

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: Health Policy Committee

BILL: SB 1304

INTRODUCER: Senator Hill

SUBJECT: The Florida Retirement System

DATE: April 5, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HP	Favorable
2.			GO	
3.			GA	
4.				
5.				
6.				

I. Summary:

The bill redefines the term “special risk member” for purposes of the Florida Retirement System to include any member who is employed by a public acute care hospital that serves as a trauma center and provides treatment to members of the public who have deadly or crippling infectious diseases, members of the public who are accused of or convicted of serious violent crimes, members of the public who have been subjected to hazardous materials or biological or chemical agents as a result of terrorism or industrial accidents, or members of the public who have diseases the treatment of which requires intervention with extremely toxic substances. The bill amends the criteria for special risk membership to include certain members employed by acute care hospitals as defined in the revised definition. The bill also provides a legislative finding that a member who meets this definition is serving an important state interest and should be a member of the special risk class of the Florida Retirement System.

This bill amends sections 121.021 and 121.0515, Florida Statutes.

This bill creates one undesignated section of law.

II. Present Situation:

Florida Retirement System

Chapter 121, F.S., the Florida Retirement System Act, establishes requirements for eligibility in the Florida Retirement System (FRS). The FRS is a multi-employer, non-participatory defined benefit pension plan that provides vested members a retirement benefit based on a formula determined by years of service, average final compensation, and member classification accrual

rates. It includes five membership classes: Regular, Special Risk, Special Risk Administrative Support, Elected State and County Officers, and Senior Management Service.

Section 121.0515(2), F.S., establishes criteria for membership in the Special Risk Class, which is open only to law enforcement officers; firefighters; correctional officers; emergency medical technicians and paramedics; community-based correctional probation officers; the following members having occupations spending at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution: dietician, public health nutrition consultant, psychological specialist, psychologist, senior psychologist, regional mental health consultant, psychological services director, pharmacist, senior pharmacist, 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; youth custody officers; and members of a law enforcement agency or medical examiner's office in a forensic discipline.

These members are included within special risk because they

. . . perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other positions and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom. Therefore, as a means of recognizing the peculiar and special problems of this class of employees, it is the intent and purpose of the Legislature to establish a class of retirement membership that awards more retirement credit per year of service than that awarded to other employees; however, nothing contained herein shall require ineligibility for special risk membership upon reaching age 55.¹

Accordingly, Special Risk Class members have been given greater career benefits than Regular Class members. A member of the Special Risk Class:

- Receives 3 percent of average final compensation (AFC), as opposed to 1.60 percent to 1.68 percent for a Regular Class member, for each year of service earned. To fund Special Risk Class retirement benefits, employers must contribute 25.32 percent of each employee's pay.

¹ See section 121.0515(1), F.S.

- Reaches normal retirement at an earlier age (55 instead of 62) or with fewer years of service (25 instead of 30) than a Regular Class member.

Trauma Centers

Trauma centers are regulated under part III, ch. 395, F.S. "Trauma center" is defined to mean a hospital that has been verified by the Department of Health to be in substantial compliance with the requirements in s. 395.4025, F.S., and has been approved by the Department of Health to operate as a Level I trauma center, Level II trauma center, or pediatric trauma center.

According to the Department of Health, there are currently 21 designated trauma centers in Florida. Only two of these trauma centers, Jackson Memorial Hospital and the North Broward Hospital District, have employees who are participating in the FRS. Although these hospitals withdrew from the FRS for new employees effective January 1, 1996, all employees who elected to retain FRS membership instead of switching to the new pension plan offered by the hospitals would be eligible for the Special Risk Class benefit specified in the bill. According to the Division of Retirement, as of February 2007, there were 3,512 eligible employees who have chosen to retain FRS membership.

III. Effect of Proposed Changes:

Section 1. Amends s. 121.021, F.S., relating to definitions in ch. 121, F.S., to provide that, effective July 1, 2007, "special risk member" includes any member who is employed by a public acute care hospital that serves as a trauma center, providing treatment to members of the public who have deadly or crippling infectious diseases, members of the public who are accused of or convicted of serious violent crimes, members of the public who have been subjected to hazardous materials or biological or chemical agents as a result of terrorism or industrial accidents, or members of the public who have diseases the treatment of which requires intervention with extremely toxic substances.

