

# 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 94

SPONSOR: Senator Brown-Waite

SUBJECT: The Florida Retirement System

DATE: January 20, 2000

REVISED: 2/8/2000 \_\_\_\_\_

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

## I. Summary:

The bill increases the minimum in the line of duty disability benefit for Special Risk Class members from 42 percent to 65 percent of average final compensation (AFC) for an annuitant selecting an Option 1 pension benefit.

This bill takes effect January 1, 2001.

This bill amends section 121.091, Florida Statutes.

## II. Present Situation:

The Florida Retirement System (FRS) is a multi-employer, non-participatory defined benefit pension plan that provides vested members a retirement benefit based on a formula determined by years of service, average final compensation, and member classification accrual rates. It includes five membership classes: Regular, Special Risk, Special Risk Administrative Support, Elected State and County Officers, and Senior Management Service. The benefit formula, in combination with up to 500 hours of annual leave, yields the base retirement benefit which is subsequently adjusted for inflation by a fixed three percent cost-of-living allowance. To receive the full retirement benefit, members must first reach their "normal retirement date" based on membership classification and age and/or length of service. Early retirement for vested members is accompanied by a penalty measured from age 62.

All member classes of the FRS are eligible for disability benefits. Members whom become permanently and totally disabled in the line of duty currently receive a minimum disability benefit of 42 percent of AFC. Those members who become permanently and totally disabled other than in the line of duty receive a minimum disability benefit of 25 percent of AFC. Members who are permanently and totally disabled in the line of duty have vested rights to their disability retirement benefit immediately upon employment and membership in the FRS. Members becoming permanently and totally disabled, other than in the line of duty, must have 10 years of creditable

service before being eligible to receive disability retirement benefits. Because disability benefits are a feature of the bundled benefit package in a defined benefit plan, they are not made available to employees in faculty and management employment who choose an optional defined contribution pension separately from the FRS.

### **III. Effect of Proposed Changes:**

The bill increases the minimum in the line of duty disability benefit for Special Risk Class members from 42 percent to 65 percent of AFC for an option 1 selected benefit.

The bill requires an increase in contribution rates for Special Risk Class and Special Risk Administrative Support Class membership. The increase is .13 percent and .21 percent of gross payroll, respectively, for each class.

The bill provides a statement of important state interest in conformity with Art. VII, s. 18, State Constitution.

This bill takes effect January 1, 2001, except the payroll contribution rate increase takes effect July 1, 2000.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The bill imposes a mandate requiring local governments to expend additional dollars above the \$1.5 million threshold by increasing the in the line of duty disability benefit for Special Risk Class membership in the FRS. Art. X, s. 14, State Constitution, provides that retirement or pension systems supported by public funds must make provisions for prefunding of benefits on a sound actuarial basis. However, a mandated issue may be exempted if the Legislature finds that the bill serves an important state interest; all employers participating in the FRS are required to comply for similarly situated persons; and two-thirds of the membership of each legislative chamber votes in support of the bill.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

Unlike normal retirement benefits, disability benefits are exempt from federal income taxes. Increasing disability benefits also increases the amount of dollars exempted from federal income taxation. This is commonly described as a tax expenditure to the federal treasury.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires an increase in contribution rates for Special Risk Class and Special Risk Administrative Support Class membership. The increase is .13 percent and .21 percent of gross payroll, respectively, for each class. The following table expresses the budgetary increase in dollars needed to fund the benefit:

<b>FISCAL IMPACT</b>			
<b>Fiscal Year</b>	<b>1/01 - 6/01</b> (6 months)	<b>7/01 - 6/02</b> (12 months)	<b>7/02 - 6/03</b> (12 months)
State	\$434,175	\$911,767	\$957,600
Local	\$1,014,825	\$2,130,450	\$2,237,550
<b>Total</b>	<b>\$1,449,000</b>	<b>\$3,042,217</b>	<b>\$3,195,150</b>

Source: Milliman and Robertson

Section VI, *below*, describes a contingency which could have a fiscal consequence. The fiscal impact statement assumes that the effect of the bill is prospective only. Should it be determined that current disability retirees may claim a portion of the enhanced benefit, the fiscal impact would be understated. This may raise a legal challenge that the bill does not contain the proper prefunding as required by Art. X, s. 14, State Constitution.

**VI. Technical Deficiencies:**

To avoid ambiguity associated with the effective date, the bill should address that its operation is prospective to new disability retirement claims. Otherwise, existing disability retirees may make a claim that the portion of their benefit payable after the effective date would be governed by the 65 percent rather than the 42 percent standard. That, in turn would increase the logistic difficulty to the Division of Retirement in adjusting these cases and the financial impact to the payment stream. There may also be residual administrative rule issues should such retirees claim that an agency disqualification due to ambiguity is not clearly established in the implementing statute.

**VII. Related Issues:**

Under the provisions of s. 440.15(10), F.S., Social Security benefits under this section may be offset by workers' compensation benefits to the extent that total compensation does not exceed 80 percent of the employee's average weekly salary. More recently, the Florida Supreme Court ruled that workers' compensation benefits may be offset to the extent that the total of workers' compensation, disability retirement, and Social Security disability benefits exceed 100 percent of the employee's average weekly wage (*Escambia County Sheriff's Department v. Thomas Grice*, 692 So.2d 896 (Fla. 1997)).

Under the average weekly salary equation for benefits compensation, an increase in the FRS disability benefit would offset workers' compensation benefits potentially lowering the employer's cost for workers' compensation coverage. The effect is that workers' compensation benefits will play a lesser role in the formula for benefit compensation resulting in greater Social Security benefit payments.

Raising the minimum in the line of duty disability benefit to 65 percent of AFC is equivalent to a normal retirement benefit for Special Risk Class members with 21.66 years of creditable service, assuming a 3 percent per year benefit accrual rate. Currently, the normal retirement benefit for a Special Risk Class member with 14 years of creditable service, assuming a 3 percent per year benefit accrual rate, is greater than the in the line of duty disability retirement benefit. When members are eligible for permanent and total disability benefits, they may receive the greater of the disability retirement benefit or the normal retirement benefit.

For purposes of clarification, an Option 1 benefit under the FRS is "the maximum retirement benefit payable to the member" only for the retiree's lifetime (FAC, 60S-4.010). The other three benefit options provide reduced payments but include survivor's benefits.

**VIII. Amendments:**

#1 by Governmental Oversight and Productivity:

Includes an embedded effective date of July 1, 2000 to provide that the benefit changes effect only new disability claims on and after that date.