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The History of Florida Public Pensions

Why do we care about history?

“There is no better teacher than history in determining the future. There are answers worth billions of dollars in a \$30 history book.”

-Charlie Munger

“If you don’t know your past, you don’t know your future”

-Ziggy Marley (“Tomorrow People”)

Roman Military Pensions

- Romans offer retired soldiers (centurions) land or a pension (after 25 year career – good luck)
- In 13 BC, the Emperor Augustus created a formal pension plan, awarded after 16 years in a legion and 4 years in the reserves. The pension was paid from general revenues
- 5 AD - Augustus created a special fund (dedicated funding)
- Roman empire was held together by roads & a highly trained, loyal and professional full-time army
- Payment of monthly pensions eventually became ad-hoc and unfunded
- **Did the failure to uphold the pension promise contribute to the decline of the Roman Empire?**

British & German pensions

- Romans 1645 – Duke Ernest the Pious (protestant prince in the Saxe-Weimar region of Germany) created a fund to support widows of clergyman during golden age following the 30 Years War
- 1662: Pious' fund was extended to widows of teachers
- 1881: Otto von Bismarck (conservative minister of Prussia) proposes a governmental pension for older workers (based on pressure from socialist opposition)
- 1890: Prussia creates a form of social security at age 70
- 1908: England passes Old Age Pension Act (social security at age 70)

First “American” pension

- In 1635, Plymouth colony offered the first colonial pension
- The simple, one sentence act provided as follows:
“It is enacted by the Court that if any man shalbe sent forth as a souldier and shall returned maimed hee shalbe maintained competently by the Collonie during his life.”
- Similar laws were subsequently adopted in several other colonies, including Virginia, NY, RI and Maryland.

Washington at Valley Forge

- The first federal pension law for disabled veterans was adopted during the Revolutionary War in 1776.
- The Continental Congress wanted to encourage military enlistment while limiting desertion by granting a pension in cases of loss of limb or other serious disability.
- During the harsh Valley Forge winter, Washington sent Congress the following message:
- Washington explained that the requested half pay pension would “not only dispel the apprehension of personal distress at the termination of the war, from having thrown themselves out of professions and employments they might not have the power to resume; but in a great degree relieve the painful anticipation of leaving their widows and orphans, a burthen on the charity of their country, should it be their lot to fall in its defense.”

First Municipal Pensions

- 1857 - New York City provided a lump sum for police officers injured in the line of duty
- 1866 – New York City extends disability benefit to firefighters
- 1878 – New York City provides a lifetime pension for police at age 55 after 21 years of service (first municipal plan) • 1894 – New York City establishes the first teacher plan Progressive Era:
- 1911 – Mass establishes the first general employee plan
- Teacher plans: ND & CA (1913); MA ('14); CN & PA('17)
- 1920 – Civil Service Retirement Act of 1920 creates the first civil service federal pension (min of 30%; max of 60%; one of the aims was to encourage retirement of long serving employees)

Chronology

- 1923 - The Supreme Court Justices' Pension Fund
- 1927 - The Noncontributory Retirement Plan for state employees
- 1931 - Chapter 15338, Laws of FL, created Pension and/or Retirement Fund for members of the Police and Fire Departments of the City of Miami
- 1937 - Chapter 18615, Laws of FL, created Jacksonville Police and Fire Pension Fund
- 1939 - Chapter 19112, Laws of FL, authorized Jacksonville, Miami, Miami Beach, Tampa, Pensacola & St. Petersburg to levy a 1% excise tax on fire and tornado insurance to fund fire fighter pension plans.
- 1953 - Chapter 28230, Laws of FL, provided a similar funding mechanism for police pension plans.

Florida Overview

- **483** governmental defined benefit plans in Florida (DMS Annual Report to FL Legislature)
- **244** local government plan sponsors
- **89,800** active employees in municipal and special district defined benefit retirement plans
- **\$45.72** billion in municipal and special district plans, with over 104,000 retirees/beneficiaries (\$34,000 average pension)
- 185 cities participate in FRS (in at least one “class”)
- FRS: 646,000 active members & 456,000 retirees

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Chronology

- 1970 – FRS created by consolidating existing plans for state employees
- 1976 – Article X, §14, Florida Constitution
- 1978 - “Florida Protection of Public Employee Retirement Benefits Act” implements Art. X, §14 (Chapter 112, Part VII)
- 1997 – FRS DROP established
- 1999 – Chapter 99-1, Laws of FL, signed by Governor Bush establishes current structure for 175/185 Plans
- 2000 – FRS investment plan (voluntary DC Plan)
- 2015 – SB 72 “mutual consent” mechanism for 175/185

Florida Constitution

Article X, §14

The Florida Constitution has long specified:

“Section 10. Prohibited laws.

No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.”

(1968 Constitution, carried forward from 1885 Constitution)

Florida Constitution

Article I, §6

- Florida is a “right to work state”, but the Florida Constitution enshrines the right to collectively bargain.
- “Section 6. Right to work.—The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. **The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.** Public employees shall not have the right to strike.”

(1885 Constitution, amended in 1944)

Florida Constitution

Article I, § 10

The Florida Constitution was amended in 1976 to provide:

"State retirement systems benefit changes. - A governmental unit responsible for any retirement or pension system supported in whole or in part by public pension funds shall not, after Jan. 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provisions for funding of the increase in benefits on a sound actuarial basis."

FPPERBA (Chapter 112, Part VII)

The Florida Protection of Public Employees Retirement Benefits Act provides in part:

“Legislative Intent - It is the intent of the Legislature in implementing the provision of Section 14 of Article X of the State Constitution, relating to governmental retirement systems, that such retirement system or plans be managed, administered, operated and funded in such a manner as to maximize the protection of public employee retirement benefits ... This act hereby establishes minimum standards for the operation and funding of public employee retirement systems and plans.”

Cases

- Florida Supreme Court held that the "contracts clause" did not protect ***mandatory*** retirement systems and permitted the legislature to modify or alter benefits governmental pension benefits **Anders v. Nicholson** (Fla. 1933); **Voorhees v. City of Miami** (Fla. 1940)
- "As with laws impairing the obligations of private contracts, an impairment may be constitutional if it is ***reasonable and necessary to serve an important public purpose.***" **U.S. Trust Co. of New York v. New Jersey** (U.S. 1977)
- The FRS preservation of rights provision did not prevent ***prospective*** amendments **Florida Sheriffs v. Division of Retirement** (Fla. 1981)

Cases

- Retirement pensions and benefits are mandatory subjects of public collective bargaining. **City of Tallahassee v. PERC** (Fla. 1981)
- “[P]ension statutes are to be liberally construed in favor of the intended recipients.” **Greene v. Gray** (Fla. 1956)
- Town had a continuing statutory obligation to fund and any accrued benefits at the time of termination were nonforfeitable **Board of Trustees of Town of Lake Park v. Town of Lake Park** (Fla. 4th DCA 2007)
- Upheld mandatory FRS 3% employee contribution and *prospective* elimination of FRS COLA **Scott v. Williams** (Fla. 2013)
- City was required to establish a separate plan for police to continue receipt of chapter 185 funding **City of Wilton Manors v. DMS** (Fla. 4th DCA 2010)