Section 2. Amends s. 121.0515, F.S., relating to criteria for membership in the special risk class, to include members who are employed by a public acute care hospital that serves as a trauma center, providing treatment to members of the public who have deadly or crippling infectious diseases, members of the public who are accused of or convicted of serious violent crimes, members of the public who have been subjected to hazardous materials or biological or chemical agents as a result of terrorism or industrial accidents, or members of the public who have diseases the treatment of which requires intervention with extremely toxic substances.

Section 3. Creates an undesignated section of law, to provide a statement of important state interest in compliance with section 18, Article VII of the State Constitution.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the State Constitution enumerates circumstance in which a county or municipality may refuse to spend funds or take action requiring the expenditure of funds unless the Legislature has determined an important state interest. The bill would require certain counties to fund the additional benefits for FRS members who are employees of public acute care hospitals that serve as trauma centers. The bill does not define trauma centers. According to the staff of the Division of Retirement of the Department of Management Services, the bill expands special risk class membership to a broader, less well-defined group of employees. The bill does not specify any particular group of employees at the named institutions that are intended to be covered; therefore, all employees of these agencies are included, whether or not the employee is actually exposed, or likely to be exposed in one of the conditions listed in the bill.

The fiscal impact of this requirement has been estimated on two known trauma centers but the requirements of the bill may require a more extensive actuarial analysis if it is interpreted to include a broader class of FRS members. However, if the bill requires local governments to spend in the aggregate of \$1.8 million then pursuant to Article VII, Section 18 of the Florida Constitution, the Legislature must formally determine that the bill fulfills an important state interest and the bill must pass by a two-thirds vote of the membership of each house of the Legislature.

Only two trauma centers, Jackson Memorial Hospital and the North Broward Hospital District, have employees who are participating in the FRS. Although these hospitals withdrew from the FRS for new employees effective January 1, 1996, all employees who elected to retain FRS membership instead of switching to the new pension plan offered by the hospitals would be eligible for the Special Risk Class benefit specified in the bill. According to the Division of Retirement, as of February 2007, there were 3,512 eligible employees who have chosen to retain FRS membership who are employees of trauma centers. As a result, the bill could cause disparities in the retirement benefits offered to employees who work in trauma centers and may lead to additional litigation by uncovered employees against local governments under the bill.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Some employees of trauma centers may benefit to the extent that they accrue additional benefits as members of the Special Risk Class.

C. Government Sector Impact:

If the members covered by the bill become members of the Special Risk Class, their employer will pay the required Special Risk Class contribution rate meeting the required actuarial funding for the change. Based upon employer contribution rates effective July 1, 2006, the Division of Retirement indicated that there is an 11.07 percent difference between the rate for the Regular Class and the rate for the Special Risk Class. According to the Division of Retirement:

The two hospitals affected by the changes proposed by the bill, Jackson Memorial Hospital and the North Broward Hospital District, would pay an additional 11.07 percent of salary based upon the difference between the Regular Class and Special Risk Class employer contribution rates effective July 1, 2006, for 3,5126 members with an annualized payroll of \$254,784,6766. The future salary costs are increased by 4 percent based upon current payroll and contribution rates to provide these estimated costs. The actual additional costs will be determined by the difference between future rates for the Regular Class and the Special Risk Class and actual salaries.

Salary basis is estimated using 7/2006-1/2007 payrolls annualized for 2006/07 and increased by 4 percent for each succeeding year, times 11.07 percent. According to the Division of Retirement, it is estimated the affected local governments may incur the following expenditures:

Year 1 FY 07/08	Year 2 FY 08/09	Year 3 FY 09/10
\$29,332,850	\$30,506,164	\$31,726,411

Source: Division of Retirement, Department of Management Services

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill could cause disparate retirement benefits between the hospital staff at acute care hospital and those in hospitals that are certified by the Department of Health as trauma centers.

According to the Agency for Health Care Administration, there are 280 licensed hospitals in Florida and 217 of these have licensed acute care beds. The bill requires the trauma centers to provide certain treatment and services. Acute care hospitals may provide comparable treatment and services and the employees of such facilities would not receive comparable retirement benefits and such disparity may, according to the Division of Retirement Services, lead to hospital employees not covered by the special risk class seeking improved benefits through litigation or future legislation.

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

VIII. Summary of Amendments:

None.

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