

LOOKING AT FLORIDA'S MUNICIPAL PENSIONS

How Some Florida Cities are Dealing
with Pension Funding Issues

A JOINT REPORT FROM

Florida
TaxWatch

AND



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INTRODUCTION

Municipal budget shortfalls in Florida since the onset of the Great Recession have focused increased attention on a fast-growing component of municipal budgets: public employee pension plans. Cities across the state have recognized that employee pension benefit levels set in previous years may be greater than is fiscally prudent, that pension obligations outstrip their pension assets, and that the result may lead to cutbacks in other city expenditures. Many cities have recognized their problems and have made efforts to address them—even at great political risk. Others have not yet dealt with what may be a looming problem.

This joint Florida TaxWatch and LeRoy Collins Institute (LCI) research report examines media coverage to provide a snapshot of some Florida cities that have acknowledged problems with their pension systems and how they have responded to these problems. It provides a sense of the reasons why pension underfunding has occurred, actions being taken in an attempt to reduce pension burdens, and the possible ramifications of not solving the issue of increasing pension costs.

The LCI has published several reports on potential problems with funding levels¹ of local pensions throughout Florida. In 2011, the LCI published *Report Card: Florida Municipal Pension Plans* (“Report Card”), which focused on the costs and sustainability of municipal pension plans.² In a report published in Fall 2012, the Institute looked at trends of pension funding and concluded that the problem cannot be laid at the feet of tough economic times. Rather, even in “good” economic years, many municipal pensions’ obligations exceeded their assets.³

Pension entitlements make up a significant portion of the budget in some Florida cities, leaving a smaller portion of the budget available to fund other public obligations. For example, Jacksonville’s City Council President Bill Bishop has estimated that approximately \$110 to \$120 million of the city’s \$950 million budget (11 or 12 percent) is spent yearly on public pensions (Wexler 2012). Likewise, Palm Beach Gardens spent more than 13 percent of its budget on pension obligations – approximately \$8.7 million from its annual \$65 million operating budget for public safety and city employee pensions in 2011 (Dipaolo 2011).

Given that pension liabilities can be such a large portion of the municipal budget, and that most are still far from fully funded, a number of questions are raised. Specifically, what are the possible factors that led to underfunding and what can municipalities do to solve this problem? And, possibly even more importantly, what could happen if these Florida governments do not make any changes? Based on media accounts and other public records, this report outlines some of the answers to these questions.

1 The term “funding level” used throughout this paper refers to the Unfunded Accrued Actuarial Liability (UAAL). The UAAL is the difference between the present value of projected future benefits earned by employees to date (actuarial accrued liability) and the projected value of the assets that reflects average investment returns over a period of time (actuarial value of assets) accumulated to finance the obligation.

2 Report Card: Florida Municipal Pension Plans. November 2011. <http://collinsinstitute.fsu.edu/sites/collinsinstitute.fsu.edu/files/Tough%20Choices%20Report%20Card%20Nov%202011.pdf>

3 Years in the Making: Florida’s Unfunded Municipal Pension Plans. September 2012. http://collinsinstitute.fsu.edu/sites/collinsinstitute.fsu.edu/files/SEP%202012%20Years%20In%20The%20Making%20report_0.pdf

1 Possible Paths to Underfunding

There are a number of reasons why Florida local pension plans are underfunded. While the fallen housing market, diminished stock market returns, and an economy that did not rebound as hoped did not help the situation, they were not the primary determinants. This section examines four main issues often cited as causes for local pension underfunding: Mismanagement of the pension fund, chapter 175 & 185, “gaming” of the benefit calculation such as spiking, and the inability for localities to change contracts with unions prior to their expiration. The list is not exhaustive of the causes of underfunding, nor are these issues mutually exclusive.

A. Mismanagement of Pension Funds

Mismanagement of local pension funds can occur through, among other things:

a) “pension holidays;” b) financial firms investing assets in a way that brings a minimal return on investment; and c) incorrect analysis in actuarial assessments.

“Pension holidays” are occasions when a city did not contribute to the pension plan. This was especially evident during times when investments were gaining a large rate of return and thus municipalities thought they did not need to contribute to the pension fund. While not making a contribution when a plan is fully funded does not create an issue in the short term, this could be a problem later on, or if the plan is underfunded. Miami Beach has been recognized as one locality that engaged in this behavior. The city of Miami Beach did not contribute to its general employee pension fund from 2001 to 2003, a period of high returns on investment (Smiley & Chang 2012). Another city that has been documented as engaging in this behavior is Jacksonville (Littlepage 2011).

Poor investment decisions are another issue related to the mismanagement of pension funds. The City of Auburndale relied on a financial firm that invested the plan’s funds solely in currency, which produced an undiversified plan incapable of achieving the return on investment needed to cover the plan’s liabilities.⁴ This unexpectedly low return on investment, in turn, had to be paid by the municipality (Attinger 2012). While it is a pension board’s choice to decide the type of investment options to make with the pension funds, investing in only one venture results in more market risk.

⁴ In Florida, as directed by state law, police and firefighter pension funds are administered and managed by local pension boards that make decisions on investment strategies and on the assumptions used to calculate the value of pension obligations and assets. Pension fund trustees hire investment managers, actuaries and consultants to advise them on their decisions.

