

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 612

INTRODUCER: Senator Baker

SUBJECT: Special Risk Class/DROP

DATE: January 21, 2010      REVISED: 02/03/10

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	<b>Fav/1 amendment</b>
2.			CA	
3.			GO	
4.			WPSC	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/>            | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input checked="" type="checkbox"/> | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill provides that certain Special Risk Class members may participate in the Florida Retirement System Deferred Retirement Option Program (DROP) for an additional 36 months beyond the 60-month period. The Special Risk Class members who may participate in this extended DROP consist of law enforcement officers, correctional officers, or community-based correctional probation officers who have the rank or equivalent rank of captain or below at the beginning of participation in DROP. Those members who participate in DROP for the additional 36 months, at the conclusion of DROP participation, may not be employed, reemployed, or retained in a contractual capacity by the same employer from which they retired or terminated DROP participation, except for retention by the employer as a part-time or auxiliary law enforcement officer if the retiree is serving on a voluntary basis and receives no more than \$1 per calendar year for services rendered directly for the employer.

The bill contains a statement of important state interest. A special actuarial study is required to determine the fiscal impact to the FRS of these proposed benefit changes. This study has commenced and is projected to be completed by the end of February of 2010.

This bill substantially amends section 121.091 of the Florida Statutes.

## II. Present Situation:

### Florida Retirement System

The Department of Management Services (DMS) has provided the following profile of the Florida Retirement System (FRS):<sup>1</sup>

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 668,416 active employees, 289,602 annuitants (retirees and their surviving beneficiaries), and 32,921 participants of the Deferred Retirement Option Program (DROP).

All state and county employees in regularly established positions are compulsory members of the FRS and cities and special districts can choose to participate. As of June 30, 2009: about 181 Florida cities<sup>2</sup> were covering firefighters, police, and/or general employees; and 221 independent special districts<sup>3</sup> had members in the FRS. District school boards represent nearly half (48.38 percent) of the FRS membership, with community colleges (2.87 percent) and universities (3.63 percent) bringing the total for educational institutions to about 55 percent of the FRS membership. State employees (excluding university employees) represent 17.35 percent of the FRS. Remaining members are employed by local agencies, including counties (23.30 percent) as well as cities and special districts (4.46 percent) that have opted to join the FRS.

The active membership of the FRS Pension Plan as of June 30, 2009 is divided into five membership classes: The Regular Class consists of 582,671 members (87.17 percent of the membership); the Special Risk Class includes 75,640 members (11.32 percent), the Special Risk Administrative Support Class<sup>4</sup> has 76 members (0.01 percent), the Elected Officers' Class has 2,304 members (0.34 percent), and the Senior Management Service Class has 7,725 members (1.16 percent). Each class is separately funded based upon the costs attributable to the members of that class except for funding of the Deferred Retirement Option Program (DROP).

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<sup>1</sup> Revised Analysis of SB 612, Florida Department of Management Services, dated January 28, 2010. All information in this bill analysis is from this source, unless otherwise indicated. Regarding the FRS profile, DMS notes: "Member counts are based on a 'snapshot' of the FRS taken on June 30, 2009. These counts include members of the Teachers' Retirement System, State and County Officers and Employees' Retirement System, and special retirement programs."

<sup>2</sup> DMS notes: "[On] January 1, 1996, many cities and special districts were authorized by law to 'opt out' of the FRS for new employees. Many chose to do so, and since that time, some have elected to rejoin the FRS. As of June 30, 2009, among the 181 cities participating in the FRS, there are 26 cities that have chosen to withdraw from the system and do not cover new members under the FRS."

<sup>3</sup> DMS notes: "This number includes 13 independent special districts closed to new FRS members since January 1996."

<sup>4</sup> DMS describes this class as consisting of "Special Risk Class members who were moved or reassigned to or reemployed in administrative support positions with a law enforcement, firefighting, correctional, or emergency medical care agency under the FRS. These members must maintain the certification required in his/her former position and are subject to recall into this former position. In order for membership in this class to count towards special risk normal retirement, the member must have at least six years of Special Risk Class service at retirement."

