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## Senate Committee on Governmental Oversight and Productivity

### RETIREMENT AND PENSION MANAGEMENT

#### **CS/HB 261 — Firefighters and Police Pension Trust Fund**

by Governmental Operations Committee and Rep. Pruitt and others (SB 380 by Senator Webster)

This bill (Chapter 99-1, L.O.F.) revises existing provisions of law in chs. 175 and 185, F.S., governing the operation of the more than 400 local government firefighter and police pension plans. The bill prescribes uniform criteria for the application of minimum standards for the operation of such defined benefit plans. These criteria are extended to all municipal, special district, chapter, and local law plans. Chief among these standards are the establishment of a minimum accrual rate, or value of each year of service toward a pension benefit, and a uniform definition of compensation. The bill also gives specific enforcement authority to the state Division of Retirement for the promulgation of rules on the operation of these fire and police plans. That nominal authority under prior law had been in a suspense state due to prior litigation invalidating the enforcement of its rules. Local law plans must come into compliance with more specific triennial auditing and asset reporting requirements for their continued participation in receiving proceeds from the insurance premium tax. The bill also provides that additional premium tax monies received after calendar year 1997 shall be used to pay extra benefits for police and firefighter personnel.

These provisions were approved by the Governor and take effect upon becoming law.  
*Vote: Senate 36-2; House 113-2*

#### **HB 1883 — State-Administered Retirement Systems**

by Governmental Operations Committee and Rep. Posey (SB 2530 by Senator Webster)

This bill provides technical and clarifying changes to retirement laws in ch. 121, F.S., affecting state and local government employers. Local government plan sponsors are required to submit specified reports on their retirement systems to the state Division of Retirement. Additional provisions delineate that actuarial review information shall be provided at least every three years.

The bill creates a legislatively-based retirement benefit assumption review process through which future impact assessments of benefit changes to the multi-employer Florida

Retirement System (FRS) may be made. House Bill 1883 also retroactively adjusts eligibility for membership in the FRS for certain vendors sponsored by the Division of Blind Services. This provision stems from settlement of a law suit challenging a prior legislative removal of these employees from the state pension plan.

The most significant feature of the bill, however, is the implementation of the findings of the 1998 actuarial review of the FRS. That review indicated that the FRS has achieved a full-funding status for the first time in its nearly thirty year history. With the FRS pension liability paid off, the bill now lowers the public employer-paid payroll contribution rates across all membership classes by nearly \$1.1 billion. This change permits each public employer-member to decide how to recognize these recurring, workforce savings.

HB 1883 also enrolls local government emergency medical technicians/paramedics in the special risk class of the FRS. This class provides for normal retirement at the completion of 25, rather than 30, years of service or upon the attainment of age 55 rather than age 62. State law enforcement officers are extended to same presumptions of in-line-of-duty disability afforded firefighters on the contracting of heart disease, tuberculosis, and hypertension. Lastly, a bicameral working group of legislative committees will examine optional pension plan choices, including defined contribution plans, and report its findings prior to the next Regular Session of the Legislature. Annual actuarial reports on the FRS are to be reviewed by the plan's Board of Trustees (Governor, Treasurer, and Comptroller) who may provide their own comments and recommendations.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-1; House 114-0*

### **CS/HB 1013 — FRS Preservation of Benefit Plan**

by Governmental Operations Committee and Rep. Bloom and others (CS/SB 1858 by Governmental Oversight & Productivity Committee and Senator Silver)

The bill amends s. 121.091, F.S., 1998 Supp., and creates s. 121.1001, F.S., creating an excess benefit plan referred to as the "Florida Retirement System Preservation of Benefit Plan." Currently, member benefits are limited by s. 121.091(1), F.S., and s. 60S-4.002(3), F.A.C., and prohibits a member's initial retirement benefit from exceeding 100 percent of his or her average final compensation. This plan allows the Division of Retirement to pay any future retirement benefits that exceed Federal limits through a second qualified benefit plan pursuant to s. 415.(m), Internal Revenue Code.

