

STORAGE NAME: h0123a.ga

DATE: April 19, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL APPROPRIATIONS
ANALYSIS**

BILL #: HB 123

RELATING TO: Special Risk Retirement/EMTs

SPONSOR(S): Representative Wasserman Schultz and others

COMPANION BILL(S): SB 668 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS YEAS 4 NAYS 0
- (2) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (3) GENERAL APPROPRIATIONS YEAS 20 NAYS 1
- (4)
- (5)

I. SUMMARY:

HB 123 expands the Special Risk Class of the Florida Retirement System (FRS) to include certified emergency medical technicians (EMTs) and paramedics. Presently, Special Risk Class membership is limited to certain firefighters, law enforcement officers, and correctional officers.

As a result of this expansion, eligible EMTs and paramedics will receive enhanced benefits. Rather than accruing retirement credit at the Regular Class rate of 1.6 percent of average final compensation per year, they will accrue credit at a rate of 3 percent annually. In addition, eligible EMTs and paramedics will be permitted to opt for normal retirement after 25 years of special risk service, or when completing 10 years of creditable service upon reaching the age of 55. Currently, as a Regular Class member, EMTs and paramedics must complete 30 years of regular service, or complete 10 years of creditable service and reach age 62, before they are eligible for normal retirement.

HB 123 will impact only EMTs and paramedics with on-the-scene duties. It will not have any effect on supervisory personnel, administrative personnel, or those EMTs and paramedics who currently belong to the Special Risk Class through cross certification as firefighters, law enforcement officers, or correctional officers.

HB 123 will increase employer costs. Based upon the FRS contribution rates which took effect July 1, 1998, the cost to the employer for each affected employee will be an additional 8.87 percent of the employee's gross compensation. This equates to approximately \$4.8 million annually on affected local governments. The bill's fiscal impact upon state government is estimated to be insignificant. Calculating the impact based on the retirement rates recommended to take effect July 1, 1999, (a 10.93% difference between the Regular Class rate and the Special Risk Class rate) increases the impact on local governments to approximately \$6.3 million.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The FRS is a statewide, defined benefit pension plan. It includes five membership classes: Regular Class, Special Risk Class, Special Risk Administrative Support Class, Elected State and County Officer's Class, and Senior Management Service Class. Approximately 91 percent of FRS members belong to the Regular Class.

Section 121.021, F.S., defines special risk members as certain law enforcement officers, firefighters, and correctional officers who meet the criteria prescribed in section 121.0515, F.S., and who have received special risk member designation from the Florida Retirement System.

Section 121.0515, F.S. provides that the legislative intent for creating the special risk class of membership within the FRS is to protect the retirement benefits of employees in positions that are physically demanding or require extraordinary agility and mental acuity. Individuals in these positions, due to diminishing physical and mental faculties, may find they are unable to continue performing their duties to normal retirement without risk to the health and safety of themselves and the public. Accordingly, these members are allowed to retire with full benefits at age 55 and are given a higher value per year, currently 3 percent, to provide benefits equal to or greater than those a Regular Class member earns during his or her longer, 30-year career.

In most cases, emergency medical technicians (EMTs) and paramedics belong to the FRS Regular Class. As members of the Regular Class, they are subject to a normal retirement age of 62, or they may opt for normal retirement upon completion of 30 years of service. They accrue retirement credit at a rate of 1.6 percent of average final compensation annually. To fund these benefits, employers must contribute an amount equal to 15.51 percent of each employee's pay. However, those FRS EMTs and paramedics who are cross-certified as firefighters, law enforcement officers, or correctional officers may meet the requirements for membership in the Special Risk Class.

While it is true that EMTs and paramedics are exposed to hazardous duty, this has no bearing on their eligibility to participate under current law in the Special Risk Class. Many employees who have hazardous jobs are not included in the Special Risk Class because their job duties are not covered by the legislative intent or criteria of section 121.0515, F.S. However, if emergency medical personnel are forced to retire prior to normal retirement age because of diminishing physical and mental faculties, then emergency medical care may be an employment category that meets the legislative intent.

B. EFFECT OF PROPOSED CHANGES:

HB 123 amends section 121.021, F.S, which provides definitions related to the FRS. Specifically, HB 123 expands the definition of "special risk member" to include EMTs and paramedics. It also amends section 121.0515, F.S., to provide detailed criteria for membership in the Special Risk Class.

EMTs and paramedics receive enhanced benefits as a result of the proposed changes. At the same time, employers of affected EMTs and paramedics are required to make increased retirement contributions. For each affected employee, employers must contribute an amount equal to 24.38 percent of gross compensation. Employer contribution for regular class employees is 15.51 percent. The 8.87 percent difference in rates represents a 57 percent increase in the employer's contribution.

Only those EMTs and paramedics employed by county or municipal governmental entities are eligible to participate. Employees of private ambulance services are not eligible to participate.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Division of Retirement will experience the cost of processing approximately 2,300 applications submitted by employers seeking determination of special risk membership for EMTs and paramedics during the first year. An additional number of applications will require processing each subsequent year.

(3) any entitlement to a government service or benefit?

