

## **RETIREMENT**

### **CS/SB 2— Florida Retirement System**

by Governmental Oversight & Productivity Committee and Senators Burt, Smith, Lawson, Mitchell, and Crist

The Committee Substitute for Senate Bill 2 provides a number of important benefit changes for active and inactive members of the Florida Retirement System (FRS) and makes further changes to the optional retirement program scheduled for implementation in 2002.

The bill provides a special 12 percent cost-of-living-adjustment payable in January 2002 for inactive members of the special risk retirement class of the FRS who did not benefit from the repurchase of prior service credit enacted by the Legislature following the passage of ch. 2000-169, L.O.F. The adjustment will permanently upgrade the pension benefits for the some 12,000 retirees and beneficiaries eligible to receive it. Funding of the adjustment will be paid from accrued available retirement plan surplus. Should insufficient funds be available, a small upward increase in the employer payroll cost schedule is authorized.

Additional upgraded retirement service is provided effective October 1, 2001, for a number of employee groups who move from the Regular Class to the Special Risk Class of the FRS: local government emergency medical service personnel with supervisory duties; fixed-wing aircraft pilots with firefighting duties employed by local governments or the Florida Division of Forestry; and upgraded special risk service credit for repurchase by emergency medical service or paramedic personnel or their employers. Effective January 1, 2002, the bill also reclassifies assistant attorneys general from the Regular Class to the Senior Management Class in the FRS. Municipal government and special taxing district members of the FRS are also permitted to enroll their elected officers in the Elected Officers' Class of the FRS provided they do so within a period beginning July 1, 2001, and ending December 31, 2001.

Under the terms of the bill, members of the Elected Officers' Class of the FRS who participate in the Deferred Retirement Option Program may leave that program prior to the expiration of the sixty-months maximum membership period and enroll in the Elected Officer's Class of the FRS.

Beginning in 2002 employees participating in the FRS will be given an opportunity to change from the employer-owned defined benefit plan to a portable and personally-owned defined contribution plan. CS/SB 2 makes changes to the provider companies eligible to participate in the procurement. These changes authorize the offering of investment options to participating employees from companies that provide guaranteed annuity products. Such offerings may impose fees that are reasonable and market-based. All provider companies must adhere to federal, state, and industry-sanctioned regulatory standards affecting their products and personnel.

CS/SB 2 provides that the appointment decision for the Executive Director of the State Board of Administration shall occur on an annual basis by majority vote of the Trustees (Governor, Treasurer, and Comptroller) of the Florida Retirement System with the Governor voting on the prevailing side.

The bill also provides the insertion of text to bring it into compliance with s. 18, Art. VII, State Constitution, on unfunded local government mandates by providing a statement of important state interest.

If approved by the Governor, these provisions take effect July 1, 2001.

*Vote: Senate 40-0; House 116-0*

### **HB 1821—Florida Retirement System/Retiree Health Insurance Funding** by Fiscal Responsibility Council and Rep. Murman and others

House Bill 1821 implements changes to the contribution rates charged employer members of the Florida Retirement System (FRS). Annual adjustments to payroll contribution rates are required to bring funding into compliance with actions taken in the General Appropriations Act. This act recognized a portion of the accrued retirement plan surplus and applied it toward a 1.85 percent overall rate reduction. This retirement bill in its year 2001 form differs from previous versions in that it abandons the tabular format for displaying cumulative historic rate changes dating from 1970 in favor of a narrative statement that is current year-specific only. The bill also sets the rates to be charged for the higher education members who are enrolled in the separate university and community college optional annuity program. Previously, these rates were set at the normal cost rate for the FRS. HB 1821 places a specific rate in the Florida Statutes.

Incorporated within the bill is an increase in the public employer rates charged for the funding of the retiree health insurance subsidy account. This program provides retirees with a five-dollar per year of service monthly credit, not to exceed \$150, which can be applied toward any health insurance premium. The rate adjustment from .94 percent to 1.11 percent of gross monthly compensation proved necessary to maintain funding levels above reserve amounts.

The bill also contains a statement of important state interest to bring it into compliance with s. 18, Art. VII, State Constitution, on the funding of local government mandates.

If approved by the Governor, these provisions take effect July 1, 2001.