It has also been suggested that incorrect analysis in actuarial assessments have led to the mismanagement of pension funds. The previous actuary employed by Winter Springs used investment and return figures indicating stronger financial stability and a 79% funding level. The new actuary found that these figures were not being calculated properly, and that the fund was actually 59% funded (Saggio 2011). While it is difficult to know if the actuarial assessment of a pension fund is on target, miscalculation of expected returns and demographic trends of the system could lead to significant consequences relating to the level of funding. If a local government is not receiving accurate information regarding its pension fund, then the management decisions it is making can lead to an inappropriate strategy.

B. Chapter's 175 & 185

In 1999, Florida Statutes ch. 175 and 185 were amended to significantly restrict the ability of cities to bargain with police and firefighters' unions regarding pension benefits, by guaranteeing in statute that existing "minimum standards and benefits" could not be reduced, while simultaneously limiting the expenditure of all premium tax revenues (taxes on property and casualty insurance premiums) to fund "extra benefits" for these employees only.

When investment returns and revenues decline, cities cannot simply choose which groups of employees to keep their promises to, they owe pension benefits to all employees, and the restrictions in ch. 175 and 185 make meeting these obligations significantly more difficult.

As the cost of these benefits continue to rise, cities such as Greenacres have seen their pension costs nearly triple compared to the same pensions five years ago. These "extra benefits" have driven taxpayer costs up, threatening the stability of the pension program for future police officers and firefighters, as well as all other public employees (Palm Beach Post 2011).

C. Spiking

Spiking is another factor that contributes to pension underfunding. Spiking is when an employee is able to include overtime, sick time, and additional earnings into their final average compensation rate, which can significantly enhance pension benefits. It may not be readily apparent that incorporating extra hours of overtime and sick leave into the final average compensation of a public employee would contribute much to pension underfunding, but this allowance has been abused.

One of the best-known cases of spiking in local government pensions in Florida is that of a 911 call center operator in Miami Beach. This individual racked up so much overtime and additional benefits in her last few years of service that she was able to transform her \$60,000 a year salary into a \$150,000 a year pension payment (Smiley & Chang 2011). Her ability to include overtime and unused sick/vacation leave into the calculation of her pension allowed her to more than double her working salary in retirement benefits. By the time this individual reaches her mid-seventies, the city of Miami Beach will have paid her \$4,074,000 in pension benefits (Smiley & Chang 2011). Miami Beach is not the only local government faced with spiking. Two fire lieutenants and a police sergeant in Coral Gables were able to retire before age fifty, with yearly pension benefits exceeding their yearly salary by \$20,000 to \$30,000 (Smiley & Chang 2012).

Spiking has become such a well-known problem that in 2011 the state enacted a law that limits overtime used in the final average salary calculation to no more than 300 hours (Department of Management Services 2011).

D. Inability to Change Union Contracts in Non-Emergency Circumstances

Finally, the inability of localities to change contracts with unions unless the contract has expired is another possible path to underfunding. The inability to renegotiate contracts created during good economic times makes it difficult to adapt the system to one that is more affordable during an economic downfall. However, there is a way for cities to renegotiate the contracts through the declaration of financial urgency, which will be discussed later in this paper.

In summary, there are many different paths to the underfunding of a pension plan. This is by no means a comprehensive list of reasons pensions are underfunded, but it is a glimpse at a few possibilities that are evident in Florida.

2 Reforms to Reduce Pension-Related Costs

Two main categories of reforms to minimize the budget gaps in pension funding directly affect pension recipients. The first category is direct pension reforms that affect the flow of funding and disbursement of benefits in the pension. The second category affects pension funding indirectly and includes changes to municipal employees' salaries and overall cutbacks in the police, fire, and general government departments in order to minimize expenses, and thereby meet their obligations.

A. Direct Pension Reforms

There are numerous options for municipalities interested in reforming their pension systems. Some actions Florida local governments are taking include: increasing employee contributions, cutting pension benefits, eliminating or reducing the cost-of-living adjustment, changing the calculation of final benefits, increasing the retirement age, switching from a defined benefit to a defined contribution plan, making changes to the Deferred Option Retirement Program (DROP), or declaring Financial Urgency as a means to renegotiate union contracts.

1. Increasing Contributions

Increasing employee contributions to the pension fund appears to be a frequent reform localities are making to pensions. Local governments have implemented increased contributions either by subjecting all employees (new and old) to changes in the level of contributions, only applying the change to new hires, and in some cases, giving pay raises to offset an increased contribution. These three paths all lead to increased contributions, but have varying implications for different segments of employees.

Bradenton, Cape Coral, Winter Springs, Vero Beach, and Coral Gables increased contributions for all or some employees. Bradenton signed a three-year agreement with firefighters and paramedics stipulating a 1% increase in employee contributions each year for the next three years, which will gradually raise the employee contribution rate from 7% to 10% (Valverde 2012). Cape Coral instituted a 3% increase in contributions for police officers and a 2% increase for firefighters (Stewart 2011a; Ruane 2011; Stewart 2011b; Stewart 2011c; Repecki 2011). Winter Springs implemented a 2% employee contribution increase, raising the contribution rate from 3% to 5% (Saggio 2011). In Vero Beach, a new contract with the police union increases the amount existing employees contribute to their pension fund from 3 to 5.5% of their salary. Employees hired after Oct. 1 would contribute 8% (Bierschenk 2012). Following an 18-month impasse in negotiations, the Coral Gables commission increased the pension contributions of all police officers from 5 to 10 percent of their wage (Cohen 2012).