If approved by the Governor, these provisions take effect July 1, 1999.

*Vote: Senate 38-0; House 107-0*

**CS/HB 1489 — FRS/Trust Fund**

by Governmental Operations Committee and Rep. Bloom (CS/SB 1856 by Governmental Oversight & Productivity Committee and Senator Silver)

The bill creates s. 121.095, F.S., and establishes a separate trust fund needed to implement the “Florida Retirement System Preservation of Benefit Plan” under the provisions of CS/HB 1013.

If approved by the Governor, these provisions take effect July 1, 1999.

*Vote: Senate 40-0; House 107-0*

**HB 885 — FRS/Judges of Compensation Claims**

by Rep. Boyd and others (CS/SB 724 by Governmental Oversight & Productivity Committee and Senator Silver)

The bill amends s. 121.055, F.S., and will expand the Senior Management Service Class (SMSC) to include all judges of compensation claims who are now Regular Class members of the Florida Retirement System (FRS). Regular Class members must have 10 years of service to vest retirement benefits and accrue retirement credit at a rate of 1.6 percent per year of service. Senior Management Class membership requires a shorter vesting period (7 years) and accrues retirement credit at a rate of 2 percent per year of service.

The bill further provides that judges of compensation claims may participate in the Senior Management Service Optional Annuity Program in lieu of the Senior Management Service Class, and that certain local government senior managers may make an irrevocable withdrawal from the FRS.

If approved by the Governor, these provisions take effect July 1, 1999.

*Vote: Senate 36-0; House 115-0*

**GOVERNMENTAL EFFICIENCY AND EFFECTIVENESS**

**CS/HB 1707 — Department of Management Services**

by General Government Appropriations Committee; Governmental Operations Committee; and Rep. Posey and others (CS/CS/SB 2410 by Fiscal Policy Committee; Governmental Oversight & Productivity Committee; and Senator Webster)

CS/HB 1707 makes a number of technical revisions to statutes affecting the Department of Management Services (DMS). Among the principal changes are state agency cost

recovery methods for the recoupment of training expenses in excess of \$1,000 for employees who terminate employment within four years. Recruiting agencies may pay these expenses if incidental to an offer of employment by an affected individual. DMS has a number of its separate reports on human resource matters consolidated into one annual Workforce Report. Each agency is given higher individual dollar amounts for the conferral of meritorious service awards.

Specified managerial and policy coordinator positions in the Executive Office of the Governor are designated for inclusion in the Senior Management Service. Other employees will have their non-leave benefits made comparable to legislative staff. Each state department may designate one additional position for inclusion in the Senior Management Service provided the position reports to the agency head and is funded from existing budgeted funds. Specific authority conferred by s. 110.207, F.S., to the Department of Transportation for continuation of its personnel broadbanding classification system, is repealed.

The DMS is directed to implement through the collective bargaining process a uniform performance appraisal system. An agency may implement customized pay additives for terms greater than three months only with prior approval of the Executive Office of the Governor.

Dollar thresholds for the definition of tangible personal property categorized as operating capital outlay requiring inventory and record-keeping is raised to \$1,000 from \$500 and to \$250 from \$100 for bound, hard-cover books.

Prior approval of agency leases by the DMS is raised to 5,000 from 3,000 square feet. The Secretary of Management Services is the nominal responsible agency authority for the Grove and the Governor's Mansion historic capital properties. DMS is also designated as the responsible agency for the 800 Megahertz law enforcement radio system, the emergency "911" response system, and the emergency medical telecommunications system.

State agency purchasing thresholds are increased from approximately 60 percent at the low end to 150 percent at the upper end. Notification provisions for the releasing of state purchasing information is extended to include the Internet, surface mail, and publication in the Florida Administrative Weekly.

