

**STORAGE NAME:** h1733a.jud

**DATE:** April 7, 1999

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
JUDICIARY  
ANALYSIS**

**BILL #:** HB 1733

**RELATING TO:** Judicial Employees/Retirement

**SPONSOR(S):** Rep. Garcia

**COMPANION BILL(S):** SB 1164(i)

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

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
  - (2) JUDICIARY YEAS 8 NAYS 0
  - (3) GENERAL APPROPRIATIONS
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill amends s. 121.055, F.S., expanding the Senior Management Service Class (SMSC) of the Florida Retirement System(FRS) to include assistant state attorneys, assistant statewide prosecutors, and assistant public defenders who are now Regular Class members of the FRS. The bill also authorizes the state courts to pay Select Exempt Service benefits to judicial assistants.

This bill provides an effective date of October 1, 1999.

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 Officers' Class, and Senior Management Service Class.

Assistant state attorneys, assistant statewide prosecutors, and assistant public defenders belong to the FRS Regular Class. Members of the Regular Class become eligible for normal retirement benefits at attainment of 62 years of age or completion of 30 years service, whichever occurs first; must have 10 years of service to vest retirement benefits; and accrue retirement credit at a rate of 1.6 percent per year of service. To fund these benefits, employers currently contribute 15.51 percent of each employee's gross pay.

The Senior Management Service Class of the FRS became effective February 1, 1987, and has existed as a separate system of personnel administration for employees of the executive branch whose responsibilities primarily and essentially require policy-making or managerial oversight. The class is limited in size to no more than .5 percent of the total full-time equivalent positions in career service. Exempt from the Career Service System, Senior Management Service employees are not subject to continuing employment contracts or civil service protections, and serve at the pleasure of the state or local agency employer.

By establishing this membership class, the Legislature created a uniform system of recruiting and retaining competent individuals to top-policy making, managerial positions in state government. In addition, many of these professionals recruited by officials whose tenures are subject to the elective process, are not likely to remain in state government for the 10 years required to vest Regular Class retirement benefits. Consequently, the SMSC has a shorter vesting period (7 years of service) and a higher accrual rate (2 percent). To fund these benefits, employers currently contribute 23.10 percent of each employee's gross pay.

The Legislature created the Selected Professional Service System pursuant to ch. 85-318, L.O.F., since renamed the Selected Exempt Service. The system exists as a separate system of personnel administration for positions designated as managerial/policy making, professional, or nonmanagerial/nonpolicy-making. As intended by the Legislature, these positions provide management flexibility to ensure that the workforce is responsive to agency needs. This class is limited in size to no more than 1.5 percent of the total full-time equivalent positions in career service. Selected Exempt Service employees serve at the pleasure of the agency head and are exempt from personnel actions.

B. EFFECT OF PROPOSED CHANGES:

This bill will expand the Senior Management Service Class (SMSC) to include assistant state attorneys, assistant statewide prosecutors, and assistant public defenders who are now Regular Class members of the Florida Retirement System (FRS), effective January 1, 2000. This bill also authorizes the state courts to pay Select Exempt Service benefits to judicial assistants, effective October 1, 1999.

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?

No.

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

Assistant state attorneys, assistant statewide prosecutors, assistant public defenders and judicial assistants will receive enhanced benefits.

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

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

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

- (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.

- 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?

No.

3. Personal Responsibility:

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

No.

- 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:

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

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

- (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:

- (1) parents and guardians?

This bill does not create or change a program providing services to families or children.

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

s. 121.055, F.S.

E. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Amends s. 121.055(h)(1), F.S., providing that , effective January 1, 2000, participation in the Senior Management Service Class shall be compulsory for assistant state attorneys, assistant statewide prosecutors, and assistant public defenders.

**Section 2.** Provides that the state courts are authorized to pay Selected Exempt Service benefits to all judicial assistants within the state courts system.

**Section 3.** Provides an effective date of 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 bill affects the Justice Administration Commission and its assistant state attorneys and assistant public defenders as well as the Department of Legal Affairs and its assistant statewide prosecutors. In total there are 3,014 positions affected by the bill.

<u>Job Title</u>	<u>Employees</u>	<u>Payroll</u>
Assistant State Attorney	1,769	\$88,423,697
Assistant Public Defender	1,212	58,597,104
Assistant Statewide Prosecutor	33	1,908,141
<b>Totals</b>	<b>3,014</b>	<b>\$148,928,942</b>

Based upon the proposed contribution rates resulting from the 1998 actuarial valuation for Regular Class Membership (9.21 percent) and SMSC (11.19 percent) the incremental cost to the state would be 1.98 percent of total payroll for the affected members. The additional cost to the state for the next three years including a 3 percent cost of living adjustment is:

FY 99-00 \$1,518,628  
 FY 00-01 \$ 3,128,375  
 FY 01-02 \$ 3,222,226

Reclassifications to the Selected Exempt Service personnel system will affect 807 judicial assistants within the state court system (supreme court - 10, district court of appeals - 66, circuit courts - 468, and county courts - 263). These individuals will now be eligible for the following benefits pursuant to 60M-1.008 and 1.009, F.A.C.:

- \* 176 hours of credited annual leave;
- \* 104 hours of credited sick leave;
- \* payment for 100 percent of the premium for state individual life insurance policy;
- \* payment for 100 percent of the state group health insurance plan premium for the individual or their family; and
- \* payment for 100 percent of the state individual disability insurance policy.

The financial effects of this application are as follows:

FY 99-00 \$ 995,218  
 FY 00-01 \$1,326,957  
 FY 01-02 \$1,326,957

**Note:** These cost figures do not take into consideration the possible 32 new judicial assistants that are part of the current funding request associated with judicial certifications.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See 2 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to expend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

V. COMMENTS:

Due to the statutory provisions of this bill, judicial assistants designated as Selected Exempt Service employees will be exempted from the formula which limits the Select Exempt Service personnel system in size to no more than 1.5 percent of the total full-time equivalent positions in career service. Additionally, pursuant to s. 25.382(3), F.S., the Supreme Court is authorized to adopt and establish by rule, policies related to employee pay classification as applicable and independent of the Legislature's authority provided they remain within appropriated funds. It is questionable whether additional statutory authority is required regarding this matter.

To the extent that counties funds local judicial assistant salaries and benefits, the costs of implementation of the bill must be evaluated in light of the pending reorganization of the funding for the state court system under Article V of the State Constitution.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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