Delray Beach and Lakeland have introduced a plan to increase employee contributions, but will offset this increase by implementing a pay increase. Delray

Beach increased the fire pension contributions from 6% to 9%, but proposed a 5% pay increase in order to make up for cutting benefits and man-hours (Bagg 2011). Lakeland increased the contributions for its Defined Benefit plan from 8.5% to 11%, which is offset by a 2.5% raise. However, Lakeland also established a Defined Contribution plan, which all employees have the option of joining, with a 5% match for the next three years (Chambliss 2011c).

A few other municipalities, including Palm Beach Gardens, proposed increasing contributions for new hires only. This plan would leave employees hired prior to the date of the increased contribution rate at their previous level of contribution, while employees hired after this date would have to contribute more (Dipaolo 2011).

2. Eliminating or Reducing Cost-of-Living Adjustments

Eliminating or reducing the cost-of-living adjustment is another reform option for Florida cities with high pension costs or liability. Hollywood, New Smyrna Beach, Lakeland, and Temple Terrace have all implemented this reform. The citizens of Hollywood voted in favor of dramatic pension reforms in a recent special election including eliminating automatic cost-of-living adjustments (Alanez 2011). Similarly, New Smyrna Beach held a special election and citywide voters approved the elimination of cost-of-living increases for the police, fire, and general employee pensions (Daytona Beach News-Journal 2011). Retired city of Lakeland employees have not received a cost-of-living adjustment since 2008, and the city plans on continuing this practice until plan investments have a return higher than 7.25% (Chambliss 2011a). Temple Terrace has also frozen cost-of-living increases, but only until the pension is 80% funded (Knight 2012). Not only have changes to the cost-of-living adjustment been implemented in these municipalities, but they are being proposed in others such as Palm Beach Gardens, which reduced cost-of-living adjustments for firefighters from 3% to 1.5% (Dipaolo 2012).

3. Reworking the Formula used in Calculating Benefits

Some Florida cities have changed the part of the formula for the calculation of pension benefits. This type of reform can be done in different ways, including eliminating or changing the availability of spiking, decreasing the multiplier, capping accrued benefits, increasing the age/service requirement, changing the calculation of Average Final Compensation (AFC), and/or increasing the retirement age.

Coral Gables, Winter Springs, and Miami have reformed their pension systems by changing the AFC calculation. Winter Springs implemented proactive reforms that limit the allowable overtime hours in the calculation of benefits to 150 hours, and

decreased the multiplier from 3 to 2.5 (Saggio 2011).⁵ Miami has put a \$100,000 cap on annual pension payouts for employees not yet eligible for retirement (Rabin & Mazzel 2011). Coral Gables reduced the pension benefits for police officers whose pensions are not yet vested from 75 to 67.5% of their working pay after 25 years of service (Cohen 2012); changed the calculation of police benefits based on their average pay during their last five years of service, rather than three; and overtime pay and unused vacation time will not be included in the calculation (Cohen 2012).

Some municipalities are attempting to increase the age service requirement, or minimum and/or normal retirement age. Hollywood, Lakeland, New Smyrna Beach, Miami, and Palm Beach Gardens have proposed to increase the age service requirement, or retirement age. In both Hollywood and New Smyrna Beach, special elections were held to drastically reform pensions. Both of these elections approved changes to the pensions, which included an increase in the retirement age (Alanez 2011; The Daytona Beach News-Journal 2011). Lakeland increased the retirement age from 60 to 62 for the new alternative plan, and has discussed raising the retirement age to 65 for all city employees (Chambliss 2011b). Miami increased the age-plus-service threshold from 68 to 70, with a new minimum age of 50 for retirement (Smiley & Chang 2012).⁶ Additionally, Palm Beach Gardens proposed raising the retirement age from 52 to 59 (Dipaolo 2011). These examples are not the only municipalities that have proposed increasing the retirement age; however, this increase was typically made through the age/service requirement for retirement.

4. Switching to a Defined Contribution Plan

A few municipalities are proposing to switch from a defined benefit pension plan to a defined contribution plan. One city that has already initiated this transition is Lakeland. General city employees that have elected to remain in the defined benefit plan will be required to increase contributions from 8.5% to 11%; however, these members will receive a 2.5% raise to offset this additional contribution (Chambliss 2011c). Employees who opt into the new alternative plan will be required to contribute 6.25%, and will receive a match of their contributions from the city of up to 5% for the first three years, as well as having the option of investing additional money into a 401(k) plan. Moreover, an actuary estimated that the new plan will save more than \$1.5 million this year, and increase thereafter (Chambliss 2011b).

⁵ This means that in Winter Springs the calculation of final average compensation from the pension will be – the number of years served x 2.5 (which is the multiplier) x final average salary. (Saggio 2011 – 73)

⁶ “age/service requirement” is the minimum retirement age (50 in this case) plus the minimum years of service for full retirement (18 years moved to 20 years in this case)

5. Making Changes to the Deferred Retirement Option Program (DROP)

Some local governments have elected to change DROP, which provides an employee the ability to continue working for a certain amount of time after they officially announce their intention to retire. Employees have their retirement benefit calculated at the time they enter into DROP, and accumulate monthly retirement benefits in a trust fund (which earns interest) while they continue to work. When the DROP term ends, the employee receives a lump sum payout of accumulated benefits and interest. Jacksonville found that DROP workers cost the “Police and Fire” plan millions, which is paid by other contributors and tax revenues (Gibbons 2012a). Due to the strain created by a large number of employees in DROP, Jacksonville increased the years of service employees need before entering the program (Gibbons 2012). Temple Terrace has also made changes to DROP by reducing the fixed interest rate from 6.5% to 3% for police retiring after July 1, 2012 (Knight 2012).