State attorneys, public defenders, and the State Fire Marshal are given latitude in the acquisition of motor vehicles. Prosecution and defense agencies are not required to use subcompact class vehicles and the fire Marshall staff may retain its own fleet inventory outside of DMS management. These sections of the bill also implement recommendations of a legislative performance review report directing agencies to calculate break-even

points for utilization of motor vehicles to determine whether personal assignment of vehicles to high use travelers is warranted.

The standard for the award of pending and future appellate attorney's fees in public employee labor dispute cases is changed to include only the actual time spent on the appeal and the reasonable hourly rate charged in the same geographic area.

Section 55 of the bill repeals ch. 98-310, L.O.F., which created an alternative procurement of capital and state area airline fares for state employee travelers. Under the new language the DMS may negotiate in the best interest of the state employee traveler and does not have to comply with ordinary purchasing procedures.

The DMS is directed to continue to weatherize and protect the assets for which public funds have been appropriated and expended for a juvenile justice facility in Hillsborough County that remains incomplete and unoccupied. The DMS is directed to continue to seek a suitable occupant compatible with community needs and concerns.

Legislative members leaving office after July 1, 1999 who are otherwise vested in the state retirement system may continue to purchase the same health and life insurance coverage at group rates at the same premium cost as current members.

The final section of the bill repeals performance measures for the Florida Public Service Commission enacted in the General Appropriations Act implementing legislation (SB 2502) for the 1999-2000 fiscal year.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 37-0; House 117-0*

### **CS/SB 2280 — DMS/Reorganization**

by Governmental Oversight & Productivity Committee and Senator Campbell

The bill reorganizes the Department of Management Services (DMS) transferring functions assigned to the autonomous Division of State Group Insurance and the Division of Retirement to the department. The bill abolishes the Florida State Group Insurance Council, repeals the provisions of s. 20.37, F.S., regarding the designated location of the headquarters of the Department of Veteran's Affairs, and substantially revises the state employees' prescription drug program.

Statutory responsibilities for the Florida Retirement System (FRS), the State and County Officers Retirement System, and the Retirement System for School Teachers, are transferred from the Division of Retirement to DMS. These responsibilities include: administration and rulemaking authority; membership eligibility, classification and

classification criteria, past and prior service credit; contribution rate setting and collection; annual reports to the Legislature; auditing of personnel and payroll records of participating agencies; disability benefits, retirement benefits, and survivor benefit determinations; the State Retirement Commission and all related issues; and the adoption of rules necessary to qualify under the Internal Revenue Code of the United States.

Other responsibilities relating to the State Community College System Optional Retirement Program, the Florida National Guard, the Highway Patrol Pension Trust Fund, blind licensee FRS membership, and the redistribution of accrued or accruing funds in the Firefighters' Supplemental Compensation Trust Fund, are transferred from the Division of Retirement to DMS.

The bill creates s. 110.1082, F.S., prohibiting state employees from utilizing a voice mail system whenever working at a regularly assigned work station. However, if the caller cannot reach his or her called party under certain circumstances, the system must provide the caller with access to a nonelectronic attendant.

A complete revision of s. 110.12315, F.S., is undertaken to change the policy and procedures on the state employee prescription drug program. Future copayments for approved pharmaceuticals will be established in the General Appropriations Act or implementing legislation. This year's appropriations act did, in fact, raise these levels from \$5 to \$7 for generic drugs and from \$15 to \$20 for brand name pharmaceutical products. The DMS shall not implement a prior authorization program for drugs or a restricted formulary and the existing formulary authorized by last year's implementing bill is terminated on the effective date of the bill, July 1, 1999.

The bill limits the collection of refunds to state group health plan participants who have been overcharged by plan providers. The limitation is changed from a maximum of \$1,000 per admission to a flat \$1,000. The amendment language was acquired from CS/SB 2224.

