

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: Community Affairs Committee

BILL: SB 130

INTRODUCER: Senator Fasano

SUBJECT: Florida Retirement System

DATE: February 2, 2007

REVISED: 02/21/06

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|-----------------|
| 1. | Molloy | Yeatman | CA | Fav/1 amendment |
| 2. | | | GO | |
| 3. | | | GA | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

Please see last section for Summary of Amendments

- Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

This bill provides for the upgrade of service from the Regular Class to the Special Risk Class for designated public safety personnel in the Florida Retirement System (FRS) who attended a certified training facility between defined time periods.

This bill substantially amends s. 121.0515, F.S.

II. Present Situation:

Profile of the FRS and the Special Risk Class¹

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 over 664,000 active employees, over 252,000 annuitants (retirees and their surviving beneficiaries), and more than 31,000 participants of the Deferred Retirement Option Program (DROP). As of June, 2006, state employees (including university employees) represent 22 percent of the FRS membership. Remaining members are employed by local agencies,

¹ Information in the "Present Situation" section of this bill analysis is from an analysis of the bill provided by the Department of Management Services, Division of Retirement, dated January 25, 2007.

including all counties, district school boards, and community colleges, as well as cities and special districts that have opted to join the FRS.

The active membership of the FRS is divided into five membership classes: the Regular Class, the Special Risk Class, the Special Risk Administrative Support Class, the Elected Officers' Class, and the Senior Management Service Class. Each class is separately funded based upon the costs attributable to the members of that class.

Special Risk Class. The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S. As of June 30, 2006, with over 72,000 active members in the Special Risk Class and 74 members in the Special Risk Administrative Support Class, special risk employees made up nearly 11 percent of the active FRS membership.

In creating the Special Risk Class of membership within the FRS, the Legislature recognized that persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions must, as an essential function of their positions, perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity. The Legislature further found that as persons in such positions age, they might not be able to continue performing their duties without posing a risk to the health and safety of themselves, the public, and their coworkers. In response, the Legislature established a special class to permit these employees to retire at an earlier age and with less service without suffering economic deprivation compared to other members with normal retirement after 30 years of service or age 62 and vested.

Special Risk Class membership differs from Regular Class membership in the following ways:

- A Special Risk Class member earns retirement credit at the rate of 3 percent of average final compensation (AFC) for each year of service, as opposed to the 1.60 percent to 1.68 percent credit per year of service earned by a Regular Class member.
- A Special Risk Class member qualifies for normal retirement at an earlier age (age 55 vs. age 62) or with fewer years of service (25 years vs. 30 years) for regular class.
- A Special Risk Class member who is totally and permanently disabled in the line of duty qualifies for a 65 percent minimum option 1 benefit payment compared to a Regular Class member similarly disabled who qualifies for a 42 percent minimum option 1 benefit payment.²

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2006-2007 plan year under the FRS, the retirement portion of the employer contribution rate for the Special Risk Class is 19.76 percent – more than twice the 8.69 percent retirement contribution rate for the Regular Class. Thus when a membership group

² FRS members may choose to receive benefits from the Pension Plan in one of four ways. Option 1 provides the greatest amount, but is unaccompanied by survivor benefits.

moves from the Regular Class to the Special Risk Class, the monthly employer contributions more than double for affected employees.

Membership criteria. Under current law, FRS members must meet specified eligibility requirements to qualify for membership in the Special Risk Class. These requirements limit membership to persons who are employed as law enforcement officers, firefighters, correctional officers, correctional probation officers, emergency medical technicians or paramedics, specified forensic and health care workers, and youth custody officers, and who meet the criteria set forth in applicable s. 121.0515, F.S. At the state level, specified professional health care and forensic positions in the Department of Corrections and the Department of Children and Families were included in the Special Risk Class, effective January 1, 2001. To qualify for special risk membership, the members filling these state positions must spend at least 75 percent of their time performing duties involving inmate or patient contact.

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 of 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 ch. 112, F.S.

Article X, Section 14, of the Florida Constitution is implemented by statute under part VII of ch. 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.”

Part I of ch. 121, F.S.

Section 121.091(10), F.S., provides that “it is the intent of the Legislature that future benefit increases enacted into law in this chapter shall be financed concurrently by increased contributions or other adequate funding, and such funding shall be based on sound actuarial data as developed by the actuary or state retirement actuary, as provided in ss. 121.021(6) and 121.192.”