6. Declaration of Financial Urgency

Municipalities are prohibited from engaging in negotiation with unions over pensions until previously created contracts have expired. To renegotiate these contracts with benefits the cities feel they are able to afford, some municipalities are filing for Financial Urgency. The declaration of Financial Urgency allows city officials to reopen union contracts during troubled times, prior to their expiration.

In the past four years, Pembroke Pines, Miami, and Hollywood have filed for Financial Urgency. In 2009, negotiations in Pembroke Pines closed the general employee pension plan for new hires and froze it for existing staff. Those individuals who did not retire at that time lost their cost-of-living adjustments and took a 4% pay cut. Miami filed for Financial Urgency last year in order to close a \$105 million budget gap created largely by generous contract terms and salary increases. Financial Urgency allowed Miami to change the age-plus threshold from 68 to 70 with a minimum of 50 years of age to begin receiving benefits, and cap pensions at \$100,000 for employees not yet eligible for normal retirement. This renegotiation allowed through the declaration of Financial Urgency saved the city \$80 million, but Miami declared once again this year. Hollywood also declared financial urgency, but the union leaders and city officials were unable to negotiate a contract. Therefore, the terms of the reform were left up to voters, who approved sweeping cuts and reforms to the pension system (Alanez 2011). While Financial Urgency seems to be a way for cities to negotiate themselves out of huge pension obligations, Hollywood has shown us what can happen if a settlement is not reached, and Miami has shown us that renegotiations do not always mean a financial solution.

7. Jacksonville's Proposed Reforms

One of the most far-reaching pension packages has been proposed by Jacksonville Mayor Alvin Brown. The mayor's long-awaited proposal will deal with the city's police, fire, and general employee pensions. The mayor's recommendations for the police and fire pensions would eliminate the COLA, extend the service considered for the final average pay to 60 months (from 24 months), double the employee contribution from 7 to 14%, exclude shift and differential pay in pension calculations, cap the annual benefits, increase the number of years served before retirement eligibility, provide that pensions could not be collected until age 60, lower the benefit accrual rate, and eliminate DROP. The mayor also proposed reforms in the general employee pensions including eliminating COLAs, increasing employee contributions from 8 to 12%, capping benefits, extending retirement start until age 62, changing the final average pay to the average of the final 60 months (instead of 36), and reducing the accrual rate from 2.5% to 2% a year (Office of the Mayor 2012a,b).

Changing the mechanics of the pension system itself is one way municipalities are working toward decreasing the budget gaps they are faced with in order to increase pension funding levels. However, beyond pension-related reforms being enacted to decrease budget shortfalls, some municipalities are also engaging in activities that indirectly affect pensions.

B. Indirect Activities Affecting Pensions

Indirect pension-related activities are actions taken by local governments such as cutting the budgets of police and/or fire departments through a reduction in payroll expenses and department cutbacks. These activities are not directly related to changes in the funding level of a pension, but they are indirectly related through the municipality's use of these activities to decrease overall spending.

Salary-related activities are changes made to restrict salary increases, cut pay, and limit the availability of overtime and sick time. These actions generally decrease payroll expenses. Cape Coral, Clearwater, Hollywood, and Palm Beach Gardens have restricted salary increases, or instituted pay cuts. Cape Coral began cutting back on payroll expenses by entering into a tentative agreement with its police officers to cut pay by 2%, and decrease the starting salary for new hires to \$41,500 (Stewart 2011c). This change should have both an immediate effect on decreasing the budget through salary reduction, and a long-term reduction through the decrease in new hires' starting salary. Clearwater eliminated the yearly step raises given to employees and replaced them with a flat rate raise of 2.5%; however, this is a temporary change. The yearly step raises will return under constrained terms in three years (Harwell 2011). Palm Beach Gardens has also eliminated an increase in payroll expenses by

restricting local police officers from obtaining their yearly raise (Dipaolo 2011). Vero Beach reduced the number of paid holidays for unionized police, thus reducing the overtime the city pays out (Bierschenk 2012). Finally, Hollywood cut the pay by 12.5% for police and fire, and 7.5% for general employees (CBSMiami 2011a & b).

Local governments have also reduced sick leave and overtime pay to reduce payroll expenses. In a tentative agreement with police and fire unions, Cape Coral eliminated pay for two holidays (Stewart 2011c). Delray Beach eliminated two days of holiday pay, and has also cut officers two-week period by 4 hours, making their new schedule consist of 80 hours per two-week period as opposed to 84 (Burdi & Herrera 2011).

Beyond the reduction in payroll expenses, many municipalities are attempting to reduce operating expenses. East Naples has proposed closing fire stations and implemented temporary station closings (known as “brown out days”) (Bhasin 2011). Cut-backs are a popular way of saving money, but if costs continue to rise without an increase in revenue, losing a few programs or closing a few stations for a day at a time will no longer be enough.