**Special Risk Class**

The Special Risk Class (SRC) of the FRS consists of state and local government employees who meet the criteria for Special Risk membership provided in s. 121.0515, F.S.

Pursuant to s. 121.0515, F.S., SRC consists of persons employed by an FRS employer in one of the following positions:

- Law enforcement officer;
- Firefighter;
- Correctional officer;
- Correctional probation officer;
- Emergency medical technician;
- Paramedic;
- Youth custody officer;
- Specified forensic positions with a law enforcement agency or medical examiner's office; and
- Specified professional health care positions that spend at least 75 percent of their time performing duties involving inmate or patient contact in correctional or forensic facilities with the Department of Corrections or the Department of Children and Families.

Section 121.0515(1), F.S., sets forth the intent and purpose for creating SRC membership:

In creating the Special Risk Class of membership within the Florida Retirement System, it is the intent and purpose of the Legislature to recognize that persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions are required as one of the essential functions of their positions to 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 there from. 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.

DMS reports that the Legislature established SRC “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. The comparison of equivalent benefits was determined when 25 years at a 2 [percent] Special Risk Class accrual value resulted in 50 [percent] of the average final compensation compared to 48 [percent] of

average final compensation for a Regular Class member with 30 years of service at a 1.60 [percent] per year accrual value.”

DMS notes the following differences between Special Risk membership and Regular Class membership:

- “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) than a Regular Class member.”
- “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.”
- “The minimum benefit portion of an in-line-of-duty disability retirement is not subject to federal taxation for all FRS membership classes. The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2009-10 plan year under the FRS, the retirement portion of the employer contribution rate for the Special Risk Class is 19.76 [percent] (significantly higher than the 8.69 [percent] retirement contribution rate for the Regular Class).<sup>5</sup> Thus when a membership group moves from the Regular Class to the Special Risk Class, the monthly employer contributions required for that group increases by over 2.25 times for these employees.”

### **Deferred Retirement Option Program**

DMS has provided the following description of the Deferred Retirement Option Program (DROP) and how it operates:

... [DROP] was established in July 1998. This program allows eligible members of the Florida Retirement System (FRS) Pension Plan to retire and begin accumulating monthly retirement benefits, plus interest, while they continue working. The retiring member’s benefit is based upon his/her years of service at the time DROP participation begins. While in DROP, monthly retirement benefits accumulate in the FRS Trust Fund, earning tax-deferred interest, while the DROP participant continues to work without earning additional retirement service credit.

To be eligible to participate in DROP, the member must qualify for normal retirement. Once a member becomes eligible, he/she has a limited time within which to elect to join DROP and a limited period to participate in the program. For most members, the DROP election window is a 12-month period that begins when the member first qualifies for normal retirement based on his/her age or years of service, unless the member is eligible

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<sup>5</sup> DMS notes: “Regardless of whether an individual member elects to participate in the FRS Pension Plan or the FRS Investment Plan, the employer pays the same contribution rate for each class or subclass of membership by blending the rates for both plans as required under the uniform contribution rate system of the FRS as provided in Part III of Chapter 121. Under the FRS Investment Plan, the employer contribution for a member increases from 9.25 [percent] to 21.33 [percent] when the member moves from the Regular Class to the Special Risk Class.”

to defer the DROP election.<sup>6</sup> Similarly, for most members, the period of DROP participation is limited to 60 months from the participant's normal retirement date or deferred eligibility date.

Since 2001, K-12 instructional personnel are not subject to the 12-month election limit, allowing them to indefinitely postpone the decision to join DROP.<sup>7</sup> In 2003, certain instructional personnel could extend their DROP participation for up to 36 months beyond their original 60-month limitation, if approved by their employer and the Division.<sup>8</sup>

### **Reemployment Restrictions**

DMS states that "FRS retirees can work for any private employer, for any public employer not participating in the FRS, or for any employer in another state, without affecting their FRS benefits. However, reemployment restrictions do apply to an FRS retiree's reemployment with an FRS participating employer and such reemployment restrictions are dependent upon the retiree's effective retirement date or DROP termination date." DMS reports the following reemployment limitations that apply to those whose retirement without DROP participation is effective before July 1, 2010 or whose DROP termination date is before July 1, 2010:

