legislation clarified that state premium tax revenues were to be used first to meet minimum benefit requirements and then for "extra benefits" over and above those provided to general employees and in addition to those in existence for firefighters and police officers on March 12, 1999.³⁰ That is, revenues in excess of the cost of benefits existing could only be accessed by a municipality granting more benefits.

Because reality and legislative policy sometimes conflict with one another, implementing legislation and its later amendments can sometimes be challenging. From time to time, the Florida Attorney General is asked to opine on the intent and applicability of such legislation. The most notable Attorney General's Opinion concerning the use of funds appropriated for Chapter 175 and 185 Plans was AGO 2001-67,³¹ which pertains to the previously referenced Chapter 99-1 legislation.

Generated by a request from the City of Winter Haven, Florida, that ruling affirmed that "an increase in pension benefits to general employees will impact the use of the premium tax income for police and firefighters since such income may only be used to fund "extra benefits"—that is, "benefits over and above those provided to general city employees." The interpretation provided in AGO 2001-67 effectively links the use of premium tax revenues to changes in benefits provided to other municipal employees. Effectively, increases to the retirement benefits of other municipal employees can reduce the amount of premium tax revenues available to fund Chapter 175 and 185 Plans.

Disputes over legislative intent are not always settled through Attorney General Opinions. The courts have been called on to decide on several issues relating to Chapter 175 and Chapter 185 Plans. Decisions included determinations that public retirement benefits are terms and conditions of employment and thus mandatory subjects of collective bargaining,³² that employers cannot reduce benefits already earned or benefits of retirees,³³ that an employer is not required to bargain over employer contributions when the change only affects the employer contribution and does not affect employee benefits or contributions or the actuarial soundness of the plan³⁴ and that employers are obligated to pay the difference between the market value of a pension plan on the effective date of termination and any value estimate prior to that date, if less than the value when terminated.³⁵

Condition of the Funds

There are a number of issues pertinent to plan soundness noted in the data of the Florida Department of Management Services, as collected and reported by its Division of Retirement. In evaluating the status of 175 and 185 Retirement Plans over time, we used a sample of cities to determine if these issues were common among the plans.

Table 1. Cities Studied

City	Population	City	Population
Key West	23,262	West Palm Beach	98,774
Panama City	36,807	Pompano Beach	104,402
Ormond Beach	38,504	Gainesville	108,055
Coral Gables	42,794	Hollywood	220,186
Sarasota	52,942	Tallahassee	159,012
Pensacola	53,248	Orlando	220,186
Fort Myers	60,531	St. Petersburg	248,098
Daytona Beach	64,183	Tampa	332,888
Deerfield Beach	76,215	Miami	404,048
Boca Raton	86,396	Jacksonville	794,555

Twenty geographically dispersed cities, ranging in population from approximately 25,000 to almost 800,000, were selected. Those cities, which represent 32 of the 308 municipal Plans in Florida and their respective populations, are shown in Table 1.

An aspect that might be indicative of a shortsighted interpretation of actuarial reports is whether additional benefits have been provided by the respective Chapter 175 and 185 Plans of the sample cities, regardless of trends in premium revenues. To test this, the Plans of the sample cities were examined from the period 1999 to 2008. Benefit accruals were tracked from year to year for the period of interest, and increases in benefit accruals are noted. The 2010 summary can be seen on the Division of Retirement's website.

These benefit accrual changes were analyzed by both individual years and cumulatively against the premium tax distributions to the sample municipalities over the period 1999 to 2008.³⁶ The Division of Retirement's *Current Actuarial Valuations and Plan Documents* for their respective year³⁷ indicates that more than 60% of the benefits were granted since 2004, when distributions increased by only 20%. A summary of this analysis is shown in Table 2.

Another indicator of financial stability is the historical changes to the funded ratios of the sample municipalities' Chapter 175 and 185 Plans. Funded ratio is an indicator of the soundness of a plan. It reflects the ratio of a plan's assets actuarial value divided by its plan's actuarial accrued liability—the present value of the plan's estimated total benefits and administrative costs.

Over the sample municipalities' plan histories following the Chapter 99-1 revision, the trend of changes to their funded ratios can be indicative of changes in their benefits and/or the value of their plan assets, as well as their adequacy as a funding source. The data necessary to make such a trend comparison are available in the Annual Reports of the Division of Management Services.

Table 2. Benefit Changes and Tax Distributions

Year	No. of Benefit Changes	Cumulative No. of Benefit Changes	Tax Distributions (in Millions)
2000	7	7	37.3
2001	4	11	40.9
2002	7	18	45.7
2003	2	20	50.4
2004	9	29	52.0
2005	6	36	54.4
2006	7	42	58.3
2007	4	46	66.0
2008	6	52	60.5

The Division's 2009 Report of Funding Progress for the Plans (accounted for in accordance with the requirements stipulated under Governmental Accounting Standards Board Statement 25) was used for this purpose.³⁸ This must, of course, be compared against the total percentage of a plan's liability that is funded. Clearly shown in Table 3 is that in the case of the sample municipalities, the trends of their funded ratios is almost entirely negative.

The trend in funded ratios is only relevant if it can be shown that the present status of the funded ratio is less than adequate to fund a plan's actuarial liability. Determination of the financial soundness of a plan at any given time is more related to its respective level of funding in comparison with the achievement of its funding policy's ultimate goal and interim measures.³⁹

The determination of the funding adequacy of pension plans is not easily assessed. Typically, an actuarial study considering things such as the expressed status of fund assets at its target time horizon, the investment policy and contribution patterns of the fund, the needs of the plan sponsor and the demographics of the plan's population is required.

