

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Criminal Justice Committee

BILL: CS/SB 1626

SPONSOR: Criminal Justice Committee and Senator Crist

SUBJECT: Capital Collateral Regional Counsel-Senior Management Service Class

DATE: April 27, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.	_____	_____	GO	_____
3.	_____	_____	JA	_____
4.	_____	_____	WM	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Senate Bill 1626 would amend s. 121.055, F.S., to include the offices of the capital collateral regional counsels in the state agencies eligible to designate additional positions for membership in the Senior Management Service Class (SMSC). Employees filling positions that are designated for the SMSC will have the choice to participate in the Senior Management Service Optional Annuity Program (SMSOAP) in lieu of the class.

This bill substantially amends the following section of the Florida Statutes: 121.055.

II. Present Situation:

Florida Retirement System (FRS) profile. The FRS was created in December 1970 to consolidate then-existing state-administered retirement systems for state and county officers and employees, teachers, judges, and Highway Patrol officers. Today, the FRS is the fourth largest public retirement system in the United States, covering 633,489 active employees, 217,158 annuitants (retirees and their surviving beneficiaries), and 28,280 participants of the Deferred Retirement Option Program (DROP).

All state and county employees are compulsory members of the FRS, and as of June 30, 2004, about 141 Florida cities were covering firefighters, police, and/or general employees under the FRS. On that date, there were also 166 independent special districts with members in the FRS. As of June 30, 2004, state employees (including university employees) represent 21.8 percent of the FRS membership. Remaining members are employed by local agencies, including all counties (23.5 percent), district school boards (48.3 percent), and community colleges (2.8 percent), as well as cities and special districts (3.6 percent) that have opted to join the FRS.

The active membership of the FRS is divided into five membership classes: The Regular Class consists of 558,051 members (88.1 percent of the membership); the Special Risk Class includes 66,861 members (10.6 percent), the Special Risk Administrative Support Class has 92 members (0.014 percent), the Elected Officers' Class has 2,112 members (0.33 percent), and the Senior Management Service Class has 6,373 members (1.0 percent). Each class is separately funded based upon the costs attributable to the members of that class.

Senior Management Service Class. The SMSC was established effective February 1, 1987, in order to attract highly qualified individuals to the top policy-making managerial positions in state government. Members of the SMSC have a normal retirement age of 62, but they earn a higher accrual value than do members of the FRS Regular Class. Senior managers whose positions have been added to the class in subsequent years can purchase (or their employers can purchase for them) additional retirement credit for service within the purview of the class retroactive to February 1, 1987. With certain exceptions, state SMSC members can also choose to withdraw from the FRS and participate instead in the Senior Management Service Optional Annuity Program, which offers immediate vesting. Local agency SMSC members, including community college presidents, city and county managers, and appointed district school superintendents, may elect to withdraw from the FRS altogether.

Positions included or authorized to be included in the SMSC. Originally, membership in the Senior Management Service Class was strictly limited to those members who held positions in the Senior Management Service of the state personnel system (executive branch employees only). However, since the creation of the class, the Legislature has added the following positions in the legislative and judicial branch and local government agencies to this retirement class:

- Effective January 1, 1990, specified local senior managers (including community college presidents, appointed school superintendents, and the county manager and city manager of each local government participating in the FRS) were added by law to the class under s. 121.055(1)(b), F.S.;
- Effective January 1, 1990, legislative managers (includes selected managerial staff of the Legislature, the Auditor General and his managerial staff, and the Executive Director of the Ethics Commission) were added by law to the class under s. 121.055(1)(c), F.S.;
- Effective January 1, 1991, State University System managers (positions include the Executive Service of the State University System and state university presidents) were added by law to the class under s. 121.055(1)(d), F.S.;
- Effective January 1, 1991, State Board of Administration managers (senior-level management positions with the State Board of Administration) were added by law to the class under s. 121.055(1)(e), F.S.;
- Effective January 1, 1994, specified judicial branch senior managers were added by law to the class under s. 121.055(1)(f), F.S.;

- Effective January 1, 1994, state attorneys, public defenders and capitol collateral regional counsels were granted conditional authority to designate a limited number of additional managerial positions for inclusion in the SMSC under s. 121.055(1)(f), F.S.;
- Effective January 1, 1994, each participating local agency was granted conditional authority to designate a limited number of additional managerial positions for inclusion in the SMSC under s. 121.055(1)(b), F.S.;
- Effective July 1, 1999, judges of compensation claims (positions in the Department of Labor and Employment Security) were added by law to the class under s. 121.055(1)(i), F.S.;
- Effective January 1, 2001, assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsels were added to the SMSC (but were excluded from participation in SMSOAP) under s. 121.055(1)(h)2, F.S.;
- Effective January 1, 2002, assistant attorneys general became compulsory members of the SMSC under s. 121.055(1)(h)2, F.S.; and
- Effective June 1, 2002, the chief deputy court administrator in each judicial circuit was included in the SMSC under s. 121.055(1)(h)1, F.S.

Article X, Section 14, of the Florida Constitution. Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Part VII of chapter 112, F.S. Article X, Section 14, of the Florida Constitution is implemented by statute under part VII of chapter 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act,” which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to “ ... prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”

III. **Effect of Proposed Changes:**

Under CS/SB 1626, each capitol collateral regional counsel could designate one non-elective position for SMSC membership. After the first 200 positions, up to 0.50 percent of regularly established positions could be designated as SMSC. Such members could elect membership in

the Senior Management Service Optional Annuity Program (SMSOAP) in lieu of the class. The number of positions covered under the SMSC could increase by two under the provisions in SB 1626. According to the Justice Administrative Commission (JAC), there are two offices of the capital collateral regional counsels and collectively they have 61 FTEs. There would be one position in each of those offices that would qualify for designation to the SMSC. Based on current contribution rates, the employer would be required to pay an additional 1.98 percent of gross compensation (the difference between the current SMSC and Regular Class contribution rates).

Members who are filling the positions designated for the SMSC would be eligible to upgrade previous service within the scope of the class back to February 1, 1987, when the SMSC was created.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The cost in increased employer contribution rates to add SMSC positions within the capital collateral regional counsels would be an extra 1.98 percent of pay for all affected members, based on the difference between Regular Class and SMSC retirement contribution rates in effect on July 1, 2004. There are currently two affected positions within the offices of the capital collateral regional counsels (one position in each office). Because of the small number of affected members, the fiscal impact to the system of SB 1626 would be nominal. However, future valuations will reveal the actual impact of this change and will be addressed at that time.

According to the Department of Management Services Division of Retirement staff, the bill complies with the requirements of Article X, Section 14 of the Constitution, and the provisions of Chapter 112, Part VII, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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