- "To retire from the FRS, all FRS employment must be terminated for the period required by the definition of 'termination.' Termination requires being separated from all employment relationships with all FRS participating employers for one calendar month. If the retiree returns to work for a participating employer during this calendar month of their retirement, his or her retirement will be voided and FRS membership will be reestablished. This restriction includes, but is not limited to, employment not covered by the FRS, such as Other Personal Services (OPS) employment and other types of temporary employment with an FRS employer. All retirement benefits must be repaid and the member must reapply for retirement, establishing a later effective date of retirement."
- "Similarly, if the retiree were employed by a participating employer during the first month after ending his/her participation in DROP, both retirement and DROP status would be voided. An exception applies in the case of dually employed elected officers in DROP."
- "For 12 months after a retiree's effective date of retirement, a retiree cannot earn a salary from any participating employer while receiving retirement benefits from the system. If a retiree works for a participating employer during the second through twelfth months after his or her effective retirement date, he or she must inform us. Except as otherwise noted below, for any months the retiree works during this limitation period, he or she will forfeit the right to receive benefits and we will suspend his or her benefits. The retiree must repay any such benefits he or she received inappropriately. After the first 12 months of retirement, there are no further reemployment limitations."

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<sup>6</sup> DMS notes: "If a member reaches his/her normal retirement date based on years of service before age 57 (age 52 for Special Risk Class members) or reaches his/her normal retirement date while holding an elective office covered by the Elected Officers' Class, he/she may qualify to defer the DROP election and program participation to a future date. Once this future date is reached, the 12-month election window is opened."

<sup>7</sup> DMS notes: "Instructional personnel as defined under s. 1012.01(2)(a)-(d), F.S., could make the election to participate in DROP 'at any time' after reaching their normal retirement date."

<sup>8</sup> All references to "Division" are to the Division of Retirement.

- “DROP participants will be subject to reemployment limitations described above beginning the month after his or her DROP termination date.”
- “A retiree may be exempt from the reemployment limitations, or may be otherwise eligible for a limited exception after being retired for one calendar month. A retiree may be reemployed in certain positions without further limitation during the second through twelfth months after retirement. The excepted positions are:
  - *District School Boards.*—FRS and TRS retirees may be reemployed without limitation as classroom teachers (as defined in s. 1012.01(2)(a), F.S.) on an annual contractual basis. Noncontractual hourly or substitute teaching is allowed without limitation for FRS and TRS retirees. Additionally, noncontractual employment is allowed without further limitation after the first calendar month of retirement for FRS retirees only who are reemployed as education paraprofessionals, transportation assistants, bus drivers, or food service workers.
  - *Florida School for the Deaf and the Blind.*—FRS and TRS retirees may be reemployed on a noncontractual basis, without limitation[,] as substitute teachers, substitute residential instructors, or substitute nurses.
  - *Charter Schools.*—FRS and TRS retirees may be reemployed as classroom teachers (as defined in s. 1012.01(2)(a), F.S.) on an annual contractual basis, or as substitute or hourly teachers on a noncontractual basis, without limitation.
  - *Developmental Research Schools (University Lab Schools).*—FRS and TRS retirees may be reemployed on an annual contractual basis as classroom teachers (as defined in s. 1012.01(2)(a), F.S.), or as substitute or hourly teachers or education paraprofessionals on a noncontractual basis, without limitation.
  - *Community Colleges.*—FRS and TRS retirees may be reemployed as adjunct instructors or phased retirement program participants for up to 780 hours.
  - *Universities.*—FRS and TRS retirees may be reemployed as adjunct faculty or phased retirement program participants with the State University System for up to 780 hours.”
- “Any affected reemployed retiree who is not eligible for an exception or will exceed his/her 780-hour limitation should notify the Bureau of Retirement Calculations. Benefits must be suspended if reemployed in a position not covered by an exception or for the balance of the 12-month limitation period if the reemployed retiree meets or exceeds the 780 hour limitation.”
- “A member who retires or ends DROP participation and is serving in [an] elective office or is elected, reelected, or appointed to an elective office is subject to different termination requirements and is exempt from reemployment limitations during the second through twelfth months after termination.”
- “Elected officers who are dually employed in non-elected and elected regularly established positions are allowed to terminate from the non-elected position and retire, but must be immediately enrolled in the renewed membership class for the position covered by the Elected Officers’ Class.”
- “A retired justice or judge on temporary assignment to active judicial service pursuant to Article V of the State Constitution is exempt from reemployment limitations after being retired for one calendar month. Such justices or judges are not eligible for renewed membership.”