The bill increases the size of the Florida Employee Long-Term-Care Plan Board of Directors from seven to nine members to include legislative members. The bill requires the DMS, in conjunction with the Department of Elderly Affairs, to review plans for establishing long-term-care coverage for public employees, their families and retirees. Counties and municipalities will not automatically participate in state long-term-care coverage but must do so by election. The bill also provides that entities providing consulting services regarding preparation of requests for proposals (RFPs) or the review and evaluation of RFPs, may not also contract as a provider for long-term-care services.

The bill extends the authority of DMS to allow terminated employees or individuals with continuation health coverage (COBRA) to participate in the state group plan for the required term. The bill provides that a state agency must pay the entire cost of the health

insurance premium for those state law enforcement, correctional, correctional probation officers, and firefighters, catastrophically injured in the line of duty and in accordance with ss. 112.19 and 112.191, F.S. The bill also provides for expanded enrollment in the state group health insurance plan for state employee retirees. Legislative members leaving office after July 1, 1999, who are vested in the state retirement system, may continue to participate in health and life insurance programs under the same premium and coverage terms as current employees.

The bill will allow any member of the FRS serving as an elected mayor of a consolidated local government which administers its own retirement system to elect membership into the Elected State and County Officers' Class. Former mayors are also eligible provided the local government employer agrees to make the necessary contributions plus accrued interest.

Each executive branch department shall survey its own embedded and subordinate commissions, boards, and other entities and report to the Governor and Legislature by December 1, 1999, as to the future continuation of such entities.

If approved by the Governor, these provisions take effect July 1, 1999.

*Vote: Senate 38-0; House 116-0*

### **CS/HB 107 — Administrative Procedure Act**

by Governmental Rules & Regulations Committee and Reps. Pruitt and Wallace  
(CS/CS/SB 206 by Fiscal Policy Committee; Governmental Oversight & Productivity Committee; and Senator Laurent)

The bill amends ss. 120.52 and 120.536, F.S., both of which contain the required standard for the adoption of rules by agencies. Under the amendment to these sections, an agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. Further, the amendment to these sections provides that no agency has authority to adopt a rule only because it is within the agency's class of powers and duties. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency can be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the same statute.

The bill also requires agencies to provide to the Joint Administrative Procedures Committee (JAPC) by October 1, 1999, a listing of each rule, or portion of a rule, that was adopted before the effective date of the bill, which exceeds the rulemaking standard. The JAPC is required to provide a cumulative listing to the President of the Senate and the Speaker of the House of Representatives. During the 2000 Regular Session, the Legislature will consider whether specific legislation authorizing the identified rules should be enacted. The bill requires agencies to initiate proceedings to repeal rules that were

identified as exceeding the rulemaking authority permitted and for which authorizing legislation does not exist. The JAPC must submit to the Legislature by February 1, 2001, a report identifying those rules previously identified as exceeding the rulemaking standard if rule repeal proceedings have not been initiated. Any rule may be challenged as of July 1, 2001, on the basis that it exceeds the rulemaking authority permitted by the section.

The bill also modifies requirements related to the preparation of final orders by an agency. An agency may reject or modify the conclusions of law established by the administrative law judge in his or her recommended order if the agency has substantive jurisdiction over the area. Further, when rejecting or modifying the conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying the conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as reasonable or more reasonable than that which was rejected or modified.

The bill also clarifies some other portions of the Administrative Procedure Act. For example, the bill provides that the petitioner has the burden of going forward in a proposed rule challenge proceeding, but the agency has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority as to the expressed objections.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-1; House 113-5*

### **CS/CS/SB 230 — Reorganization of the Department of Labor and Employment Security**

by Commerce & Economic Opportunity Committee; Governmental Oversight & Productivity Committee; and Senator Webster

This bill reorganizes the Department of Labor and Employment Security (DLES) to operate in a more decentralized fashion. Two assistant secretaries must be appointed by the secretary: (1) Assistant Secretary for Finance and Administration; and (2) Assistant Secretary for Programs and Operations. The Office of General Counsel and the Office of Inspector General are established as special offices and are headed by managers. The bill provides for six divisions, headed by division directors, which will be under the Assistant Secretary for Programs and Operations: (1) Division of Workforce and Employment Opportunities; (2) Division of Unemployment Compensation; (3) Division of Workers' Compensation; (4) Division of Blind Services; (5) Division of Safety, which is repealed July 1, 2000; and (6) the Division of Vocational Rehabilitation.

