

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1164

SPONSOR: Senator Silver

SUBJECT: Judicial Employees

DATE: March 11, 1999

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lombardi</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/ 1 amendment</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The 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). The bill also authorizes the state courts to pay Select Exempt Service benefits to judicial assistants.

This bill will take effect October 1, 1999.

This bill amends section 121.055, Florida Statutes.

II. 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.

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 of 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 contribute 15.51¹ percent of each employee's gross pay.

In 1980, the Senior Management Service was created pursuant to ch. 80-404, L.O.F., 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

¹ Section 121.071(1)(a), F.S. (1998 Supp.).

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.

In 1987 the SMSC was created under ch. 86-149, L.O.F., becoming one of the five current participating membership classes of the FRS. 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 short vesting period (7 years of service) and a higher accrual rate (2 percent). To fund these benefits, employers contribute 23.10² 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/policymaking, professional, or nonmanagerial/nonpolicymaking. As intended by the Legislature, these positions provide management flexibility to ensure that the workforce is responsive to agency needs. The 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.

III. Effect of Proposed Changes:

The 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. The bill also authorizes the state courts to pay Select Exempt Service benefits to judicial assistants, effective October 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

² Section 121.055(3)(a), F.S. (1998 Supp.).

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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. The breakdown is depicted in Table 1., as follows:

Table 1.

NEW POSITION ELIGIBILITY TO SMSC		
Job Title	Number of Employees	Annual Payroll
Assistant State Attorney	1,769	\$88,423,697
Assistant Public Defender	1,212	\$58,597,104
Assistant Statewide Prosecutors	33	\$1,908,141
Totals	3,014	\$148,928,942

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.

Table 2. represents the additional cost to the state for the next three years and includes a 3 percent cost of living adjustment (COLA).

Table 2.

FISCAL RETIREMENT IMPACT		
FY 1999-00	FY 2000-01	FY 2001-02
\$1,518,628	\$3,128,375	\$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 depicted in Table 3., as follows:

Table 3.

FISCAL BENEFIT IMPACT		
FY 1999-00	FY 2000-01	FY 2001-02
\$995,218	\$1,326,957	\$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.

Other

Pursuant to s. 110.205, F.S., physicians, attorneys and particularly those in the Office of Statewide Prosecution are classified as Selected Exempt Service. Specific Appropriation 621 of the 1998-99, General Appropriations Act adds assistant state attorneys and assistant public defenders to Selected Exempt Service. The final quarter fiscal impact was \$1,030,619 and the 1999-2000 fiscal impact is anticipated to be approximately \$4,122,476.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Assistant State Attorneys, Statewide Prosecutors, and Public Defenders

Positions in the SMSC are for managerial or policymaking employees who are not subject to continuing contract and serve at the pleasure of the local employer without civil service protection. These individuals are usually heads of organizational units, or have responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her area of responsibility.

Judicial Assistants

Due to the statutory provisions of the 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.³, 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.

VIII. Amendments:

#1 by Governmental Oversight and Productivity:

The amendment limits the extent of the benefit for judicial assistants to:

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. It does not include credited hours for annual and sick leave.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

³ The manner of selection of employees, the determination of qualifications and compensation, and the establishment of policies relating to the work of such employees, including hours of work, leave, and other matters, shall be determined by rule of the Supreme Court as provided in s. 2(a), Art. V of the State Constitution.