3 Possible Ramifications for Taxpayers

If pension costs are not controlled and local government budgets are unable to bear the costs, taxpayers at large will have to pay off these obligations. These actions vary in severity and ramifications, but all of these options will affect the citizens in the locality. Municipalities have the option of borrowing from reserve accounts, reducing other city services, raising taxes, contracting out services to different local government units, or in the worst case, declaring bankruptcy. The varying levels of worst-case scenarios outlined in this section are not just possibilities, some have actually taken place in Florida.

A. Borrowing from Reserve Accounts

Borrowing from the reserve account means that the municipality will not have that money in case of an emergency or to spend on other necessary public ventures. Additionally, bond rating agencies often consider the amount of budget reserves in rating government entities. Both Hollywood and Indian River Shores have taken funds from the reserve account to pay their pension debts. Hollywood took \$7.3 million out of the emergency fund to pay off its pension obligations, leaving only \$2 million in the fund (Burnett 2011). Indian River Shores borrowed \$250,000 from its emergency fund to assist in closing its budget gap (Begley 2012a). Other municipalities, such as St. Petersburg, have also considered shortening the budget gap by dipping into reserve funds. Reducing their reserve accounts for pension payment might be particularly risky for Florida cities located near a coast that might need funding for hurricane or weather-related emergencies.

B. Reductions in Other City Services

Having to spend a larger portion of the budget on pensions means having less money for other services. Miami-Dade county is a case in point. Its budget gap became so large that layoffs and increased pension-related reforms were unable to eliminate the shortfall, so they had to take more drastic measures. There was a proposal to eliminate 1,300 county jobs, close 13 libraries, eliminate two fireboats, and cut the budgets to county commissioners by 10% (Brannigan & Haggman 2011). Hollywood has also considered reducing other city services by using \$200,000 in grants used to fund local food banks and after school programs to minimize the budget gap (WIOD-AM Local News 2011).

Layoffs are another option for local governments to reduce other city services and make up for budget shortfalls, which may be caused in part by underfunded pension plans. For example, Hollywood laid off 17 police officers, 18 staffers, and 16 other employees in the commissioner's office (O'Matz 2011; Alanez 2011). North Miami has laid off 22 full-time employees, 17 part-time employees, as well as additional police officers (Green 2011). These layoffs may be just the beginning if budget shortfalls are not reduced or eliminated.

C. Increasing Taxes

Another option available for municipalities facing funding shortfalls for required expenses such as pension obligations is to raise taxes. This option has been chosen by a few of the previously mentioned municipalities, including Hollywood, which raised property taxes by 11% in 2010, and the city has considered raising them once again to assist in paying off the budget shortfall (Figueroa 2011). Other municipalities have proposed these changes as a solution to the shortfall if no other concessions are available.

D. Consolidating Departments or Contracting Out Services

A more extreme measure that municipalities can make is closing the public safety stations and pension plans, then contracting services out to a different local government. Contracting out or consolidating services is a fairly common approach to reducing municipal budgets. East Naples, Sarasota and Venice have considered consolidating the police and sheriff's departments, or contracting out fire services to other local governments. However, these actions, particularly for fire and police services, can have some bearing on jobs, response times, and the safety of the community. A recent example of a city contracting out fire services is Belleair Bluffs which is now contracting out fire services from Largo (Ayers 2012a). The city could no longer afford to have a fire department within their city and also had to close the pension system. The city was unable to negotiate the pension into the contract they signed with Largo, and the amount due to close the pension is \$2.63 million, while they only have \$1.25 million (Ayers 2011). The city's dispute with the fire pension board over payoffs was referred to a state judge.

E. Bankruptcy

The final, and most devastating, option a city has to eliminate debt is Chapter 9 Bankruptcy.⁷ Chapter 9 Bankruptcy provides relief for municipal entities and assists them in restructuring their debt.⁸ Florida is one of 24 states that authorize municipal bankruptcy upon state approval, and specific authorization by the Governor.⁹

7 Over 141 municipalities have filed for Chapter 9 since 1980, some notable examples are: Jefferson County, Alabama (2011); Boise County, Idaho (2011); Washington Park, Illinois (2009); Westfall Township, Pike County, Pennsylvania (2009); Vallejo, California (2008); Gould Arkansas (2008); Moffett, Oklahoma (2007); Los Osos, California (2006); Milport, Alabama (2005); Desert Hot Springs, California (2001); Prichard, Alabama (1999); Orange County, California (1994); Hamilton Creek Metropolitan District, Summit County, Colorado (1989).

8 Municipalities cannot be forced into chapter 9, nor be forced to liquidate assets, does it not provide protection for collective bargaining agreements or retiree benefit guarantees, though many state constitutions require municipalities to meet their pension obligations (Curriden 2011).

9 Chapter 9 bankruptcy, FL. Stat. 218.01 Authority to accept benefits of bankruptcy acts: "For the purpose of rendering effective the privilege and benefits of any amendments to the bankruptcy laws of the United States that may be enacted for the relief of municipalities, taxing districts and political subdivisions, the state represented by its legislative body gives its assent to, and accepts the provisions of any such bankruptcy laws that may be enacted by the Congress of the United States for the benefit and relief of municipalities, taxing districts and political subdivisions and its several municipalities, taxing districts and political subdivisions, at

While municipal bankruptcy has not been an issue in Florida to date, Reuters placed Miami on a list of U.S. cities set to enter the default danger zone. The listing includes “major cities and counties in danger of defaulting on their debt,” and it is noted that one of the reasons for being on the danger list is “low reserves and high pension obligations” (Connor 2012).