These same criteria must be assessed on a regular, periodic basis to assure solvency prior to the plan's target time horizon. A recent study by Stanford University of the rate of unfunded liability of the three largest retirement funds of the State of California is indicative of how subjective any evaluation of funding adequacy may be and why such an evaluation is beyond the scope of this article.⁴⁰

The funding requirements of private sector pension plans are regulated by the Financial Accounting Standards Board (FASB), whereas the requirements of public pension plans are regulated by the Governmental Accounting Standards Board (GASB). In projecting the liability of pension funds, FASB standards require the use of the "riskfree rate" (a discount rate tied to 10-year treasury bonds), whereas GASB standards allow the use of a discount rate based on the expected rate of return of the plan's assets. Thus, the FASB standard can be perceived

Table 3. Funding Ratios

City	Fund	Percentage Funded	Change in Ratio
Tallahassee	Police	104.8	-13
Tampa	Police and Fire	99.7	8.2
Gainesville	Police and Fire	99.1	38.4
Tallahassee	Fire	99.0	-15.6
Deerfield Beach	Fire	94.0	23.2
St. Petersburg	Police	92.9	7.2
Sarasota	Police	92.8	-20.4
Orlando	Fire	92.2	-19.1
Orlando	Police	92.0	-11
West Palm Beach	Police	91.0	-18.3
Key West	Police and Fire	86.8	-15.8
St. Petersburg	Fire	84.6	13.5
Ormond Beach	Police	83.7	-7.5
Panama City	Police	82.9	-17.1
Pensacola	Fire	82.6	-2.4
Boca Raton	Police and Fire	81.7	-19.4
Pensacola	Police	80.6	-2.7
Panama City	Fire	80.2	-9.4
Deerfield Beach	Police	79.1	-23.2
Sarasota	Fire	77.9	-0.5
West Palm Beach	Fire	76.3	-19.2
Daytona Beach	Police and Fire	72.5	-40.8
Ormond Beach	Fire	71.1	-27.0
Hollywood	Police	64.1	-35.9
Coral Gables	Police and Fire	61.2	-38.0
Fort Myers	Fire	57.3	-34.2
Jacksonville	Police and Fire	57.1	-21.0
Fort Myers	Police	55.2	-38.2
Hollywood	Fire	51.0	-21.3
Pompano Beach	Fire	36.2	-31.9
Miami	Police and Fire	N/L	0
Pompano Beach	Police	N/L	0

Table 4. Funding Ratio Comparison

Funding Ratio	≥100%	90% to 99%	70% to 89%	<70%
Cities ^a	3.33%	30.00%	43.33%	23.33%
States ^b	8.00%	16.00%	56.00%	20.00%

Note. This distribution was calculated after omitting the two funds for which no funding ratio was listed.

a. Florida Department of Management Services.³⁸

b. Pew Center on the States.⁴²

as often being a more conservative estimate than the GASB standard. In reference to the funding ratios seen in the Table 3 sample cities, the use of 80% is a common funding ratio benchmark for evaluating the adequacy of plan funding.⁴¹

It is both interesting and possible to compare the distribution of the funding ratio of the funds of the sample

municipalities with those of the states, as reported by the 2010 Pew Center on the States Report.⁴² A distribution and comparison is presented in Table 4.

Briefly described, the sample cities' funds are more densely distributed than the states in the top two ranges, with totals of 33.33% versus 24.00%, whereas the states' ratios dominate the comparison of the groups in the range of 70% to 89% and also have proportionally fewer funds with ratios less than 70%. It might be surmised that the states' substantially larger total plan values promote closer management of their funds' balances. However, to maintain perspective, it should be considered that the small sample size of the municipalities in this analysis may produce skewing in these results.

The preceding analysis indicates that benefit increases granted by municipalities under 175 and 185 Plans in the state of Florida could have increased at a rate faster than that of their offsetting state revenues. Without specific actuarial studies, the exact causes of that occurrence cannot be determined. However, it is clear that the funded ratios of many of the sample's funds are decreasing over time. However, specific actuarial studies on each fund would again be required to conclude that any of them were not meeting the funding requirements that were established through their investment policies.

Summary and Conclusions

If they are to remain viable, public employee pension plans, in general, and more notably the Chapter 175 and 185 Plans in Florida must receive serious attention from state and local legislators. The history of decreasing funding ratios in these plans indicates that a pattern of legislative action to provide benefits to police officers and firefighters, though well intended, may be contributing to a financially unsustainable system.

The historical perspective of Chapter 175 and 185 Plans should be combined with a summary of current actions being taken by Florida local governments and the actions taken by states and local governments around the country to retain their plans' solvency and sustainability. The specific plan changes since Chapter 99-1 was passed need to be identified and studied to correlate and evaluate whether any such benefit changes resulted from this legislation's enactment. In addition, state and local officials need to identify and implement practical options that will achieve long-term solutions for public employee retirement plans, particularly for the public safety personnel who were the intended recipients of Chapter 175 and 185 benefits.

Declaration of Conflicting Interests

The authors declared no potential conflicts of interests with respect to the authorship and/or publication of this article.

Funding

The authors received no financial support for the research and/or authorship of this article.

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Bios

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