

# 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.)

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Prepared By: Education Committee

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BILL: CS/SB 2556

INTRODUCER: Education Committee and Senator Saunders

SUBJECT: Florida Retirement System

DATE: April 24, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Matthews</u>	<u>ED</u>	<u>Fav/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill authorizes district school boards and the Florida School for the Deaf and the Blind Board of Trustees to enter into annual reemployment contracts with retired members for certain instructional personnel positions on an annual contractual basis.

To be eligible for reemployment as instructional personnel, this bill specifies that retired members must be retired for one calendar month.

This bill substantially amends section 121.091 of the Florida Statutes.

## II. Present Situation:

### *Florida Retirement System*

According to the Department of Management Services, the Florida Retirement System was created in 1970 to consolidate existing retirement systems for state and county officers and employees, teachers, judges, and Highway Patrol officers. The FRS is the fourth largest public retirement system in the U.S., covering over 648,000 active employees and over 229,000 annuitants (retirees and their surviving beneficiaries).<sup>1</sup> District school boards represent nearly half (48.7 percent) of the FRS membership, and with the addition of community colleges (2.8 percent) and universities (3.5 percent), educational institutions comprise about 56 percent of the FRS membership. Among K-12 employees, classroom teachers represent about half of district school board employees and one-fourth of total FRS membership.

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<sup>1</sup> These figures are based on data from June 30, 2005.

### ***Reemployment in the Educational System***

Regarding reemployment of public educational system employees, district school boards, community college boards of trustees, the state university system, and the Board of Trustees of the Florida School for the Deaf and the Blind are authorized to reemploy retired members, in certain capacities, and based on specified agreements. Time limits apply to reemployment by community colleges, state universities, and the Board of Trustees of the Florida School for the Deaf and the Blind, such that the retired member can only work up to 780 hours during the first 12 months of retirement. Violators of the hour restriction provision are subject to joint and several liability, and must repay any benefits earned during the reemployment limitation period.<sup>2</sup> Reemployment restrictions originally applied to all classes of employees, but were limited in response to a critical teaching shortage in the school districts.

### ***District School Board Reemployment***

A district school board is authorized to reemploy a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis, after one month of retirement. District school boards are also authorized to reemploy retired members as instructional personnel on an annual contractual basis, but are limited to reemploying classroom teachers.<sup>3</sup>

### ***Board of Trustees of the Florida School for the Deaf and the Blind Reemployment***

The Board of Trustees is authorized to reemploy retired members as substitute teachers, substitute residential instructors, or substitute nurses on a noncontractual basis after one month of retirement.<sup>4</sup>

### ***Personnel Classifications***

Instructional personnel are defined as K-12 staff members whose function includes providing direct instructional services to students, or direct support in the learning process of students.<sup>5</sup> This classification of personnel includes:

- Classroom teachers;
- Student personnel services;
- Librarians/Media specialists;
- Other instructional staff, including primary specialists, learning resource specialists, instructional trainers, and certified adjunct educators; and
- Education paraprofessionals, defined as persons under direct supervision of an instructional staff member, including paraprofessionals in the following areas: the

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<sup>2</sup> s. 121.091(9)(b), F.S.

<sup>3</sup> s. 121.091(9)(b)3., F.S.

<sup>4</sup> s. 121.091(9)(b)6., F.S.

<sup>5</sup> s. 1012.01(2), F.S.

classroom; exceptional education; career education; adult education; library; and physical education and the playground.<sup>6</sup>

### III. Effect of Proposed Changes:

In addition to the current provision, which authorizes district school boards to enter into annual reemployment contracts with classroom teachers, this bill extends the contract option to other instructional personnel reemployed in the following positions:

- Substitute or hourly teachers;
- Transportation assistants;
- Bus drivers; or
- Food service workers.

District school boards are still authorized to reemploy retired members as education paraprofessionals on a noncontractual basis.

In addition to current classification position reemployment on a noncontractual basis, this bill authorizes annual reemployment contracts to be offered by the Board of Trustees of the Florida School for the Deaf and the Blind for instructional personnel with the exception of education paraprofessionals, but only after one month of retirement has passed.

### IV. Constitutional Issues:

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

See Section V., Government Sector Impact section of this analysis for the discussion of constitutional issues in the context of the fiscal impact.

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

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

See Section V., Government Sector Impact section of this analysis for the discussion of constitutional issues in the context of the fiscal impact.

### V. Economic Impact and Fiscal Note:

#### A. Tax/Fee Issues:

None.

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<sup>6</sup> s. 1012.01(2)(a) through (e), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

**Sound Actuarial Basis Requirement**

Section 14 of Article X of the State Constitution requires that any changes made to a publicly funded retirement or pension system resulting in an increase in member or beneficiary benefits must also include provision for the funding of the increase in benefits on a sound actuarial basis.

Section 18(a) of Article VII of the State Constitution provides, in part:

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 the legislature has determined that such law fulfills an important state interest....

This provision additionally requires certain criteria to be met.

According to the Department of Management Services:

- While the enactment of SB 2556 would generate costs that would ultimately have a fiscal impact on all employers (including counties and municipalities), the bill fails to include a declaration of important state interest. Without such declaration, it could be construed as an unfunded mandate on local governments under Art. VII, Sec. 18, of the Florida Constitution.
- The bill fails to provide a funding mechanism to cover the added costs. Without appropriate funding, the bill is in violation of Art. X, Sec. 14, of the Florida Constitution.
- As the bill is constructed, these added costs would be borne by all FRS employers, while only specified educational employers would benefit from the proposal. The only way to limit the costs to the affected employers would be to create a special subclass or subclasses for employees of the affected educational employers and increase the required FRS employer contribution rates for these members.<sup>7</sup>

The Department of Management Services additionally indicates the need for a special study, such as a Milliman study, to determine the fiscal impact of the bill.

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<sup>7</sup> The Department of Management Services notes that employees in the same membership class are generally subject to the same plan requirements and benefit structure. To provide for fairness and equity in funding, the department recommends the creation of a special membership classification for that subgroup, similar to the Elected Officers' Class, which is subdivided into subclasses.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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