

# MODIFICATION OF PENSION PLANS

## LEGAL IMPACTS

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# CONSTITUTIONAL CONCERNS

- ARTICLE I, SECTION 6. RIGHT TO WORK

The right of persons to work shall not be denied or abridged based 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 abridged. Public employees shall not have the right to strike.

- ARTICLE I, SECTION 10. Prohibited Laws

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

- ARTICLE X, SECTION 14. State Retirement Systems Benefit Changes

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

# WHO CAN MODIFY BENEFITS?

Nothing herein shall absolve the governmental unit from being ultimately responsible for the payment of its contribution to a retirement system or plan nor remove from the governmental unit the ultimate authority to adjust benefits consistent with the Florida Statutes and the retirement system or plan...

Section 112.66(a), Fla. Stat.

# CHAPTERS 175 & 185

## MINIMUM BENEFITS

This Chapter hereby establishes...minimum benefits and minimum standards for the operational funding of such plans...The minimum benefits and minimum standards...may not be diminished...nor may the minimum benefits or minimum standards be reduced or offset...

Section 175.021(2) & Section 185.01(2)

# CHAPTERS 175 & 185

## EMPLOYEE CONTRIBUTIONS

Member contribution can be no less than one-half of 1% of salary and may be increased only by consent of the members' collective bargaining representative or, if none, by majority consent of members of the fund.

Section 175.091(2) & Section 185.07(2)



# BENEFITS UNAFFECTED BY TRANSFER, CONSOLIDATION OR MERGER

- Rights in any retirement or pension fund are fully protected in the event of transfer, consolidation, or merger.
- Transfer, consolidation or merger shall not diminish or impair rights in any pension fund.

- No transfer, merger, or consolidation shall result in the reduction or impairment of benefits or other pension rights.

Section 112.0515, Fla. Stat.

# BENEFIT REDUCTIONS

## WHO IS PROTECTED?

- FOUR CLASSES OF EMPLOYEES:
  - Retired/DROP
  - Eligible for Normal Retirement
  - Vested
  - Not Yet Vested

# CHAPTERS 175 & 185

## PLAN TERMINATION

- Any plan established under Chapter 175 or Chapter 185, Florida Statutes, may be terminated by the municipality or special fire control district pursuant to Section 175.361 or Section 185.37, Florida Statutes.

- Upon termination of the plan, the rights of all employees to benefits accrued to the date of termination and the amounts credited to the employees' accounts are non-forfeitable.
- The funds shall be distributed in accordance with the following:

1. Board of Trustees determines date of distribution and asset value of all non-forfeitable benefits.
  - The Board of Trustees shall inform the employer if additional assets are required, in which event the employer shall continue to financially support the plan until all non-forfeitable benefits have been funded.

2. The Board of Trustees determines method of distribution:

- Cash
- Substitute Trust
- Annuity
- Other

3. Distribute the single-sum value of retirement income to participants.
- The value must exceed a participant's contributions to the plan less any benefits already paid.
  - If paid through the purchase of an annuity, the value shall equal the premium payable for the annuity.



4. Remaining assets proportionally divided between the employer and the State of Florida.
- Department of Management Services will effect the termination if not completed within twenty four months of the date the plan is terminated.

# CHAPTERS 175 & 185

## OPTIONAL PARTICIPATION

A public employer may revoke its participation in either Chapter 175 or Chapter 185.

Thereafter, prohibited from participation and not eligible for future tax moneys.

Premium tax money previously received shall continue to be used for sole and exclusive benefit of participants.

No action can be taken to reduce then-vested accrued benefits.

Must continue to file annual report.

Revocation of optional participation is not a termination of the plan.

If there is a subsequent termination, must comply with Ch. 175 or Ch. 185.

Section 175.411 & Section 185.60, Fla. Stat.