Prichard, Alabama is an example of a city geographically close to Florida that has undergone Chapter 9 bankruptcy. Prichard filed for bankruptcy in 2009 because of its inability to pay pension obligations. Instead of engaging in massive pension and non-pension related changes in order to fulfill its pension obligations, the city was left resorting to bankruptcy. Due to the complete depletion of funds in the pension fund, the city stopped sending 144 retirees pension checks (equating to \$140,000 per month). This problem was further exacerbated by an economy that was not producing jobs, so the retired were faced with having to rely on family or friends for support. Even more of a problem was that some of these individuals were too young to collect either Social Security or Medicare (Cooper & Walsh 2010).

Central Falls, Rhode Island also filed for bankruptcy, but was placed under receivership in 2010. This city of 19,000 is headed for bankruptcy because it promised retired police and fire employees millions of dollars in pension benefits that it is unable to afford. However, instead of eliminating payment of these individuals, like Prichard, retirees were asked to give back a large portion of their pensions, or risk losing them entirely (Walsh & Zezima 2011).

There is much that can be learned about bankruptcy filings by looking at Prichard and Central Falls. Most importantly, local governments need to take action to address unsustainable pension obligations before it is too late. Bankruptcy results in uncertainty for everyone, from retirees to bond holders, and is the last available option for local governments that have not taken steps to minimize budget shortfalls.

the discretion of the governing authorities thereof, may institute and conduct and carry out, by any appropriate bankruptcy procedure that may be enacted into the laws of the United States for the purpose of conferring upon municipalities, taxing districts and political subdivisions, relief by proceedings in bankruptcy in the federal courts.”

4 Conclusion

The LeRoy Collins Institute and Florida TaxWatch have documented the perilous financial positions of around one-third of Florida's municipal pensions. Many of these cities have recognized their funding problems and are taking action to address their pension costs. A review of media accounts of the issues being dealt with by local governments shows that Florida cities are taking a number of different approaches, and some are dealing with the consequences of addressing the issue late in the game.

There are both direct and indirect actions that municipalities can take to adequately fund their pension systems. Direct actions include increasing contributions of employees, eliminating or reducing cost-of-living adjustments, reworking the formula for calculating the average final compensation, switching to a defined contribution plan, making changes in the DROP program and declaring financial urgency as a way to reopen union contract negotiations. Indirect actions include restricting salary increases, cutting pay and limiting the availability of overtime and sick pay. Cities can also raise taxes, contract services out to other governments, reduce other services, or borrow from their reserve funds. At its most extreme, a city could even declare bankruptcy. The consequences of these actions range in severity. However, the good news is that many Florida municipalities have realized that there is a problem and are attempting the first steps in eliminating the problem prior to it becoming irreversible or adversely affect the economic well-being of the municipality and its citizens.