DMS also reports the following reemployment limitations that apply to those whose retirement without DROP participation is effective on or after July 1, 2010, or the DROP termination date is on or after July 1, 2010: "... [T]he reemployment limitation period is six calendar months after the six calendar months required to meet the definition of termination. The retiree must suspend his/her retirement benefit if employed by a FRS participating employer during the six-month reemployment limitation period. There are no reemployment exceptions during this limitation period. A member who retires on disability cannot work in gainful employment (regardless of whether in private sector or public sector) and continue to receive disability benefits."

### **III. Effect of Proposed Changes:**

The bill amends s. 121.091, F.S., to provide that certain Special Risk Class members may participate in DROP for an additional 36 months beyond the 60-month period. The Special Risk Class members who may participate in this extended DROP consist of law enforcement officers, correctional officers, or community-based correctional probation officers, as described in s. 121.0515, F.S., who have the rank or equivalent rank of captain or below at the beginning of participation in DROP.

Those members who participate in DROP for the additional 36 months, at the conclusion of DROP participation, may not be employed, reemployed, or retained in a contractual capacity by the same employer from which they retired or terminated DROP participation, except for retention by the employer as a part-time or auxiliary law enforcement officer, as those terms are defined in s. 943.10, F.S., if the retiree is serving on a voluntary basis and receives no more than \$1 per calendar year for services rendered directly for the employer.

If the retiree is reemployed or retained in a contractual capacity in violation of the bill's restrictions or limitations on reemployment or retention, the retiree voids his or her application for retirement benefits. A retiree who is reemployed or retained in a contractual capacity in violation of such restrictions or limitations and an employer who employs or contracts with such person in violation of such restrictions or limitations "is [*sic*] jointly and severally liable" for reimbursement to the retirement trust fund, including the FRS Trust Fund and the Public Employee Optional Retirement Program Trust Fund, from which the benefits were paid.

The aforementioned provisions of the bill do not apply to a retiree who is elected to an office or appointed to an office by the Governor or by the Governor and the Cabinet.

The bill contains a statement of important state interest.

The bill takes effect July 1, 2010.

#### **Other Potential Implications:**

DMS has provided the following comments regarding provisions of the bill:

- "Additional reporting or verification by employers would be required to identify law enforcement officers, correctional officers, or community-based correctional probation officers who would become eligible to extend their DROP. DROP participants are considered

retired for benefit purposes; they do not accrue retirement service during DROP and are identified by their employers as DROP participants instead of by the membership class eligibility for the position held if not in DROP. This is the first time that a participant's rank or job title would impact the benefits provided in a Class of membership."

