

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 680,302 active employees, 264,763 retirees and their surviving beneficiaries, and more than 31,562 participants of the Deferred Retirement Option Program (DROP). As of June 2007, state employees (including university employees) represent 21- 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 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, 2007, with over 74,000 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 for each year of service. A Regular Class member earns retirement credit at the rate of 1.60 to 1.68 percent per year of service.
- A Special Risk Class member qualifies for normal retirement at age 55 or with 25 years of service. A Regular Class member qualifies at age 62 or with 30 years of service.

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 March 11, 2008.

- 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. A Regular Class member similarly disabled 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 2007-2008 plan year³ 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. When a membership group 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 applicable criteria set forth s. 121.0515, F.S.

The 2005 Legislature enacted chapter 2005-167, Laws of Florida, providing that as of October 1, 2005, FRS Pension Plan members and Investment Plan participants who were employed by a law enforcement agency or a medical examiner's office in a forensic discipline recognized by the International Association for Identification and who qualified for membership in the association were eligible for Special Risk Class membership.

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

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.

³ See s. 121.71, F.S., establishing the employer contribution rates for Regular Class and Special Risk Class members effective July 1, 2007. Effective July 1, 2008, employer contribution rates are established at 9.59 percent for Regular Class and 22.01 percent for Special Risk Class members.

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.”

III. Effect of Proposed Changes:

The bill amends s. 121.0515, F.S., to authorize the following:

- A member of the Special Risk Class who earned creditable service in another membership class of the FRS as a medical examiner or as an employee of a law enforcement agency in a forensic discipline recognized by the International Association for Identification, and who is eligible to participate in the association, may purchase additional retirement credit to update such service to Special Risk Class service.
- Seven specifically designated employment classifications in the Department of Law Enforcement and the Division of the State Fire Marshal are identified for the service upgrade and special risk purchase.
- Similar personnel employed by local government agencies or medical examiners' offices are authorized the same upgrade privileges except that they must spend at least 65 percent of their time performing the specific duties of the forensic science profession.
- Persons made eligible for special risk designation but who fail to meet the requirements for forensic eligibility shall have the designation removed and shall accrue service credit at the Regular Class rate only.
- Contributions for the upgrade must be equal to the difference between the Special Risk Class and Regular Class employer contribution rates calculated using the relevant financial assumptions for the recognition of past service credit. The cost of the upgrade is assumed payable by the member but may be paid on behalf of the member for employees with three or more years of service.

The bill contains a declaration of important state interest and if enacted into law, will take effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill requires cities and counties to increase the contribution rate in order to provide the additional benefits described in this bill. Thus it falls within the purview of Section 18(a), Article VII, Florida Constitution which provides that cities and counties are not bound by certain general laws. However, the bill meets the exception specified in the constitution because the Legislature has determined the bill fulfills an important state

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The original bill complied with the requirements of Section 14, Art. X of the Florida Constitution because Milliman Inc. Consulting Actuaries performed a special actuarial study to determine that the required increase in the Special Risk Class employer contribution rate would be 0.01 percent.

The Committee Substitute changes the incidence of payment for the service upgrade from the employer to the employee. The effect of this is to reduce the one basis point cost noted by the plan actuary payable by the employer. The implementing language chosen assures that the result is neutral to the plan thus eliminating the need for the rate increase.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Members of the FRS Special Risk Class who are eligible to purchase service credit upgrades for past Regular Class service may incur the costs of the service credit upgrade. However, if the costs of the service credit upgrade are paid by employers, the burden will shift to the named public employer.

C. Government Sector Impact:

Local Impacts: Local government employers who elect to pay for the service upgrade for the specified employees may eventually pass that cost along to taxpayers. The actual number of affected employees is unknown. The longer members delay before purchasing the upgraded service, the greater the cost to the system. This could result in increased contribution rates for all special risk employers whether or not they have employees who are affected by the upgrade provisions.

The fiscal impact to local government based on the actuarial study projection of about 1,200 employees purchasing service credit upgrades was estimated to be:

<u>FY 2008-2009</u>	<u>FY 2009-2010</u>	<u>FY 2010-2011</u>
\$287,000	\$299,000	\$311,000

State Impacts: Effective July 1, 2000, the value of certain Special Risk Class service earned with an accrual value of less than 2 percent was increased for all members retiring on or after that date. The increase was retroactively applied for all service credit originally earned in the Special Risk Class from October 1, 1978 through December 31, 1992. The FRS Trust Fund paid \$698 million from actuarial surplus assets over a 3-year period to upgrade Special Risk Class service credit earned during this period to 3 percent.

Members of the FRS specializing in a qualified forensic discipline became eligible for Special Risk Class membership in 2005, and were not included in the calculation of costs to the system in the 2000 upgrade. If these members purchase upgrades for service between 1978 and 1992, the credits will be purchased at the contribution rates in place during those years but retirement benefits will accrue at the 2000 increased rate.

The actual number of affected employees is unknown. The longer members delay before purchasing the upgraded service, the greater the cost to the system. This could result in increased contribution rates for all special risk employers whether or not they have employees who are affected by the upgrade provisions.

Based on the actuarial study project of about 1,200 employees purchasing service credit upgrades, the fiscal impact to the state is estimated to be:

<u>FY 2008-2009</u>	<u>FY 2009-2010</u>	<u>FY 2010-2011</u>
\$110,000	\$114,000	\$118,000

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Operations Committee on April 9, 2008:

The CS revises the state and local government occupations eligible for upgraded service in the Special Risk Class and eliminates the one basis point payroll cost increase payable by FRS employers. In its place, the incidence of payment is shifted to the eligible

employees. Employees with three or more years of eligible service may have the employer pay for that service upgrade.

B. Amendments:

None.

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