Works Cited

- (07/18/11). "Hollywood Commission Sets Pension Reform Referendum." CBSMiami. <http://miami.cbslocal.com/2011/07/18/hollywood-commission-sets-pension-reform-referendum/>
- (09/14/11). "Cities Look To Pensions To Fill Budget Holes." CBSMiami.com. <http://miami.cbslocal.com/2011/09/14/cities-look-to-pensions-to-fill-budget-holes/>
- (09/19/11). "Pension vote a sign that change is on the way." The Daytona Beach News-Journal. <http://www.news-journalonline.com/opinion/editorials/n-j-editorials/2011/09/19/pension-vote-a-sign-that-change-is-on-the-way.html>
- (09/19/11). "Budget Cuts Are Happening Everywhere: Hollywood grants next on the chopping block." WIOD-AM Local News.
- Alanez, Tonya. (09/13/11). "Hollywood voters give go-ahead to pension reform." South Florida Sun-Sentinel. http://articles.sun-sentinel.com/2011-09-13/news/fl-hollywood-vote-tuesday-20110913_1_pension-reform-hollywood-voters-retirement-ages
- Attinger, Phil. (03/13/12). "Auburndale employees move to a self-directed pension plan." News Chief. <http://www.newschief.com/article/20120313/NEWS/120319987>
- Ayers, Wayne. (09/14/11). "Pension payout threatens city finances." Belleair Bee. http://www.tbnweekly.com/pubs/belleair_bee/content_articles/091411_bee-02.txt
- Ayers, Wayne. (01/11/12a). "Fire pension board may sue city." Belleair Bee. http://www.tbnweekly.com/pubs/belleair_bee/content_articles/011112_bee-01.txt
- Ayers, Wayne. (04/18/12b). "Pension dispute headed to court." Belleair Bee. http://www.tbnweekly.com/pubs/belleair_bee/content_articles/041812_bee-04.txt
- Bagg, Marissa. (06/27/11). "Stalemate in contract negotiations between City of Delray Beach and police union." Wptv.com. http://www.wptv.com/dpp/news/region_s_palm_beach_county/delray_beach/stalemate-in-contract-negotiations-between-city-of-delray-beach-and-police-union
- Begley, Janet. (02/28/12a). "Taxpayers to make up difference as Indian River Shores drops projected return on pension fund." TCPalm.com. <http://www.tcpalm.com/news/2012/feb/28/taxpayers-to-make-up-difference-as-indian-river/>
- Begley, Janet. (03/22/12b). "Taxpayers will foot bill as Indian River Shores officials drop expected return on pension fund." TCPalm.com. <http://www.tcpalm.com/news/2012/mar/22/taxpayers-will-foot-bill-as-indian-river-shores/?partner=RSS>
- Bhasin, Sabina. (07/04/11). "East Naples fire facing budget crisis; could mean layoffs, pay cuts." Marconews.com. <http://www.marconews.com/news/2011/jul/04/layoffs-possibly-coming-east-naples-fire/>
- Bierschenk, Ed. (10/16/12). "Vero Beach Council approves new contract with policy officers." TCPalm. Com. <http://www.tcpalm.com/news/2012/oct/16/vero-beach-council-to-vote-on-new-contract-with/?partner=RSS>
- Brannigan, Martha & Matthew Haggman. (07/13/11). "Miami-Dade mayor: Cut property tax rates, pare services." The Miami Herald.
- Burdi, Jerome & Maria Herrera. (06/27/11). "Delray Beach police without a contract for nine months and say proposed cuts can increase crime." The Palm Beach Post. <http://www.palmbeachpost.com/news/news/delray-beach-police-without-a-contract-for-nine-mo/nLtZ3/>
- Burnett III, James H. (06/08/11). "Hollywood officers likely to see 12.5 percent pay cut." The Miami Herald.
- Chambliss, John. (05/16/11a). "Lakeland's City Retirees Seek Pension Help: Lakeland commissioners turned down a request for a one-time payment." TheLedger.com. <http://www.theledger.com/article/20110516/NEWS/110519539>
- Chambliss, John. (12/17/11b). "City of Lakeland Discussing Raising the Retirement Age." TheLedger.com. <http://www.theledger.com/article/20111217/NEWS/111219376>
- Chambliss, John. (12/19/11c). "Lakeland Commissioners Approve Pension Plan Changes." The Ledger.com. <http://www.theledger.com/article/20111219/NEWS/111219260>
- Cohen, Howard. (9/12/12). "Gables Imposes Pension Cuts on Cops" The Miami Herald. <http://www.miamiherald.com/2012/09/12/2999245/gables-imposes-pension-cuts-on.html>
- Connor, Michael. (04/17/12). "More U.S. cities set to enter default danger zone." Thomson Reuters. <http://www.reuters.com/article/2012/04/17/usa-defaults-outlook-idUSL1E8EN2V520120417>
- Cooper, Michael & Mary Williams Walsh. (12/22/10). "Alabama Town's Failed Pension is a Warning." New York Times. <http://www.nytimes.com/2010/12/23/business/23prichard.html?pagewanted=all>
- Curriden, Mark. (11/01/11). "The Next Chapter: Municipalities Are Using Chapter 9 to Fend Off Creditors." ABA Journal. http://www.abajournal.com/magazine/article/the_next_chapter_municipalities_are_using_chapter_9_to_fend_off_creditors/
- Department of Management Services. "2011 Legislation: Local Bills Passed." http://www.dms.myflorida.com/human_resource_support/retirement/legislation_laws_and_rules/2011_legislation
- Dipaolo, Bill. (05/10/12). "Gardens Fire Union Reach Pension Deal." Palm Beach Post. <http://www.palmbeachpost.com/news/news/gardens-fire-union-reach-pension-deal/nN3mq/>
- DiPaolo, Bill. (07/10/11) " Palm Beach Gardens To Seek Cutbacks in City Police and Fire pensions." The Palm Beach Post. <http://www.palmbeachpost.com/news/news/palm-beach-gardens-to-seek-cutbacks-in-city-police/nLtxy/>
- Dipaolo, Bill & John Kennedy. (12/13/11). "Cities Back Revamp Of Pensions; They Claim The Law For Police And Firefighter Benefits Drains Budgets"
- Figueroa, Laura. (05/22/11). "Hollywood strategizes how to pull itself out of financial hole." The Miami Herald.
- Florida Public Pension Trustees Association. (02/2011). "Understanding Public Pension Plan's Unfunded Sun Sentinel.
- Geggis, Anne. (10/24/12) Boca Raton task force to tackle fire, police pensions. http://articles.sun-sentinel.com/2012-10-24/news/fl-boca-pension-task-force-20121024_1_police-pensions-pension-costs-task-force

