



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill allows certain members of the Special Risk Class to upgrade specified prior academy or training service.

### B. EFFECT OF PROPOSED CHANGES:

#### Florida Retirement System

Chapter 121, F.S., is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.<sup>1</sup>

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 158 cities and 192 independent special districts that have elected to join the system.<sup>2</sup>

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for over: 600,000 active members, 252,000 retirees and surviving beneficiaries, and 31,000 Deferred Retirement Option Program participants.<sup>3</sup> Members of the FRS belong to one of five membership classes:

1. Regular Class <sup>4</sup>	583,213 members	87.73% of membership
2. Special Risk Class <sup>5</sup>	72,078 members	10.84% of membership
3. Special Risk Administrative Support Class <sup>6</sup>	74 members	0.01% of membership
4. Elected Officers' Class <sup>7</sup>	2,195 members	0.33% of membership
5. Senior Management Service Class <sup>8</sup>	7,259 members	1.09% of membership <sup>9</sup>

Each class is funded separately through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, F.S.<sup>10</sup>

#### The Special Risk Class and its expansion

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,<sup>11</sup> may need to retire at an earlier age with less service than other types of employees.<sup>12</sup> As such, members of the Special Risk Class can retire at age 55 or with 25 years of

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<sup>1</sup> Section 121.025, F.S.

<sup>2</sup> FL Dept. of Mgmt. Svcs., *Florida Division of Retirement Main Page* (visited Feb. 12, 2007) <[www.frs.state.fl.us](http://www.frs.state.fl.us)>

<sup>3</sup> *Id.*

<sup>4</sup> Section 121.021(12), F.S.

<sup>5</sup> Section 121.0515, F.S.

<sup>6</sup> Section 121.0515(7), F.S.

<sup>7</sup> Section 121.052, F.S.

<sup>8</sup> Section 121.055, F.S.

<sup>9</sup> FL Dept. of Mgmt Svc, HB 81 (2007) Substantive Bill Analysis (on file with dept. and the Committee on State Affairs) at 3. [hereafter referred to as DMS Analysis]

<sup>10</sup> *See, e.g.*, s. 121.055(3)(a)1., F.S.

<sup>11</sup> Section 125.0515(1), F.S. (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity)

<sup>12</sup> *Id.*

creditable service.<sup>13</sup> Members of the Special Risk Class also earn a higher normal retirement benefit of three percent of the member's average final compensation.<sup>14</sup> These increased benefits are funded through higher employer contribution rates: 19.76 percent of gross compensation, effective July 1, 2006, and 21.96 percent, effective July 1, 2007.<sup>15</sup>

The only employees originally in the Special Risk Class were law enforcement officers, correctional officers, and firefighters.<sup>16</sup> Starting in 1999, however, the Legislature began expanding the membership to include:

1999	Emergency medical technicians and paramedics <sup>17</sup>
2000	Community-based correctional probation officers <sup>18</sup>
2000	Twenty-four types of employees of correctional or forensic facilities or institutions <sup>19</sup>
2001	Youth custody officers <sup>20</sup>
2005	Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline <sup>21</sup>

Another legislative trend has followed the expansion of the Special Risk Class: allowing members who have previous service in another class of the FRS, usually the Regular Class, to purchase additional retirement credit to upgrade that previous service to Special Risk Class service. In 2001, the Legislature permitted emergency medical technicians and paramedics to purchase credit for such upgraded service.<sup>22</sup> In 2002, the Legislature allowed members whose responsibilities included fire prevention or fire fighting training to purchase credit for upgraded service.<sup>23</sup>

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<sup>13</sup> Section 121.021(29), F.S., defines normal retirement date, which contrasts with members of the Regular Class who can retire at age 62 or with 30 years of creditable service.

<sup>14</sup> Section 121.091(1)(a)2.h., F.S. (compared with 1.60 percent to 1.68 percent for Regular Class members).

<sup>15</sup> Section 121.71(3), F.S. (compared with 8.69 percent, effective July 1, 2006, and 9.55 percent effective July 1, 2007, for Regular Class members).

<sup>16</sup> Ch. 78-308, L.O.F.; codified as s. 121.0515, F.S.

<sup>17</sup> Ch. 99-392, L.O.F., s. 23.

<sup>18</sup> Ch. 2000-169, L.O.F., s. 29.

<sup>19</sup> *Id.* (The following employees must spend at least 75 percent of their time performing duties which involve contact with patients or inmates to qualify for the Special Risk Class: dietician; public health nutrition consultant; psychological specialist; psychologist; senior psychologist; regional mental health consultant; psychological services director-DRC; pharmacist; certain senior pharmacists; dentist; senior dentist; registered nurse; senior registered nurse; registered nurse specialist; clinical associate; advanced registered nurse practitioner; advanced registered nurse practitioner specialist; registered nurse supervisor; senior registered nurse supervisor; registered nursing consultant; quality management program supervisor; executive nursing director; speech and hearing therapist; and pharmacy manager).

<sup>20</sup> Ch. 2001-125, L.O.F., s. 43.

