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A Not-So-Public Pension's Disappearing Money.

A \$25 million investment loss by the Boston-area transportation authority's retirement fund demonstrates the need for the same transparency and oversight that other public pensions are subject to.

In 2007, nine months after leaving his post as executive director of the Massachusetts Bay Transportation Authority (MBTA) pension fund to join Fletcher Asset Management, Karl E. White pitched an investment to his former employer. The pension fund invested \$25 million, all of which is now gone.

Even greater than the concern over the lost money is the MBTA pension fund's bizarre legal status in a netherworld between public and private, which made the ill-fated deal possible.

The MBTA pension fund was the only investor in the Fletcher fund. Although the company sent reports to the retirement board as late as 2011 that showed the value of the investment rising, the Fletcher fund was probably insolvent by 2008. White didn't notify the MBTA retirement board that that was the case when he left the company in November 2008.

In March of 2011, the MBTA pension fund asked for \$10 million back, but the request was never fulfilled. A series of Fletcher hedge funds have gone bankrupt, and the bankruptcy trustee told the Boston Globe that those funds have "many of the characteristics of a Ponzi scheme." The FBI, the Securities and Exchange Commission, and Massachusetts' attorney general are all investigating.

The root of the problem can be traced back to the MBTA pension fund's status as a private trust, which has been upheld by two rulings from Massachusetts' highest court.

Legislation enacted last summer required the fund to publish a database of retirement benefits, but it still isn't subject to the same oversight as Massachusetts' other 105 public-pension systems. Moreover, someone in White's position would normally be prohibited from selling investments to a former employer for at least a year and possibly forever, but the MBTA pension fund is exempt from state ethics rules.

The fund is not overseen by the state Public Employee Retirement Administration Commission and isn't subject to the same disclosure rules as other public pension funds. The Fletcher investment was not mentioned in the MBTA Retirement Fund's 2007 annual report, nor was there any mention in the 2011 annual report of the unfulfilled request to have \$10 million of the \$25 million investment returned.

The lack of disclosure is particularly concerning because it appears that the pension fund's financial condition is deteriorating. It went from being 95 percent funded in 2006 to being 68 percent funded in 2011. From what we can piece together, it appears that part of the reason is that the retirement board has skimmed on its annual contribution. In fiscal 2012, it contributed just 71 percent of the costs accrued that year.

Another part of the problem isn't new. MBTA employee pension contributions are subject to collective bargaining, which is not the case for state employees. The latest cohort of state workers contributes about 11 percent of salary to their pensions, and state government kicks in about 4 percent. In fiscal 2013, on the other hand, most MBTA employees paid only 5.5 percent, while the pension fund had to contribute over 20 percent of employee salaries.

The loss of \$25 million in an investment that would not have been possible if the MBTA pension fund were considered public demonstrates that it's time to end the charade. The public — not to mention thousands of MBTA employees and retirees — deserves to know what is going on. Subjecting MBTA's retirement fund to the same oversight as other public-pension funds would allow sunlight to perform its much-needed disinfecting magic.

BY CHARLES CHIEPPO | JANUARY 13, 2014