

**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 Judiciary Committee

BILL: SB 1996  
 INTRODUCER: Senator Smith  
 SUBJECT: FRS/Special Risk Class/Court Deputies  
 DATE: April 16, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	<b>Favorable</b>
2.	Treadwell	Maclure	JU	<b>Pre-meeting</b>
3.			GO	
4.			WPSC	
5.				
6.				

**I. Summary:**

This bill redefines the term “special risk class member” and revises the membership criteria for the Special Risk Class to include court deputies. The bill also contains a statement of important state interest in providing a safe and secure environment for state court employees and the public.

This bill substantially amends sections 121.021 and 121.0515, Florida Statutes.

**II. Present Situation:**

**Florida Retirement System**

The Florida Retirement System (FRS) was established by the Legislature in 1970 to consolidate then-existing state administered retirement programs for state and county employees and officers, teachers, judges, and highway patrol officers.<sup>1</sup> Membership in the FRS is compulsory for all state and county employees that work in regularly established positions.<sup>2</sup> Cities and special districts are also given the option to participate in the FRS.

<sup>1</sup> Department of Management Services, *Senate Bill 1996 Analysis*, 1 (Apr. 1, 2010) (on file with the Senate Committee on Judiciary) (stating that approximately 181 cities and 221 independent special districts in Florida have become members of the FRS as of June 30, 2009).

<sup>2</sup> Section 121.051, F.S.

The FRS membership is broken down into five different classes: Regular, Special Risk, Special Risk Administrative Support, Elected Officers, and Senior Management Service. The following table reflects the number of active FRS employees in 2009 by membership class:<sup>3</sup>

Membership Class	Members
Regular Class	582,671
Special Risk Class	75,640
Special Risk Administrative Support Class	76
Senior Management Service Class	7,725
Elected Officers' Class	2,304

The FRS is composed of two programs: The Defined Benefit Program (FRS Pension Plan) and the Defined Contribution Program (FRS Investment Plan), properly known as the Public Employee Optional Retirement Program (PEORP). The term “defined contribution” for the FRS Investment Plan means that employer *contributions* are defined; whereas in the FRS Pension Plan, the *benefit* is defined.<sup>4</sup> Eligible new employees are automatically enrolled into the Pension Plan and are given five months to join the Investment Plan before they are defaulted into the Pension Plan. The FRS employees are also given a one-time second election option during the course of their employment in which they are permitted to change their retirement plan.

### Special Risk Class

As of January 30, 2009, the FRS had 75,640 active Special Risk Class Members.<sup>5</sup> The Special Risk Class includes employees who meet the eligibility requirements found in s. 121.0515, F.S., and who are employed by an FRS employer as a law enforcement officer, firefighter, correctional officer, correctional probation officer, emergency medical technician, paramedic, youth custody officer, or who are in a specified professional health care or forensic position and spend at least 75 percent of their time performing duties involving inmate contact for the Department of Corrections or patient contact for the Department of Children and Family Services.

The Special Risk Class was created for employees who must, as an essential function of the position, perform work that is physically demanding or arduous, or that requires extraordinary agility and mental acuity. 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 co-workers. Because of this, Special Risk Class members who are vested in the FRS receive more credit toward retirement for each year of service and are eligible to retire at an earlier age than Regular Class members.<sup>6</sup>

<sup>3</sup> Department of Management Services, *supra* note 1, at 2.

<sup>4</sup> MyFRS FRS Investment Plan Summary Plan Description, (July 1, 2009), *available at* [http://www.myfrs.com/imageserver/pdf/forms/frs\\_ip\\_spd.pdf](http://www.myfrs.com/imageserver/pdf/forms/frs_ip_spd.pdf) (last visited Apr. 2010) (emphasis added).

<sup>5</sup> Department of Management Services, *supra* note 1, at 2.

<sup>6</sup> *Id.* at 3 (a Special Risk Class member can retire at the age of 55, or after 25 years of service, while a Regular Class member can retire at the age of 62, or after 30 years of service. A Special Risk Class member can earn retirement credits at 3 percent of the Average Final Compensation (AFC) for each year of service, while a Regular Class member earns retirement credits at 1.6-1.68 percent of AFC for each year of service.).

**Employee Accrual Rate**

An employee’s *accrual rate* is the retirement credit that an employee earns for each year of service; this rate varies depending upon the employee’s membership class. According to the Department of Management Services, the current credit accrual rate for each membership class is as follows:<sup>7</sup>

Membership Class	Credit Accrual Rate
Regular Class	1.60%, 1.63%, 1.65% or 1.68% per year
Special Risk Class	3.00% per year
Special Risk Administrative Support Class	1.60%, 1.63%, 1.65% or 1.68% per year
Senior Management Service Class	2.00% per year
Elected Officers’ Class	
• Justices and Judges	3.33% per year
• Others	3.00% per year

**Employer Contribution Rates**

The FRS employers are responsible for contributing a set percentage of their employee’s monthly compensation to the Division of Retirement to be distributed into the Florida Retirement System Contributions Clearing Trust Fund. The employer is required to make these contributions no later than the fifth working day of the month following the end of the payroll period.<sup>8</sup> The employer contribution rate is a “blended contribution rate” set by statute, which is the same percentage regardless of which plan their employee participates in, and is determined annually based on an actuarial study by the Department of Management Services.<sup>9</sup> Pursuant to s. 121.71, F.S., the current employer contribution rate for each membership class is:<sup>10</sup>