<sup>21</sup> Ch. 2005-167, L.O.F., s. 1; codified as s. 121.0515(2)(h), F.S. (The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility; the forensic discipline must be recognized by the International Association for Identification and the member must qualify for active membership in the International Association for Identification).

<sup>22</sup> Ch. 2001-235, L.O.F. s. 6.

<sup>23</sup> Ch. 2002-273, L.O.F. s. 16.

## Law Enforcement and Correctional Officer Training

In July 2000, the value of Special Risk Class service was increased substantially for all special risk members retiring after that date.<sup>24</sup> The increase was given retroactive effect for all service credit originally earned in the Special Risk Class from October 1, 1978, through December 31, 1992. Because academy training service was covered by the Regular Class at the time it was originally performed, it was not included as service performed in the Special Risk Class between October 1978 and December 1992, which was retroactively upgraded to a three percent accrual value in 2000.<sup>25</sup>

### Proposed Changes

This bill permits Special Risk Class members, or their employers, to upgrade the following creditable service previously earned in the Regular Class to Special Risk Class service:

Attendance at a certified training academy or other certified training facility between July 1, 1978 and June 30, 1984, which was approved by the employer for certification as a law enforcement or correctional officer.

The bill allows such service to be upgraded to the same percentage of the member's average final compensation as provided for by the normal retirement benefit for Special Risk Class members. The bill requires the contributions for upgrading the service to be equal to the difference in the contributions paid and the Special Risk Class contribution rate as a percentage of gross salary in effect for the period being claimed, plus interest thereon at the rate of 6.5 percent per year, compounded annually until the date of payment.

#### C. SECTION DIRECTORY:

Section 1 amends s. 121.0515, F.S., to permit the upgrade of certain prior service.

Section 2 provides a statement of important state interest.

Section 3 provides an effective date of upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

The cost paid by the affected members or their employers is not expected to be sufficient to cover the cost for this benefit enhancement,<sup>26</sup> therefore, there may be a fiscal impact on state government expenditures through increased contribution rates for all state employers with Special Risk Class members.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

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<sup>24</sup> Ch. 2000-169, L.O.F., ss. 15 and 16, increased the accrual rate to three percent for service in the Special Risk Class of the FRS pension plan from lower accrual rates applicable from October 1978 through December 1992. These prior rates ranged from 2 percent to 2.8 percent.

<sup>25</sup> DMS Analysis at 2.

<sup>26</sup> DMS Analysis at 6.

2. Expenditures:

The cost paid by the affected members or their employers is not expected to be sufficient to cover the cost for this benefit enhancement;<sup>27</sup> therefore there may be a fiscal impact on local government expenditures through increased contribution rates for all local employers with Special Risk Class members.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Department of Management Services noted the following fiscal impact for the bill:<sup>28</sup>

The cost to be paid by the affected members or employers on behalf of their employees to upgrade the eligible period of service is not sufficient to pay for this kind of benefit enhancement; however, the additional employer cost is insufficient to trigger a 0.01% rate increase. Any costs not covered by this pricing structure would be shifted to the system and would result in increased contribution rates for all employers with Special Risk Class members. The fiscal impact of this provision beyond the member purchase cost is not realized until the eligible members actually upgrade their service credit for training time and could vary depending on how the total members vary from our projection. There is an additional cost beyond the estimate depending upon how long eligible members delay the purchase of this upgraded service prior to retirement.

The April 5, 2005, actuarial study by Milliman, Inc., placed the estimated one-time unfunded actuarial liability cost at \$1.666 million assuming the eligible members purchased the upgraded service credit immediately. Based upon the four percent annual payroll growth, the estimated additional fiscal impact would be approximately \$1.802 million.<sup>29</sup>

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

This bill, however, is expected to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Because the bill provides that it fulfills an important state interest and the expenditures required by the bill apply to all persons similarly situated, including state and local governments, the bill appears to satisfy the requirements of section 18 of Article VII of the Florida Constitution.

2. Other:

Article X, Section 14, Florida Constitution

Article X, Section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide *any increase in benefits* to members or beneficiaries unless concurrent

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<sup>27</sup> *Id.* at 6,

<sup>28</sup> *Id.* at 6.

<sup>29</sup> *Id.* at 2.

provisions for funding the increase in benefits are made on a sound actuarial basis.<sup>30</sup> Although the net additional unfunded liabilities are not sufficient to cause an increase in employer contribution rates for the Special Risk Class, *this bill may not satisfy the constitutional requirement to fund benefit increases for public retirement or pension systems.*

**B. RULE-MAKING AUTHORITY:**

This bill does not appear to create, modify, or eliminate rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Other Comments: Burden of the Benefit

All employers who participate in the FRS and who have Special Risk Class employees will be required to fund the benefit increase for qualifying past service, or any future shortfalls from these changes, even if their employees are not eligible for these benefits and even if they or their employees do not take advantage of these benefits.

**D. STATEMENT OF THE SPONSOR**

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

Not applicable.

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<sup>30</sup> Part VII of Chapter 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act,” was adopted by the Legislature to implement the provisions of Article X, section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part of applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.