- "This bill does not require employer approval for the extension of DROP by participants in these positions. This would allow these DROP participants to change their specified termination date the employer was required to acknowledge without employer input about whether this decision aligns with the employer's transition management plans."
- "This bill could encourage other employees to seek similar benefits for extended DROP participation. Similar legislation has been filed in the past for district school board administrators and certain pre-kindergarten teachers. Other employee groups such as community nursing instructors have made inquiries about this benefit to help address shortages in that field. Because of the way DROP is funded, all FRS employers would pay for any impact to the DROP contribution rate."
- "The ability to extend DROP participation has been sought by other employee groups or other employers as the provisions for extended DROP participation have become applicable to others. This liberalization of the benefit has been sought to attain greater parity between employee groups or employers instead [of] meeting short-term needs. Over time, changes in benefits can also be motivated by desire for parity versus critical need; the liberalization of exceptions to reemployment restrictions demonstrates these changes. If extended DROP participation continues to become more broadly available, there could be increased pressure placed upon the Legislature to create a longer, initial 96-month participation period for DROP."
- "Since DROP participants are retired and no longer have a specific class affiliation, it would be difficult for the Division to determine which DROP participants are impacted by this bill. If this bill referred to 'positions otherwise covered by the Special Risk Class' it would reflect the current DROP funding structure and reporting for these positions."
- "SB 612 will not restrict the reemployment of employees who retire from one of the covered positions without participating in DROP."
- "When a member's retirement and DROP participation are voided due to a violation of FRS termination requirements, the time that they worked during DROP participation reverts to FRS creditable service. The difference between the DROP contribution rate paid during this time and the contribution rate for the membership class the employee would have been eligible for at the time must then be paid to the FRS, plus annually accruing interest, by the employer who facilitated the violation. Because there are no time limitations on the reemployment restrictions imposed by SB 612, employers could find themselves responsible for these costs plus multiple years of accrued interest."
- "Under SB 612, the requirement that causes a retirement to be voided if participants in one of these positions who extended DROP and return to work with the same employer without an exception does not have a time limit. There may be members who void their retirement multiple years after terminating from DROP. If these members' DROP accumulation and their intervening monthly benefits are not available, they would be required to commit current and possibly future income to repay this debt to the FRS Trust Fund. These members would not be allowed to retire and begin drawing a monthly benefit until the amount owed for their voided retirement is fully paid."

- “We have contacted several counties to try and find out how many Special Risk Class members could be impacted by this bill. The following counties have responded: Bay County, Broward County, Calhoun County, Gilchrist County, Hillsborough County, Manatee County, Miami-Dade County, Okeechobee County, Orange County and Wakulla County. Based on their responses, they have approximately 13,400 positions that could be impacted by this bill.”

The Department of Corrections has provided the following comments regarding HB 249,<sup>9</sup> which is similar to SB 612:

- “As written, there are several provisions in the bill that are unclear and would make implementation difficult without further clarification.
  - When an employee elects participation in DROP, they must submit a binding letter of resignation establishing a deferred termination date. Will employees currently enrolled in DROP, who have an established termination date, be allowed to extend beyond that date?
  - It appears an employee who elects to only participate in DROP for 60 months or less would not be impacted by the reemployment limitation. This may make it difficult to identify which employees can and cannot be rehired.
  - There is no definition of what constitutes an “equivalent” rank of captain as it relates to any of the Community Corrections or the Inspector General classes. Because ranks may not be equivalent across agency lines, clarification is needed to determine the specific classes that are affected by this bill.
  - As written, the bill prohibits reemployment by the “same employing agency, from which the member retired.” This implies the retiree could be rehired by another agency, but seems contradictory to the provision that allows a DROP participant to transfer from one agency to another during participation in the program.”
- “Because of the uncertainties associated with this bill, it is difficult to gauge the impact it will have on the Department. The Department of Corrections currently has 493 employees in classes potentially affected by this bill who are currently enrolled in DROP. As noted above, it is unclear if individuals currently in DROP would be allowed to extend beyond the 60-month limit. If these individuals were allowed to extend their employment an additional three (3) years, this would create a significant resource pool of trained officers. However, because these individuals could not be reemployed, this may only be a temporary solution to our recruitment difficulties.”
- “In an effort to gauge the long-term impact, the Department attempted to look at the number of employees who have completed DROP and have been reemployed longer than three (3) years. We identified only nine (9) employees. It should be noted however, that gathering accurate data from previous employment is difficult and this number may not be entirely dependable.”

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<sup>9</sup> Analysis of HB 249, Florida Department of Corrections, dated December 7, 2009. All comments in this section of the analysis from the Department of Corrections are from this source.

