

The Changing World of Public Pensions

PA Act 44 of 2009



Agenda

- **Act 44 of 2009**
 - ✓ Short-Term Relief
 - ✓ Long-Term Relief
 - ✓ Deferred Retirement Option Plans (DROPs)
 - ✓ Contracting & Purchasing Standards
 - **Questions**
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Short-Term Relief



New Asset Smoothing Method—
For 1/1/09 Valuation, assets can be equal to the 1/1/07 assets plus contributions minus expenses and benefit payments plus interest credited at 1% less than the plan's assumed rate so long as value is between 70% and 130% of market value.

Long-Term Relief

Distress score is calculated based on the **aggregate funding level** of all of a municipality's pension plans

Provides for certain **voluntary** and **mandatory** remedies for plans that are considered distressed

Distress Scores

Distress Score 0 = Assets 90% or Greater of
Liabilities

Distress Score 1 = Assets 70% to 89% of
Liabilities

Distress Score 2 = Assets 50% to 69% of
Liabilities

Distress Score 3 = Assets Less than 50% of
Liabilities

Long-Term Relief for “Distressed” plans

Cash Balance Plans

- ❑ Municipalities that have **only** a Cash Balance Plan do not receive a distress score, because these plans are, by design, always 100% funded.
 - ❑ Municipalities with a Cash Balance and a Defined Benefit plan receive a distress score based on the aggregate of both plans.
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Deferred Retirement Option Program (DROP)

- Act 44 permits and regulates all DROP programs offered by local Pennsylvania government.
 - Allows employees who are at or beyond normal retirement age to retire and continue to work provided:
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Deferred Retirement Option Program (DROPP)

- The member stops earning service credit toward a future benefit.
 - Retirement benefit is calculated at the time the DROPP participation period begins.
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Deferred Retirement Option Program (DROP)

- (3) The monthly retirement benefit is deposited into a subsidiary DROP participant account that earns interest while member continues to work.
 - (4) Determined date of termination.
 - (5) Member is NOT an elected official.
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Deferred Retirement Option Program (DROP)

Upon termination, the balance of the subsidiary DROP participant account is paid to the member as a lump sum payment, a rollover or a combination.

Contracting & Purchasing

■ Procedures

- ALL “*municipal pension systems,*” including PMRS, must develop procedures to select the most qualified person to enter into a “*professional services contract.*”

■ Disclosures

- Act 44 also imposes conflict of interest disclosure requirements for any contractor who enters into a “*professional services contract*” with a “*municipal pension system.*”

Contracting & Purchasing

Definition of “*professional services contract*”

A contract to which the municipal pension system is a party that is:

- (1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and
 - (2) not subject to a requirement that the lowest bid be accepted.
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Contracting & Purchasing

- Procedures

- Professional Services Subject to Competitive Procurement Requirements
 - Advertising
 - Statement of relevant factors
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Contracting & Purchasing

- Disclosures and Conflicts of Interest
 - Restrictions on the Use of Agents and Lobbyists
 - Restrictions on Political Contributions and Gifts
 - Mandatory Disclosures of Political Contributions and Gifts
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Contracting & Purchasing

Disclosures:

In addition to the political reporting requirements set forth in 25 P.S. § 3260a, contractors are also required under Act 44 to disclose to the *municipal pension system*:

Contracting & Purchasing

Disclosures:

- (1) Information related to the contractor's personnel who will be providing the services under the *professional service contract*;
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Contracting & Purchasing

Disclosures:

(2) The employment or retention and compensation of any third party intermediary, agent or lobbyist

Contracting & Purchasing

Disclosures:

(3) Gifts given to any official, employee or fiduciary of the *municipal pension system*.

Contracting & Purchasing

Disclosures:

- (4) Contributions made to a candidate of or individual holding a public office of the Commonwealth or to a political committee of a candidate of or individual holding a public office in the Commonwealth within the last five years that was at least \$500
- ❑ The \$500 threshold includes a single contribution OR the aggregate of all contributions

Contracting & Purchasing

Disclosures:

(5) Any direct financial, commercial or business relationship with any official, employee or fiduciary of the *municipal pension system*.

Contracting & Purchasing

Restrictions:

- (1) Cannot enter into a *professional services contract* with a *municipal pension system* if a contractor has made a campaign contribution within the past two years to a municipal official or candidate for municipal office in the municipality which controls the *municipal pension system*.

Contracting & Purchasing

Restrictions:

- (2) Minimum one-year restriction on:
- (i) Former employee of a contractor or potential contractor cannot review a proposal or negotiate a contract with former employer.
 - (ii) Former employee of the *municipal pension system* cannot submit a proposal or offer services under a contract with the *municipal pension system*.

Contracting & Purchasing

Restrictions:

(3) No solicitation of contributions to any municipal official or candidate for municipal office in the municipality where the *municipal pension system* is organized or to the political party or political action committee of that official or candidate.

Contracting & Purchasing

Restrictions:

- (4) No *ex parte* communication by “third parties” to the *municipal pension system* except for requests for technical clarification.
- (5) No direct financial, commercial or business relationship with the *municipal pension system* or an official unless written consent is provided.

Contracting & Purchasing

Restrictions:

- (6) Cannot give gifts having more than a nominal value, including money, services, loans, travel, lodging, entertainment, discount or other thing of value, to any official, employee or fiduciary of the *municipal pension system*.

Contracting & Purchasing

Penalties:

The *municipal pension system* shall:

- (1) void all *professional services contracts* with any person that “knowingly makes a material misstatement or omission in a disclosure form” and
- (2) prohibit the person from entering into a contract for a period of up to three years if such misstatement or omission was made with a proposal or bid more than twice in a 36 month period.

Summary

- Short-term relief
 - Redefine long-term relief for “Distressed” municipalities
 - Authorization of DROPs
 - Contract & Purchasing requirements for all *professional services contracts*
 - Disclosure requirements from any person or entity providing services under a *professional services contract*
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