The bill provides for five field offices to administer and manage the DLES's programs. The field offices are to be located in: (1) Panama City; (2) Lake City; (3) Orlando; (4)

Tampa; and (5) Miami. These field offices are responsible for the administration and management of any local offices within their jurisdiction. The functions and programs of these divisions are to be coordinated and integrated to the maximum extent practicably feasible. The DLES is granted flexibility to minimize costs in managing its contractual obligations with respect to existing leases. Key programs are to be co-located in the five field offices by July 1, 2001, though the department is authorized to phase in the offices where longer-term leases exist.

The bill also limits the authority of the Division of Safety to public-sector places of employment and requires the DLES to report on a proposed reauthorization of the division based upon specific criteria.

The bill requires the Division of Vocational Rehabilitation to enter into local public-private partnerships to the extent that it is beneficial to increasing employment outcomes for persons with disabilities and to ensuring their full involvement in the comprehensive workforce investment system. The bill also establishes the Occupational Access and Opportunity Commission in the Department of Education. Appointments to the commission are made by the Governor, the President of the Senate, and the Speaker of the House of Representatives. At least 50 percent of the members must be from the private sector.

The commission is required, no later than July 1, 2000, to develop and implement a 5-year plan to promote occupational access and opportunities for Floridians with disabilities, and to fulfill the federal plan requirements. The plan must explore the use of Individual Training Accounts for eligible clients. If developed, these accounts must be distributed under a written memorandum of understanding with One-Stop Career Center Operators. Additionally, the Occupational Access and Opportunity Corporation, a not-for-profit entity, is created to act as the administrative arm of the commission. The plan must be submitted to the Governor, the Senate President, and the House Speaker.

Effective January 1, 2000, the brain and spinal cord injury program and the Office of Disability Determinations, administered by the DLES, are transferred to the Department of Health. Additionally, the Division of Blind Services is transferred from the department to the Department of Education (DOE). The bill also requires the Commissioner of Education to appoint a Deputy Commissioner for Technology and Administration and creates a Division of Technology in the DOE.

Additionally, it requires the department to contract with one or more consumer-reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wages report submitted in accordance with the state's unemployment compensation law. Creditors must obtain written consent from the credit applicant prior to gaining access to the information and such written consent is good for a

single transaction. The consumer-reporting agency or agencies under contract with the department are to pay all development and other startup costs incurred by the state in connection with the design, installation, and administration of technological systems and procedures for the electronic-access program.

All other actions related to the reorganization of the DLES required by the act must be accomplished within available appropriations of the department.

If approved by the Governor, these provisions take effect October 1, 1999, except as otherwise provided in the bill.

*Vote: Senate 28-10; House 84-34*

### **CS/HB 223 — Governmental Conflict Resolution**

by Governmental Affairs Committee and Rep. Constantine and others (SB 1076 by Senator Webster)

The bill modifies governmental conflict resolution procedures. The purpose and intent of the Florida Governmental Conflict Resolution Act is to promote, protect, and improve the public health, safety, and welfare and to enhance intergovernmental coordination by a conflict resolution procedure that is equitable, expeditious, effective, and inexpensive. The bill provides that it is the intent of the Legislature that conflicts between governmental entities be resolved to the greatest extent possible without litigation.