Local Government Mandates Provision

Article VII, Section 18, of the Florida Constitution effectively invalidates any law that would require counties or municipalities to spend funds or limit their ability to raise revenue or receive state tax revenue, unless certain conditions are met. First, the Legislature must have determined that the law fulfills an important state interest. The law must also meet one or more criteria,

including that the “expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.”

III. Effect of Proposed Changes:

Amends s. 121.0515(9), F.S., to create paragraph (c) to:

- Allow a Special Risk Class member to upgrade service earned in the Regular Class while the member was attending an employer-approved certified training academy or facility from July 1, 1978 through June 30, 1984 for the purpose of earning certification as a law enforcement or correctional officer.
- Provide that the upgraded service would earn Special Risk value for the purposes of calculating retirement benefits.
- Provide that the cost of the upgraded service is the difference between the Regular Class and the Special Risk Class employer contributions due during the period of service being claimed, plus interest.
- Provide that the employer may pay the amount due for the upgraded service.

Department of Management Services, Division of Retirement states:

SB 130 would allow any member of the Special Risk Class who has previous service in the Regular Class earned while attending a training facility between July 1, 1978 and June 30, 1984, to earn law enforcement or correctional officer certification to upgrade this service to Special Risk Class value by simply paying the **difference in contributions required for the two membership classes for the affected period, plus interest**. The retirement credit accrual rate (and the resulting benefits for this period of time) would nearly double, from 1.6 percent to 3 percent value per year. Based on a 2005 actuarial special study dated April 5, 2005, by Milliman Inc. Consulting Actuaries, the number of Special Risk Class members who might be affected (with Regular Class Service while attending such specified training) is assumed to be 2,788 based on data supplied to Milliman by the Division of Retirement.

Effective July 1, 2000, the value of Special Risk Class service was increased substantially for all special risk members retiring after that date, and the increase was given retroactive effect for all special risk service from October 1, 1978 through December 31, 1992³. The \$689 million required to pay the unfunded actuarial liability for upgrading to 3 percent all Special Risk Class service credit earned during this period was paid from actuarial surplus assets of the Florida Retirement System Trust Fund, in lump-sum payments over a 3-year period. Because the academy training service covered by SB 130 was covered by the Regular Class at the time it was originally performed, it was not included as part of the retroactive upgrade in service applied to the Special Risk Class in 2000, the member purchase price for the upgrade provided in the bill does not account for the entire fiscal impact of this retroactive increase in accrual values.

³ See ch. 2000-169, ss.15-16, Laws of Florida.

An actuarial special study performed to determine the cost to the system for the upgrade in service provided in the bill concluded that the increase in the Special Risk Contribution rate is not sufficient with rounding to cause a .01 percent rate increase and therefore the contribution rate increase proposed in the bill is not necessary.

The fiscal impact of this benefit improvement will be paid by all FRS employers with Special Risk Class members, regardless of whether their employees are eligible for this benefit.

This bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill complies with the requirements of Article X, Section 14, of the Florida Constitution, because it provides for required funding by requiring an increase in the contribution rate applied to the Special Risk Class of the FRS defined benefit program.

Both the actuary and the Division of Retirement concluded that since the benefit improvement proposed in SB 130 does not warrant an employer contribution rate increase, the fact that the 0.07 percent rate increase in the Special Risk Class has a different effective date than the benefit provision does not violate the concurrent funding requirement for actuarially sound funding in Article X, Section 14 of the Florida Constitution, and part VII, ch. 112, F.S.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Fiscal Impact of SB 130 on Participating FRS Employers

| Employer | Fiscal Year 2007 | Fiscal Year 2008 | Fiscal Year 2009 |
|-------------------|------------------|------------------|------------------|
| State Agencies | \$ 737,000 | \$ 767,000 | \$ 797,000 |
| Local governments | \$ 1,932,000 | \$ 2,010,000 | \$ 2,090,000 |
| TOTAL | \$ 2,669,000 | \$ 2,777,007 | \$ 2,887,000 |

VI. Technical Deficiencies:

SB 130 provides a seven basis point increase (.07 percent or .0007) in the employer payroll costs to the FRS to fund the benefit change. The current effective date of the bill provides for the payment of benefits before revenues will be realized. The bill sponsor may want to consider a corrective amendment to change the effective date of the bill to July 1, 2007.

Also, because the increase in the employer contribution rates does not cause a .01 percent increase in the contribution rate, the seven basis point increase provision of the bill is unnecessary to fund the benefit improvement in an actuarially sound manner.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

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Provides that the bill will take effect July 1, 2007, the same time as the contribution rate increase proposed in the bill.

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