

The Florida Senate
PROFESSIONAL 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 646

INTRODUCER: Senator Fasano and others

SUBJECT: FRS/Ocean Water Rescue Lifeguards

DATE: March 24, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Favorable
2.			GO	
3.			GA	
4.				
5.				
6.				

I. Summary:

This bill expands the Special Risk Class membership of the Florida Retirement System (FRS) to include any FRS member who is employed as an ocean water rescue lifeguard by an employer that is advanced certified by the United States Lifesaving Association. The member must be certified as a paramedic or emergency medical technician, must work directly under the supervision of a fire rescue department or must be supervised by a medical director, and must have primary duties and responsibilities that include maintaining open water life-safety and on-the scene emergency rescue and response to emergencies in the water and on ocean-front beaches.

This bill substantially amends ss. 121.021 and 121.0515, F.S.

II. Present Situation:

Profile of the FRS — 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, 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 classes¹ and each class is separately funded based upon the costs attributable to the members of that class:

- The Special Risk Class consists of members who serve as law enforcement officers or firefighters, correctional officers, community-based correctional probation officers, certain Department of Justice employees, paramedics, emergency medical technicians, certain health care workers, and other persons who meet special risk criteria. The Special Risk Class has more than 72,000 members and makes up 10.84 percent of the FRS.
- The Special Risk Administrative Support Class consists of former Special Risk Class who provide administrative support within an FRS special risk employing agency. This class consists of 74 members and represents 0.01 percent of the FRS members.
- The Elected Officers' Class is for elected state and county officers, and city and special district officers whose governing body has chosen to participate in the FRS. The Elected Officers' Class has 2,195 members and represents 0.33 percent of the FRS.
- The Senior Management Service Class is for members who fill senior management positions assigned by law to the class or assigned by law as eligible for the class. There are 7,259 Senior Management Service members who represent 1.09 percent of the FRS membership.
- The Regular Class is for members who are not assigned to any of the other four categories. The Regular Class is the largest class in the FRS with 583,213 members or 87.3 percent of the FRS membership.

*FRS Contributions*² —Retirement contributions to the FRS are paid by the employer at an amount equal to a certain percentage of the member's salary. When a membership group moves from the Regular Class to the Special Risk Class, the monthly employer contributions for the affected employees increases more than 2.25 times. As of July 1, 2006, the required employer contribution rate for Regular Class members is 8.69 percent, and the employer contribution rate for Special Risk Class members is 19.76 percent. As of July 1, 2007, the contribution rate for Regular Class members will increase to 9.55 percent, and the contribution rate for Special Risk Class members will increase to 21.96 percent.

Special Risk Class— FRS members must meet specified eligibility requirements to qualify for membership in the Special Risk Class as established in s. 121.0515, F.S., and members currently designated in the Special Risk Class include law enforcement officers, firefighters, correction officers, and certain certified emergency medical technicians or paramedics, as well as others.

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 for each year of service. Regular Class members earn retirement credit at the rate of 1.60-1.68 percent per year of service.
- A Special Risk Class member qualifies for normal retirement at age 55 versus age 62 for Regular Class members, or with 25 years of service rather than 30 years of service.

¹ Information relating to the profile of the FRS, membership, and pension plan classifications provided by the Division of Retirement in the Department of Management Services. (See the department's Substantive Bill Analysis for SB 130, prepared January 25, 2007.)

² Section 121.71, F.S.

- A Special Risk Class member who is totally and permanently disabled in the line of duty qualifies for a 65 percent minimum disability benefit compared to a Regular Class member benefit of 42 percent for a similar disability.

Certified Emergency Medical Technicians (EMTs) and Paramedics

Under s. 401.27, F.S., the Department of Health is required to establish educational and training criteria and examinations for the certification and recertification of emergency medical technicians and paramedics. EMTs are required to be proficient in basic life support techniques and paramedics are required to be proficient in advanced life support techniques. EMT certification applicants must have completed an EMT medical technician training course equal to the most recent EMT basic training course offered by the United States Department of Transportation and approved by the Department of Health. Applicants applying for certification as a paramedic must have completed a training program equal to the most recent paramedic course also offered by the United States Department of Transportation and approved by the Department of Health.