The bill contains definitions of “local governmental entities” and “regional governmental entities.” Additionally, it places a duty on governmental entities to negotiate with other governmental entities to resolve disputes. The act encourages use of the procedures at any time there is conflict. If a governmental entity files suit against another governmental entity, however, court proceedings on the suit must be abated until the procedural options of the act have been exhausted. The act specifies types of actions which do not fall under the procedural requirements of the act, such as some eminent domain actions, administrative proceedings, and where the governing body of the governmental entity finds by a three-fourths vote that the immediate health, safety, and welfare of the public is threatened. Issues such as municipal annexation, service provision areas, siting of hazardous waste facilities, and others, are covered by the act.

The bill provides a conflict resolution procedure that includes adoption of a resolution by the governing body of one governmental entity specifying the issues of conflict. The receiving governmental entity is provided a period of time to respond to this resolution. Public notice of the conflict assessment meeting that is thereafter scheduled is required. If no tentative resolution to the conflict can be agreed upon at this meeting, additional meetings may be scheduled, including a joint public meeting. Additionally, mediation may

be requested. If the conflict is not resolved, the entities participating in the dispute resolution process may avail themselves of any otherwise available legal remedies.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 112-0*

### **SB 326 — Treasurer/Deferred Compensation Plan**

by Senator Thomas

This bill amends ss. 18.125 and 112.215, F.S., to earmark administrative fees paid by participants of the state's Deferred Compensation Plan for purposes of benefiting only plan participants. It eliminates reversion of any surplus fees to the General Revenue Fund. The bill also provides technical clarification regarding moneys held in the State Treasury's Deferred Compensation Trust Fund.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 116-0*

## **GOVERNMENTAL ORGANIZATION**

### **CS/CS/SB 2426 — Legislative Oversight**

by Fiscal Policy Committee; Governmental Oversight & Productivity Committee; and Senator Rossin

This bill revises the conditions under which the Joint Legislative Auditing Committee, the Legislature's supervising entity for the Office of the Auditor General, will conduct audits of local governments. CS/CS/SB 2426 implements recommendations made in the October 1998 report *Joint Committee Review and Rightsizing Project, Review Report* issued by the Office of the Senate President and the Office of the Speaker of the House of Representatives.

Under the revisions included in the legislation only school boards with county populations of less than 125,000 will be eligible for scheduled audit services performed by the Auditor General. Remaining school boards will have to contract out these services every two years with the legislative auditor providing triennial services only. New compliance requirements for these contracted school board audits will be developed in concert with the Department of Education. Charter schools are specifically included by name in the audit requirements. Local governments will be assessed costs for audit services based upon their ability to pay and whether the audit was done at their request. Sanctions, including the withholding of

local revenues derived from the operation of state law, are provided for entities which do not pay for these requested services.

The bill makes other nomenclature changes to effect its objectives by aligning state agency names with revised statutory duties. Water Management Districts will be governed by a nondiscretionary annual audit requirement. Property tax assessment rolls will be reviewed triennially rather than biennially by the Auditor General. Nonprofit interscholastic associations and the state's prison industry management corporation are required to provide annual financial audits of their accounts paid from their funds.

The bill also transfers intact the entire Division of Public Assistance Fraud and its employees from the Auditor General to the Florida Department of Law Enforcement effective October 1, 1999. CS/CS/SB 2426 also centralizes the day-to-day management of the legislative Office of Program Policy Analysis and Governmental Accountability under its director who reports directly to the President of the Senate and Speaker of the House of Representatives. The director may adjust completion of program evaluation and justification reviews to accommodate items deemed to be more urgent. Jurisdiction for actions affecting employees in the "Whistle-Blower's Act" is transferred from the Public Service Commission to the Commission on Human Relations. The legislative Juvenile Justice Accountability Board is transferred to the Department of Juvenile Justice, has its appointed membership reduced, and is subject to repeal in the year 2001.

If approved by the Governor, these provisions take effect July 1, 1999.

*Vote: Senate 38-0; House 112-1*