Qualified paramedics and EMTs will be entitled to a significantly increased retirement benefit (3 percent per year rather than 1.6 percent).

b. If an agency or program is eliminated or reduced:

This bill does not reduce or eliminate an agency or program.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No, however, employer retirement contributions will be increased by 8.87 percent for qualified employees. This could indirectly necessitate a need for increased taxes.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

HB 123 does not authorize any fee or tax increase by any local government; however, local employers of qualified EMTs and paramedics will have to contribute an additional 8.87 percent of each qualified employees' salary representing the increased contributions to the FRS. The bill does not specify a source for the additional funds.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No, to the contrary, qualified EMTs and paramedics will receive a significantly increased retirement benefit (3 percent per year rather than 1.6 percent).

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not purport to provide services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 121.021 & 121.0515, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 adds paragraph (c) to section 121.021(15), F.S., to expand the definition of "special risk member" to include qualified EMTs and paramedics.

Section 2 amends section 121.0515(1), (2), and (7)(a), F.S. It expands the Special Risk Class to include EMTs and paramedics. It also provides guidelines for determining whether EMTs and Paramedics are qualified to participate in the Special Risk Class. Lastly, it allows retention of the special risk normal retirement date for certain employees reassigned to administrative support positions.

The emergency medical technician or paramedic must be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer and be certified in compliance with s. 401.27, F.S.

"Advanced Life Support" means treatment of life-threatening medical emergencies through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, and cardiac defibrillation by a qualified person pursuant to rules of the Department of Health.

"Basic Life Support" means treatment of medical emergencies by a qualified person through the use of techniques such as patient assessment, cardiopulmonary resuscitation (CPR), splinting, obstetrical assistance, bandaging, administration of oxygen, application of medical antishock trousers, administration of subcutaneous injection using a premeasured auto injector of epinephrine to a person suffering an anaphylactic reaction, and other techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the United States Department of Transportation. The term "basic life support" also includes other techniques which have been approved and are performed under conditions specified by rules of the Department of Health.

Section 3 adds a declaration of an important state interest.

Section 4 provides that the act shall take effect October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The cost to the state is estimated to be insignificant. Because the number of affected EMTs and paramedics employed by state agencies cannot be determined precisely, the overall cost to state government is indeterminate. However, employer contribution rates for each affected employee will increase from 15.51 percent to 24.38 percent. This represents an increase of about 57 percent in employer retirement contributions for each affected employee.

There are very few EMTs and paramedics employed by the state. According to the Division of Retirement, the HRS Emergency Medical Services Certification Section estimates that there are approximately 20 employed statewide in correctional institutions and state hospitals. Most of the EMT and paramedic positions are in local agencies.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See item 2 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None. However, HB 123 might produce some impact on existing employment contracts. [SEE COMMENTS]

2. Recurring Effects:

Information received from the Florida Department of Health indicates that the current recurring cost to local governments of this legislation will be approximately \$4.8 million using the current retirement rates and \$6.0 million annually using the rates recommended to take effect July 1, 1999. These estimates are based on 1,150 EMTs and 1,170 Paramedics x the percent increase in employer contribution (8.87% and 10.93%, respectively), and multiplying that product by the average salaries of \$19,000 and \$28,000, respectively. The average salaries for EMTs and paramedics used for these calculations were based on a 1998 national survey conducted by the Journal of EMS magazine.

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|--|----------------|----------------|
| \$19,000 (average salary) x 8.87% x 1,150 (# of EMTs)= | \$1.9 m | \$2.4 m |
| \$28,000 (average salary) x 8.87% x 1,170 (# of paramedics)= | <u>\$2.9 m</u> | <u>\$3.9 m</u> |
| Fiscal Impact on Local Government | \$4.8 m | \$6.3 m |

3. Long Run Effects Other Than Normal Growth:

If the Legislature includes EMTs and paramedics within the FRS Special Risk Class, other similarly situated groups might seek membership, or might renew efforts to gain membership.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Because HB 123 will increase the costs of providing EMT and paramedic services, it might stimulate privatization efforts in the emergency services field.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Article VII, Sec. 18, of the Constitution of the State of Florida excuses local governments from complying with state mandates which impose negative fiscal consequences. Subsection (a) provides, "No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds" unless certain requirements are met. However, exceptions exist.

HB 123 requires participating cities and counties to expend additional funds because it directs them to make higher FRS contributions for a particular group of employees. Therefore, initially at least, HB 123 will fall within the purview of Art. VII, Sec. 18 (a).

Subsection (a) contains an exception for laws which apply "to all persons similarly situated," and which advance an important state interest. HB 123 provides a statement of important state interest, and treats all similarly situated FRS employees in the same manner. Therefore, the bill would be exempt from the requirements of Art. VII, Sec. 18, of the Constitution of the State of Florida.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

HB 123 might have some impact on existing employment contracts. Article I, Sec. 10, of the Constitution of the State of Florida, reads, "No . . . law impairing the obligation of contracts shall be passed." This provision must be read in conjunction with Article I, Sec. 10, of the Constitution of the United States, which forbids states from passing any law "impairing the obligation of

contracts.” Overall, laws which impair contractual obligations are deemed constitutional if they are reasonable and necessary to serve an important public purpose. *Yellow Cab Co. of Dade County v. Dade County*, 412 So.2d 395 (Fla. 3d DCA 1982).

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

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