**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 Florida Constitution provides that any retirement or pension system supported in whole or part by public funds shall not increase benefits to the members or beneficiaries of the system after January 1, 1977, unless the provision of the funding increase is made on a sound actuarial basis.<sup>10</sup> The “Florida Protection of Public Employee Retirement Benefits Act” prohibits “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.”<sup>11</sup> Additionally, the Florida Constitution invalidates unfunded local government mandates if the law does not meet certain constitutional tests.<sup>12</sup> The Legislature must find that the law fulfills an important state interest and one or more additional criteria:

- Appropriate sufficient funds to pay the entire cost of the benefit;
- Authorize a new funding source to generate funds sufficient for counties to pay the cost of the benefits;
- Pass the bill in response to a federal requirement to obtain entitlement; or
- Pass the bill by a two-thirds vote.

As verbally communicated to professional staff of the Senate Committee on Criminal Justice, DMS staff reported to professional staff of the Senate Committee on Governmental Oversight and Accountability that an actuarial study of SB 612 has commenced and is projected to be completed by the end of February of 2010.

DMS states: “This proposed bill also establishes reemployment limitations that may not be applied equally to employees who retire from the same positions. This could possibly violate the equal protection clause of the U.S. Constitution which requires that persons similarly situated be treated alike.”

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<sup>10</sup> Article X, Section 14, Florida Constitution.

<sup>11</sup> Section 112.61, F.S.

<sup>12</sup> Article VII, Section 18, Florida Constitution.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

As indicated in the “Actuarial Statement of Fiscal Soundness,” dated December 11, 2009, which was prepared by an actuary of Milliman Inc. and which is incorporated in the DMS analysis:

SB 612 would require an FRS participating employer that at any time rehires a former employee who began DROP participation while in their employ and who ended their DROP participation in one of the positions covered by this bill, to be held jointly and severally liable along with the member for reimbursements to the FRS Trust Fund of all benefits paid to the retiree including any DROP payout.

The changes in SB 612 would impact retirement trends. This bill requires an actuarial special study to determine the fiscal impact of the benefit improvement.

As previously indicated, this actuarial study has commenced. According to DMS, once the study is completed, “rates must be adjusted accordingly to ensure proper funding of the provisions set forth in the bill.” DMS states: “Under the current DROP funding methodology, the cost of DROP is spread equally as a percentage of pay across all classes instead of being funded through the membership class contribution rate. If there is a cost resulting from this proposed change, all employers would pay the additional cost instead of just employers with Special Risk Class members or employers of law enforcement, correctional officers, and correctional probation officers.”

**VI. Technical Deficiencies:**

The bill provides that a retiree who is reemployed or retained in a contractual capacity in violation of the bill’s restrictions or limitations on reemployment or retention *and* an employer who employs or contracts with such person in violation of such restrictions or limitations reemploys or contracts with such person in violation of such restrictions or limitations “*is* [sic] jointly and severally liable” for reimbursement to the FRS Trust Fund for any retirement benefits improperly paid during the reemployment or contractual period. Since the language refers to a retiree and an employer, it appears linking verb agreement requires an “are” rather than an “is.”

The bill provides that the Special Class members who are eligible to participate in the 36-month DROP extension and who have participated in the extended DROP may, at the conclusion of their participation in DROP, “be retained by the employer as a part-time or auxiliary law enforcement officer, as those terms are defined in s. 943.10, F.S., if the retiree is serving on a

voluntary basis and receives no more than \$1 per calendar year for services rendered directly for the employer.” As written, it appears that the bill would exclude an applicable Special Risk class member from being retained by the employer as a “part-time correctional officer” or “auxiliary correctional officer.” The terms “part-time correctional officer” or “auxiliary correctional officer” are separately defined in s. 934.10, F.S., and do not appear to be subsumed within the definitions of the terms “part-time law enforcement officer” and “auxiliary law enforcement officer.” If this is correct and the failure to include them was an oversight, an amendment would be needed.

**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.)

None.

**B. Amendments:**

**Barcode 733196 by Criminal Justice on February 3, 2010:**

Corrects a grammatical error and corrects an omission by authorizing Special Risk Class members who have participated in the extended 36-month DROP period to be retained by the employer after the DROP period as part-time or auxiliary correctional officers if they receive no more than \$1 per calendar year for services rendered directly to the employer.