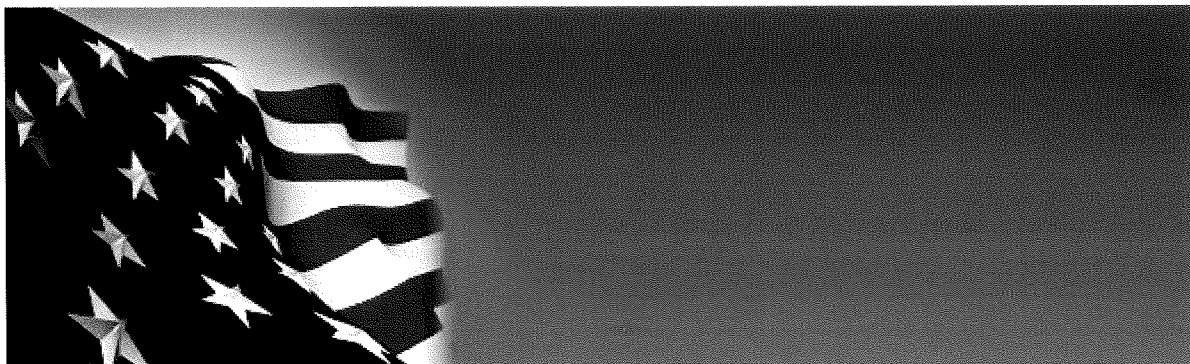


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# CYPEN & CYPEN NEWSLETTER for JUNE 18, 2015

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Stephen H. Cypen, Esq., Editor

Never Forget September 11, 2001

and

Always Remember May 2, 2011

## **1. FLORIDA LAW AMENDS SECTIONS 112.63 AND 112.664, FLORIDA STATUTES:**

### **Overview**

All Florida governmental defined benefit pension plans should be aware that Governor Scott approved House Bill 1309 (hereinafter "HB 1309"), which was adopted during the regular session of the Florida Legislature this year. The new legislation applies to police, fire and general employee plans. HB 1309 builds on other recent legislation aimed at providing more uniformity among Florida governmental defined benefit plans. HB 1309 will require the adoption of mortality tables used by the Florida Retirement System. It is expected that the use of the FRS mortality tables will impact contribution requirements for many plans, as will need to be calculated by the plan's actuary. In future years, as FRS amends its mortality tables, local plans will need

to follow suit by using either of the two most recently published FRS tables.

### **Amendment to Section 112.63's funding requirements**

By way of background, a defined benefit plan's annual funding requirements are determined by the regular actuarial valuations prepared by a plan's enrolled actuary. Section 112.63, Florida Statutes, sets forth the minimum requirements under Florida law, which are used to calculate the plan sponsor's annual contribution. HB 1309 amends Section 112.63 as follows:

(f) Effective January 1, 2016, the mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.

According to the latest available data, approximately two dozen governmental plans in Florida currently use the 1983 Group Mortality Table. Approximately another two dozen governmental plans use the 1994 Group Mortality Table. Approximately 440 plans use a version of the RP 2000 mortality table. The cost of implementing the new FRS mortality tables will depend on which mortality table a plan is currently using.

Although HB 1309 is "effective January 1, 2016," it is unclear whether the new requirements apply to the October 1, 2015 valuation or the October 1, 2016 valuation. In most cases, the October 1, 2015 valuation is adopted in early 2016 and sets the contribution for the 10/1/16 through 9/30/17 fiscal year. By contrast, the October 1, 2016 valuation sets the contribution for the 10/1/17 through 9/30/18 fiscal year.

Interested parties have requested guidance from the Division of Retirement and expect that HB 1309 will be interpreted as applying to the October 1, 2016 valuation (which will ordinarily be adopted in early 2017).

If the Division of Retirement agrees with this interpretation that HB 1309 applies to the October 1, 2016 valuation, plans will have the option of early adopting the FRS tables in the October 1, 2015 valuation. Early adoption will enable boards to phase in higher costs over two years rather than fully implementing HB 1309 in a single year.