- Gibbons, Timothy J. (04/04/12). "DROP a good deal for city employee, but adds to Jacksonville's pension woes." The Florida Times-Union. <http://jacksonville.com/news/metro/2012-04-03/story/drop-good-deal-city-employees-adds-jacksonvilles-pension-woes>
- Green, Nadege. (09/22/11). "North Miami Beach approves police, employee layoffs." The Miami Herald.
- Harwell, Drew. (06/29/11). "Clearwater, firefighters union reach contract agreement." St. Petersburg Times. <http://www.tampabay.com/news/localgovernment/clearwater-firefighters-union-reach-contract-agreement/1177981>
- Knight, Kenneth. (02/22/12). "Police union, city agree on pension changes." Tampa Bay Online. <http://www2.tbo.com/news/northeast/2012/feb/22/nenews07-police-union-city-agree-on-pension-change-ar-360903/>
- Larrabee, Brandon. (02/06/13). "New Legal Fight is Brewing Over Police-Fire Pensions." The News Service of Florida. <http://www.floridatoday.com/viewart/20130109/NEWS01/301090016/New-legal-fight-brewing-over-police-fire-pensions>
- LeRoy Collins Institute. November 2011. Report Card: Florida Municipal Pension Plans. <http://collinsinstitute.fsu.edu/sites/collinsinstitute.fsu.edu/files/Tough%20Choices%20Report%20Card%20Nov%202011.pdf>
- LeRoy Collins Institute. February 2011. Trouble Ahead: Florida Local Governments and Retirement Obligations. <http://collinsinstitute.fsu.edu/files/ToughChoiceTroubleAheadReport.pdf>
- Littlepage, Ron, (08/26/11). "Pension negotiations should be public." Florida Times-Union. <http://jacksonville.com/opinion/blog/400601/ron-littlepage/2011-08-26/pension-negotiations-should-be-public>
- McSwane, J. David. (06/07/11). "Sarasota union workers protests pension cuts." Herald Tribune. <http://www.heraldtribune.com/article/20110607/ARTICLE/306079999>
- Morrison, Mike. (03/23/12). "Brunswick considers paying back workers with cost-saving ideas." The Florida Times-Union. <http://jacksonville.com/news/georgia/2012-03-23/story/brunswick-considers-paying-back-workers-cost-saving-ideas>
- Office of the Mayor of Jacksonville. (10/29/12). Retirement Reform: Police Employees in the PFPF. <http://www.coj.net/Retirement-Reform/Docs/Retirement-Reform-Fact-Sheet-en.aspx>
- Office of the Mayor of Jacksonville (10/29/12). "Retirement Reform: AFSCME JSA, LOIUNA Employees in the General Employees Retirement Plan." <http://www.coj.net/retirement-reform/docs/gepp/pension-reform-handout-afsmce-jsa-liuna.aspx>
- O'Matz, Megan. (07/04/11). "City dug its own fiscal hole with wildly optimistic projections." The Miami Herald.
- Preston, Casey. (09/23/11). "New Smyrna Beach OKs tentative tax rate." Hometown News. <http://www.myhometownnews.net/index.php?id=84919>
- Rabin, Charles & Patricia Mazzel. (09/28/11). "Miami ekes out its 2012 budget with a host of concessions from its unions." The Miami Herald.
- Repecki, Tiffany. (05/17/11). "Pay reductions, health insurance major sticking points in union negotiations." Cape Coral Daily Breeze. <http://www.cape-coral-daily-breeze.com/page/content.detail/id/524356.html>
- Ruane, Don. (09/07/11). "Police, fire layoffs possible in Cape Coral." News-press.com. http://pqasb.pqarchiver.com/news_press/access/2445655771.html?FMT=ABS&date=Sep+08%2C+2011
- Saggio, Jessica J. (05/25/11). "Winter Springs revamps pensions." SeminoleChronical.com. <http://www.seminolechronicle.com/vnews/display.v/ART/2011/05/25/4ddd03a7960ab>
- Smiley, David & Daniel Chang. (09/17/11a). "Municipal pensions a bonanza for employees, a burden for cities." The Miami Herald.
- Smiley, David & Daniel Chang. (01/16/12). "Florida League of Cities: Select Florida Pension Reform Clips." Wctv. http://www.wctv.tv/blogs/editorial/Florida_League_of_Cities_Select_Florida_Pension_Reform_Clips_137412643.html
- Stewart, Thomas. (08/01/11a). "Cape Coral firefighters vote on cuts." Newspress.com. <http://www.news-press.com/article/20110802/NEWS0101/108020361/Cape-Coral-firefighters-vote-cuts>
- Stewart, Thomas. (10/12/11b). "Negotiations turn nasty in the Cape." News-press.com. http://pqasb.pqarchiver.com/news_press/access/2482595361.html?FMT=ABS&date=Oct+12%2C+2011
- Stewart, Thomas. (12/21/11c). "Cape Coral police union agrees to pact." News-print.com. http://pqasb.pqarchiver.com/news_press/access/2543811501.html?FMT=ABS&date=Dec+21%2C+2011
- Summers, Keyonna. (6/4/11) "Union, City In Benefit Quarrel" Tampa Bay Times.
- Thomas, Glenn E., Lewis, Longman & Walker, P.A. (2010). "What in the World Are Florida Statutes Chapters 175 and 185?" <http://www.fgfoa.org/Assets/Files/Past%20Presentations/Annual%20Conference/Glenn.pdf>
- Thomson, Rod. (04/19/12). "City of Sarasota: Local debt crisis." Yourobservers.com. <http://www.yourobservers.com/news/sarasota/Front-Page/0419201219000/City-of-Sarasota-pensions-Local-debt-crisis>
- Valverde, Miriam. (04/12/12). "Bradenton ratifies agreement with firefighters union." Bradenton Herald. <http://www.bradenton.com/2012/04/12/3994598/bradenton-ratifies-agreement-with.html#storylink=cpy>
- Walsh, Mary Williams & Katie Zezima. (08/01/11). "Small City Big Debt Problems." New York Times. <http://www.nytimes.com/2011/08/02/business/rhode-island-city-files-for-bankruptcy.html?pagewanted=all>
- Wexler, Gene. (05/23/12). "Jax pension plan needs reform, Bishop says." Wokv.com. <http://www.wokv.com/news/news/local/jax-pension-plan-need-reform-bishop-says/nPCzS/>

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