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## MEMORANDUM

**TO: ALL FLORIDA PENSION PLANS**

**FROM: KLAUSNER, KAUFMAN, JENSEN & LEVINSON**

**RE: IMPORTANT PENSION DISCLOSURE AMENDMENTS TO  
CHAPTER 112 (SB 534)**

**DATE: JUNE 19, 2013**

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During this year's recently completed legislative session, the Legislature considered but ultimately failed to adopt any bills amending the Florida Retirement System ("FRS") or municipal police and fire pension plans under Chapters 175 and 185. One pension "disclosure" bill was adopted despite the opposition of the League of Cities, labor and the Florida Public Pension Trustees Association.

Senate Bill 534 ("SB 534"), otherwise known as Chapter 2013-100, Laws of Florida, applies to all local government plans in Florida. SB 534 was signed by the Governor last week. In many respects SB 534 can be seen as building on prior legislation, SB 1128 from 2011, which required plans to disclose the present value of plan benefits using the FRS 7.75% assumed rate of return. SB 1128 also required the Division of retirement to create actuarial fact sheets for each local government defined benefit plan to be posted on a governmental plan sponsor's website.

Compared to the original version of the bill, the final version SB 534 was pared down to incorporate new Governmental Accounting Standards Board ("GASB") standards 67 and 68. Nevertheless, SB 534 contains significant additional disclosure requirements and substantial noncompliance penalties. The FRS is exempted from SB 534.

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This memo is intended to highlight the primary provisions of SB 534, but is not exhaustive:

- New actuarial and financial disclosure: SB 534 creates new disclosure requirements in Section 112.664, Florida Statutes, to be electronically reported to the Department of Management Services within *60 days* after receipt of the certified actuarial report submitted after the close of the plan year ending on or after June 30, 2014:

1) *GASB 67/68*: Section 112.664(1)(a) requires preparation of annual financial statements in compliance with GASB 67 and 68, using RP-2000 Combined Healthy Participant Mortality Tables, by gender, with generational projection by Scale AA;

2) *2% lower investment assumption*: Section 112.664(1)(b) requires preparation of annual financial statements using an assumed rate of return 200 basis points lower than the plan's assumed rate of return/discount rate. Note that SB 1128's requirement from 2011 to disclose the present value of plan benefits using the FRS 7.75% assumed rate of return has been deleted.

The new lower 200 basis point reporting requirement should not be confused with the plan's actual investment assumption, which serves as the basis for calculating the plan sponsor's funding obligation. Many clients are considering supplementing the new required 200 basis point calculation with yet another sensitivity disclosure using a 200 basis point higher figure as well. For example, if a plan is currently using a 7.75% investment assumption a sensitivity analysis could be performed showing the impact of both the 5.75% and 9.75% bookends around the plan's actual investment assumption;

3) *run out date*: Section 112.664(1)(c) requires reporting of the fictitious "*run out date*" for how long the current market value of assets can sustain the payment of expected retirement benefits based on items 1) and 2) above. Note that this projection ignores employer contributions, member contributions, assumed investment earnings and the receipt of premium taxes. Some have analogized this calculation to asking a doctor what your life expectancy would be, assuming that you stopped eating and breathing;

4) *alternative contributions*: Section 112.664(1)(d) requires reporting of contributions to fund the plan based items 1) and 2) above, stated as an annual dollar value *and* a percentage of valuation payroll. The reporting of these alternative contribution values are in addition to the actual recommended contribution set forth in the plan's latest valuation.

5) *5 year historic comparison*: Section 112.664(2)(b)1 requires reporting of side-by-side comparisons of the plan's assumed rate of return compared to the actual rate of return for the previous 5 years beginning 2013;

6) *portfolio construction*: Section 112.664(2)(b)2 requires reporting of side-by-side comparisons of the percentages of cash, equity, bond and alternative investments in the plan's portfolio during each of the previous 5 years.

- Requirement to post data and reports on-line: Each defined benefit retirement plan and its plan sponsor shall provide the information required in SB 534, including the plan's funded ratio, as part of the disclosure required by plan sponsors under Section 166.241(3), Florida Statutes. Additionally, disclosure is required "on any website that contains budget information relating to the plan sponsor or performance information related to the system or plan." If a plan sponsor or plan has a publicly available website, copies of the plan's most recent financial statement, actuarial valuation, and a link to the Division of Retirement's fact sheet shall be posted on the plan *and* plan sponsor's website. The Division of Retirement's fact sheets are expanded and shall also contain the information specified in Section 112.664(1).
- Penalties for noncompliance: The Department of Management Services "may" notify the Department of Revenue and the Department of Financial Services of noncompliance, which "shall" withhold any funds not pledged for satisfaction of bond debt service and which are otherwise payable to the plan sponsor, until the required information is provided. The state is required to specify the date of the withholding 30 days in advance, to permit a request for hearing under Chapter 120, Florida Statutes.
- State of Florida not liable for shortfalls: SB 534 amends Section 112.66 to clarify that the state of Florida is not liable for any obligations relating to shortfalls in any local government retirement system.

SB 534 law takes effect on July 1, 2013, except as described above. Our office is available to discuss the new legislation at upcoming board meetings, along with the board's actuary and other consultants. We anticipate that guidance will be necessary from the Division of Retirement. For example, the Division of Retirement is charged with formulating a "standardized, user-friendly, and easily interpretable format" for the data required by Sections 112.664(2)(b)1&2.