Membership Class	Effective July 1, 2009	Effective July 1, 2010
Regular Class	8.69%	9.63%
Special Risk Class	19.76%	22.11%
Special Risk Administrative Support Class	11.39%	12.10%
Elected Officers’ Class		
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.32%	15.20%
• Justices and Judges	18.40%	20.65%
• County Officers	15.37%	17.50%
Senior Management Class	11.96%	13.43%

<sup>7</sup> Department of Management Services, *House Bill 660 Analysis*, 3-4 (Jan. 26, 2010) (on file with the Senate Committee on Judiciary).

<sup>8</sup> Section 121.78, F.S.

<sup>9</sup> Section 112.63, F.S.

<sup>10</sup> Section 121.71, F.S.

## Actuarial Soundness and Minimum Funding Standards

Article X, section 14, of the Florida Constitution, requires public retirement benefits to be funded on a sound actuarial basis. The Florida Constitution provides:

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 or 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.<sup>11</sup>

The “Florida Protection of Public Employee Retirement Benefits Act (Act)” located in part VII, of ch. 112, F.S., also provides minimum operation and funding standards for public employee retirement plans. The legislative intent of this Act is 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.”<sup>12</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 121.021(15), F.S., to revise the definition of “special risk member” to mean a member who meets the criteria specified in s. 121.0515, F.S., as amended under the bill, which would now also include court deputies. This section also deletes the language in paragraphs (a)-(e) of s. 121.021(15), F.S., which is transferred to s. 121.0515(2), F.S., in section 2 of the bill.

**Section 2** revises the membership criteria for the Special Risk Class in s. 121.0515, F.S., to make conforming amendments, and to include FRS members who are employed as court deputies in the state court system that perform the following duties:

- Transporting, controlling, and fingerprinting prisoners within the courthouse;<sup>13</sup>
- Maintaining care and control of juries;
- Notifying court administration when larger courtrooms are needed, bringing judge’s supplies to the courtroom, announcing the judge and calling the court to order; and
- Maintaining a safe and secure environment for the public in a courtroom setting.

The bill does not include administrative support personnel, which includes but is not limited to, employees whose primary responsibilities are clerical or in accounting, purchasing, legal, and personnel.

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<sup>11</sup> FLA. CONST. art X, s. 14.

<sup>12</sup> Section 112.61, F.S.

<sup>13</sup> In some instances, court deputies may perform duties in an annex building or other county or municipal building that is not literally considered a “courthouse.” However, a reasonable interpretation of this provision may include any building in which court services are performed.

The bill does not define “court deputy.” Although it appears from the description of the duties performed that these court deputies would be local law enforcement officers, in some instances, the court deputies may be State Courts System employees.

**Section 3** declares a legitimate state interest in providing a safe and secure environment for state court employees and the public. The Legislature further declares that the court deputies providing this service must be afforded benefits that are fair and adequate and that are managed, administered, and funded in an actuarially sound manner as required by the Florida Constitution.

**Section 4** states that this bill shall take effect on July 1, 2010.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This bill falls under subsection (a) of section 18 of Article VII, Florida Constitution. Subsection (a) provides that counties and municipalities are not bound by general laws that require them to spend funds or to take action that requires the expenditure of funds unless certain exemptions or exceptions are met.

As for applicable specified constitutional exceptions, the bill requires similar expenditures by all similarly situated persons (i.e., state and local governments); therefore, the only additional requirement necessary to remove the bill from the purview of this constitutional provision is a finding that the legislation fulfills an important state interest. The bill contains a finding that its provisions fulfill an important state interest.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. Other Constitutional Issues:**

Section 14, Art. X, of the State Constitution, requires public retirement benefits to be funded on a sound actuarial basis.<sup>14</sup> Section three of the bill requires the benefits provided in this act to be managed, administered, and funded in an actuarially sound manner.

Currently, the bill only applies prospectively and is funded by affected agencies based on future FRS valuations. However, the Department of Management Services reports that any amendments that would allow employees to upgrade previous service would require an actuarial special study.<sup>15</sup>

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<sup>14</sup> FLA. CONST. art X, s. 14.

<sup>15</sup> Department of Management Services, *supra* note 1, at 5.

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

None.

**B. Private Sector Impact:**

Court deputies would be entitled to join the special risk membership class under the Florida Retirement System and would prospectively earn a higher accrual value for retirement service credit for their Special Risk Class service. Employers of affected members would be required to pay a higher contribution rate based on Special Risk Class membership rates in order to fund these higher benefits.<sup>16</sup>

**C. Government Sector Impact:**

According to the Department of Management Services, this bill would result in an increase in employer contributions as a result of the difference in contribution rates for Regular Class membership versus Special Risk Class membership.<sup>17</sup>

**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.)

None.

**B. Amendments:**

None.

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

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<sup>16</sup> *Id.* See Chart in the Present Situation of this analysis for the difference in employee accrual rates.

<sup>17</sup> *Id.* See Chart in the Present Situation of this analysis for the differences in employer contribution rates.