United States Lifesaving Association (USLA) – Open Water Lifeguard Agency Certification³

The United States Lifesaving Association certifies lifeguard employers, including their training programs and standards, which follow the USLA guidelines. The *Lifeguard Agency Certification Program* is designed for public safety agencies that provide preventative lifeguarding services. Open water lifeguards employed by USLA advance certified agencies must meet and maintain certain standards of health and ability, but must also be certified as EMTs. Advance Certified Lifeguard Agencies in Florida include the Atlantic Beach Patrol, the Cape Canaveral Beach Patrol, Delray Beach Ocean Rescue, the Destin Fire Control District, Indian River County Ocean Rescue, Martin County Emergency Services, St. Lucie County, and the Volusia County Beach Patrol.

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

³ Information on the United States Lifesaving Association obtained from the following websites: www.usla.org/Train%2BCert/USLA_Guidelines.pdf and www.usla.org/Train%2BCert/certagencies.asp

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:

Section 1. Amends s. 121.021, F.S., to provide that effective October 1, 2007, the Special Risk Class of the FRS is expanded to include any FRS member who:

- Is employed as an ocean water rescue lifeguard by an employer that is advanced certified by the United States Lifesaving Association,
- Is certified in compliance with s. 401.27, F.S., as an emergency medical technician or paramedic,
- Works directly under the supervision of a fire rescue department or is supervised by a medical director, and
- Meets certain criteria for membership in the FRS Special Risk Class.

Section 2. Amends s. 121.0515, F.S., to create the following criteria for an FRS Regular Class member to be designated as a Special Risk Class member:

- The member must be employed as an ocean water rescue lifeguard by an employer that is advanced certified by the United States Lifesaving Association.
- The member must be certified in compliance with s. 401.27, F.S., as an emergency medical technician or paramedic.
- The member must maintain compliance with the United States Lifesaving Association’s “Fulltime Open Water Lifeguard” training standards.
- The member must work directly under the supervision of a fire rescue department or a medical director.

- The member must have primary duties and responsibilities that include maintaining open water life-safety and on-the-scene emergency rescue and response to emergencies in the water and on ocean-front beaches.

Excludes FRS Regular Class members employed as administrative support personnel, including but not limited to those with primary responsibilities in accounting, purchasing, legal, and personnel.

Section 3. Provides that the act fulfills an important state interest.

Section 4. Provides an effective date of October 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenues or receive state-shared revenues. However, the bill has an insignificant fiscal impact and is therefore exempt under the provisions of s. 18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill meets the requirements of s. 18, Art. VII, of the State Constitution, by providing a statement of important state interest.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Salary information relating to the fiscal impact of this bill was provided by the Frontline Group Consultants, Inc, who reported that approximately 200 ocean rescue lifeguards will be affected by the provisions of the bill. Salary estimates ranging from \$25,000 to

\$65,000 per year were averaged by the Division of Retirement in the Department of Management Services to develop a fiscal impact statement.

If the bill is enacted into law, affected FRS employers will pay an increase in the retirement contribution rate amounting to additional 11.07 percent of payroll based on the 2006-2007 contribution rates. Factoring in a 4 percent payroll growth, the estimated impact is:

Year 1 <u>FY 07/08</u>	Year 2 <u>FY 08/09</u>	Year 3 <u>FY 09/10</u>
\$1,036,152	\$1,077,598	\$1,120,702

VI. Technical Deficiencies:

None.

VII. Related Issues:

Ocean rescue lifeguards are required to be certified paramedics or emergency medical technicians, both of which are already classified as eligible for membership in the special risk class if they are employed by a licensed Advance Life Support or Basic Life Support employer.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