### **Amendment to Section 112.664's reporting requirements**

Section 112.664, Florida Statutes governs the controversial "reporting standards" for defined benefit plans, in contrast to the "funding" requirements under 112.63. Based on the regulations adopted by the Division of Retirement in April of this year, plans are required to begin complying with Section 112.664's reporting standards 60 days after the board approves its actuarial valuation.

HB 1309 amends Section 112.664 to align reporting standards with funding standards. As a result, Section 112.664 reports will be based on the FRS tables rather than the RP 2000 Scale AA table. This amendment is effective plan years ending on or after December 31, 2015. (Item prepared by guest contributor Adam Levinson.)

### **Recommendation**

Actuaries around the state are already busy complying with the new reporting standards in Section 112.664. After the 112.664 reports are prepared and filed with the Division of Retirement, boards and plan sponsors are encouraged to consult with their actuary to determine the impact of HB 1309 on your plan and the schedule for compliance.

**2. A QUOTE FOR THE AGES:** In our June 11, 2015 Newsletter, we quoted at length from *Burgos v. State of New Jersey*, No. A-55-14 (N.J. June 9, 2015), ([See C & C Newsletter for June 11, 2015, Item 1](#)). By our extensive quoting, we did not mean to let one particular quote get lost in the shuffle; if you can figure out this one, please let us know:

Because of the importance of maintaining the soundness of the pension funds, the loss of public trust due to the broken promises made through Chapter 78's enactment is staggering. The Court

recognizes that the present level of the pension systems' funding is of increasing concern. But this is a constitutional controversy that has been brought to the Judiciary's doorstep, and the Court's obligation is to enforce the State Constitution's limitations on legislative power. The State Constitution simply does not permit Chapter 78's payment provisions to have any more binding effect than that of a contract that is subject to appropriation. *To be clear, the Court emphasizes that it is not declaring Chapter 78 unconstitutional. Chapter 78 remains in effect, as interpreted, unless the legislature chooses to modify it.*

*Unbelievable!*

**3. SEC WARNS REAL ESTATE FUNDS ON FEES AND EXPENSES:** As part of its increased scrutiny on private equity fund fee and expense disclosures and allocations, the staff of the U.S. Securities and Exchange Commission has expanded its focus to fees received by real estate fund managers, (without management fee offset) for property management, construction management, leasing/similar services and practice of real estate fund managers charging back costs of affiliated property managers and in-house attorneys to real estate funds. Blogger Scott MacLeod reports that a recent speech by the SEC Director of Compliance stressed real estate funds need to disclose these fees and expenses, and importantly, when they state the fees charged by the manager and its affiliates will be at market rates, the manager needs to substantiate and periodically test the market to ensure any such statement continues to be accurate. SEC also is reviewing real estate fund allocation and disclosure of co-investment opportunities. Co-investments do not need to be offered equally to all investors, but any preference must be disclosed to investors.

**4. SAVING BY THE DOLLAR OR BY A PERCENTAGE?:** When contributing to your employer-sponsored plan, you can choose to defer your income by a dollar or a percentage amount, says Valley News. The smart thing to do is to choose the one that makes you save more. An automatic deduction from your paycheck is an effective way to save for retirement regularly. When initially enrolling in a 401(k) or other plan, you elect how much, in dollar or percentage terms, you want to contribute each pay period. Generally, it is wiser to choose the fixed percentage, because if you get a raise, your contribution

automatically increases. You never have to worry about changing it during your time at this company. For example, John starts a job earning \$50,000 annually, and decides to contribute 10% to his retirement plan. That amount is \$5,000 per year. After a year, he gets a raise, so now earns \$55,000. The amount that goes into his retirement plan automatically increases to \$5,500 annually. If John selects a fixed amount, the good news is that he is at least saving. However, he saves \$500 less per year. The gap widens if his income increases substantially over time, unless he is diligent enough to change his contribution every time he gets a raise. There is no universal rule for what percentage you should save, but you should at least contribute up to the percentage of your employer's match. According to Fidelity, those who saved more than \$1 million in their 401(k)s on average deferred about 14% of their pay. Choosing the fixed dollar amount has its benefit. You can spare yourself some math if you want to contribute the maximum to your 401(k). Simply divide the limit by the number of total yearly paychecks. Another example of where a fixed dollar amount works is when a person contributes monthly to his or her individual retirement account. Most IRA custodians will allow you to transfer a certain amount from a bank account into the IRA every month. The traditional and Roth IRA contribution limits are \$5,500. If you are over 50, you can make additional catch-up contributions of \$1,000. Therefore, you can save up to \$458.33 a month or \$541.66 if you qualify for the catch-up.

**5. PEOPLE WHO ARE ABLE TO RETIRE EARLY USUALLY SHARE THESE TRAITS ... AND IT IS NOT JUST BEING BORN INTO WEALTH:** Think millionaires are the only ones who can retire early? Think again. You, too, can do this. Rather than coming off a lifetime of privilege, Americans who plan to retire early were found to share other key traits that are helping them reach their goal, according to an online study of 4,500 Americans by Allianz Life Insurance Company of North America. Many assume a wealthy upbringing is essential for early retirement, yet those who said they plan to retire early were no more likely to describe their family growing up as wealthy/affluent or financially comfortable than people who planned to stay in the workforce longer, the study said. However, those preparing for early retirement did have common traits:

- They are connected to like-minded partners.

- Great minds think alike. Those surveyed said their spouse's or significant other's relationship with money is similar to their own, saying both have a practical approach to money, compared with those who never plan to retire.
- They have the same values when it comes to debt and other things that typically break up a marriage.
- They are married.
- Those planning to retire early are more likely to be married – 76% versus 68% of those who never plan to retire - and are still in their first marriage – 77%, compared with 70% of those who never plan to retire.

If you do have a marriage that ends in divorce and you are typically splitting all the finances in two, that becomes a major life event that happens to a person and makes it hard for them to recover enough to gain early retirement. What is more, if you are married and stay married, you benefit from two incomes, assuming that both partners work. They are comfortable talking about money. They are more likely to find it very easy or somewhat easy to talk with their spouse or significant other about family finances – 90%, compared with 77% of those who never plan to retire. They have also done more to teach their children about money, including encouraging them to work with a financial professional. Some people are just very curious, so they are very open about finances and also have a healthy relationship with their kids and their spouse about that stuff. They are on top of how they are progressing. Early retirees-to-be compare their financial status to their parents' to track how they are doing, the study said. When you have a goal and you track against it, you continue to see, where am I on this? Are we meeting goals? Maybe we can take that trip to Europe this year, and it is not going to impact our retirement plans and that goal. For those wanting to retire early, the top priority should be to save, save, save the sooner, the better. To no one's surprise, the U.S. Government Accountability Office found in a recent study that many retirees and workers approaching retirement have limited financial resources. About half of households age 55 and older have no retirement savings such as in a 401(k) plan or an IRA, said the report, which was publicly released June 2. According to GAO's analysis of the 2013 Survey of Consumer Finances, many older households without retirement savings have few other resources, such as a defined benefit plan or nonretirement savings, to draw on in

retirement. If you're hoping to retire early, do not be discouraged. If you work at this, you can do it. Sometimes, we think everybody else gets a break in life, but this is saying if you make this your priority, and you really work at it, you can really make sure that you retire earlier than a lot of other people do.

**6. MYTHS AND FACTS ABOUT SOCIAL SECURITY:** According to the Social Security Administration, more than nine out of ten older Americans (over 65) receive Social Security benefits. So Older Americans Month is the perfect time to examine some myths and facts about Social Security. Myth: Social Security will provide most of the income needed in retirement. Fact: It is likely that Social Security will provide a smaller portion of retirement income than expected. There is no doubt about it -- Social Security is an important source of retirement income for most Americans. But it may be unwise to rely too heavily on Social Security, because to keep the system solvent, some changes will have to be made to it. The younger and wealthier you are, the more likely these changes will affect you. But whether retirement is years away or just around the corner, keep in mind that Social Security was never meant to be the sole source of income for retirees. As President Dwight D. Eisenhower said, "The system is not intended as a substitute for private savings, pension plans, and insurance protection. It is, rather, intended as the foundation upon which these other forms of protection can be soundly built." No matter what the future holds for Social Security, focus on saving as much for retirement as possible. You can do so by contributing to tax-deferred vehicles such as IRAs, 401(k)s, and other employer-sponsored plans, and by investing in stocks, bonds, and mutual funds. When combined with your future Social Security benefits, your retirement savings and pension benefits can help ensure that you'll have enough income to see you through retirement. Myth: Social Security is only a retirement program. Fact: Social Security also offers disability and survivor's benefits. With all the focus on retirement benefits, it is easy to overlook the fact that Social Security also offers protection against long-term disability. And when you receive retirement or disability benefits, your family members may be eligible to receive benefits, too. Another valuable source of support for your family is Social Security survivor's insurance. If you were to die, certain members of your family, including your spouse, children, and dependent parents, may be eligible for monthly survivor's benefits that can help replace lost

income. Myth: If you earn money after you retire, you'll lose your Social Security benefit. Fact: Money you earn after you retire will only affect your Social Security benefit if you're under full retirement age. Once you reach full retirement age, you can earn as much as you want without affecting your Social Security retirement benefit. But if you are under full retirement age, any income that you earn may affect the amount of benefit you receive: if you are under full retirement age, \$1 in benefits will be withheld for every \$2 you earn above a certain annual limit. For 2015, that limit is \$15,720. In the year you reach full retirement age, \$1 in benefits will be withheld for every \$3 you earn above a certain annual limit until the month you reach full retirement age. If you reach full retirement age in 2015, that limit is \$41,880. Even if your monthly benefit is reduced in the short term due to your earnings, you will receive a higher monthly benefit later. That's because the SSA recalculates your benefit when you reach full retirement age, and omits the months in which your benefit was reduced. Myth: Social Security benefits are not taxable. Fact: You may have to pay taxes on your Social Security benefits if you have other income. If the only income you had during the year was Social Security income, then your benefit generally isn't taxable. But if you earned income during the year (either from a job or from self-employment) or had substantial investment income, then you might have to pay federal income tax on a portion of your benefit. Up to 85% of your benefit may be taxable, depending on your tax filing status (single, married filing jointly) and the total amount of income you have. What Is Your Full Retirement Age? If you were born in: your full retirement age is:

1943-1954 66  
1955 66 and 2 months  
1956 66 and 4 months  
1957 66 and 6 months  
1958 66 and 8 months  
1959 66 and 10 months  
1960 and later 67

Note: If you were born on January 1 of any year, refer to the previous year to determine your full retirement age.

**7. FPPTA 31ST ANNUAL CONFERENCE:** The Florida Public

Pension Trustees Association's 31st Annual Conference will take place on June 28 through July 1, 2015 at the Boca Raton Resort & Club, Boca Raton. A link on FPPTA's web site, [www.fppta.org](http://www.fppta.org), will take you to the Boca Raton Resort & Club site to make your room reservations. You may access information and updates about the Conference at FPPTA's website. All police officer and firefighter plan participants, board of trustee members, plan sponsors and anyone interested in the administration and operation of the Chapters 175 and 185 pension plans should take advantage of this conference.

**8. APHORISMS:** Always be yourself because the people that matter do not mind and the ones that mind do not matter.

**9. TODAY IN HISTORY:** In 1873, Susan B. Anthony fined \$100 for voting for President.

**10. KEEP THOSE CARDS AND LETTERS COMING:** Several readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

**11. PLEASE SHARE OUR NEWSLETTER:** Our newsletter readership is not limited to the number of people who choose to enter a free subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

**12. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.**

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