*Vote: Senate 33-0; House 119-0*

## **PUBLIC RECORDS**

### **CS/SB 904 – Public Records Exemption**

by Health, Aging & Long-Term Care Committee and Senators Garcia and Silver

This bill makes information regarding supplemental rebates from pharmaceutical manufacturers under the Florida Medicaid Program confidential and exempt from public disclosure. Portions of meetings of the Medicaid Pharmaceutical and Therapeutics Committee at which this information is disclosed for discussion or negotiation are made exempt from Florida's open meetings requirements. The bill provides legislative findings that these exemptions are a public necessity in that disclosure of similar information is prohibited under federal law, and that the exemptions will enable the state to negotiate supplemental pharmaceutical manufacturer rebates for the ultimate benefit of Medicaid recipients. The exemptions are subject to the Open Government Sunset Review Act of 1995 and will be repealed on October 2, 2006, unless reenacted by the Legislature. Provides a contingent effective date linked to the effective date of CS/SB 792, which establishes the substantive provisions relating to Medicaid pharmaceutical rebates.

If approved by the Governor, these provisions take effect July 1, 2001.

*Vote: Senate 34-2; House 114-3*

### **CS/SB 1562 — Public Records Exemption**

by Regulated Industries Committee and Senator Burt

On March 28, 2001, the Task Force on Tobacco Settlement Revenue Protection (“Task Force”) issued its Final Report to the President of the Senate and Speaker of the House of Representatives. The first recommendation of the Task Force was for the Legislature to “. . . provide a process for verifying that the tobacco settlement payments received are in accordance with the Florida Settlement Agreement.” The report further recommends that the “. . . Legislature should also provide an exemption from the Florida Public Records Act for information considered necessary to verify the accuracy of the payments made by the tobacco companies if such information is considered a trade secret or insider information at the time of its receipt.” The bill creates s. 569.215, F.S., to exempt from public records proprietary confidential business information received in negotiations for settlement payments pursuant to the tobacco settlement agreement or received by the Comptroller or the Auditor General for purposes of accomplishing their responsibilities relating to the settlement payments under s. 569.21, F.S. In addition, any state or federal agency that currently is authorized to have access to the documents by a provision of law is granted access despite the exemption. Information that is made public loses its exemption. The exemption is subject to the Sunset Review Act of 1995 and shall be repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

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

*Vote: Senate 38-0; House 108-9*

## **INFORMATION TECHNOLOGY**

### **HB 1811 — State Technology Office**

by Information Technology Committee and Rep. Hart and others (CS/SB 874 by Governmental Oversight & Productivity Committee and Senator Garcia)

The bill amends chapters 20, 110, 186, 216 and 282, F.S., to expand the roles, duties and activities of the State Technology Office (STO). Chapter 2000-164, Laws of Florida, created the STO, established the position of Chief Information Officer, and provided the STO with a mandate to create an integrated system of information technology (IT) to allow citizens to effectively interact with state government and establish the organization necessary to support the IT system. This bill provides additional authority and resources to enable the STO to accomplish its mandate by authorizing the STO to establish the necessary organization to integrate information technology staff and resources across the executive branch of state government.

The bill provides for the following:

- Clarifies the agency status of the STO and provides additional authority with regards to its internal operations;
- Establishes the role of the STO in the review and approval processes for planning and budgeting purposes under ch. 216, F.S. with regards to large information technology purchases;
- Expands the role, duties and activities of the STO in developing, acquiring, securing and operating information technology resources that span all executive branch agencies;
- Clarifies the role, duties and activities of state agencies in developing, acquiring, and operating agency-specific information technology resources;
- Establishes the relationship between the STO and state agencies in the transfer and consolidation of information technology resources from state agencies to the STO; and
- Provides for reporting requirements of the STO concerning high-risk information technology projects.

If approved by the Governor, these provisions take effect July 1, 2001.

*Vote: Senate 35-0; House 116-0*

## MISCELLANEOUS

### CS/SB 466 — Public Employment

by Governmental Oversight & Productivity Committee and Senators Garcia, Sanderson, Bronson, and Sebesta

This act makes significant and wide-ranging changes to the recruitment, employment, classification, retention, training, and discipline of state employees, as follows:

- **Employee Educational Benefits (effective July 1, 2001):** The act extends state employee matriculation fee vouchers and grants to community colleges and public technical centers. It also provides that the availability of vouchers and grants depends upon whether appropriations exist, rather than whether space is available.
- **Lump-Sum Bonuses and Permanent Salary Increases:** The act provides that bonuses are to be paid by agencies each June from funds appropriated by the Legislature. Each state agency is required to annually develop plans for awarding employee merit bonuses. These plans must specify criteria, including that: (a) the employee must not have had any sustained disciplinary violation during the year prior to the bonus; (b) the employee must have exceeded normal job expectations; and (c) peer input must account for at least 40 percent of the bonus award determination.

Under the act, state agencies are permitted to retain a minimum of 20 percent of salary dollars for positions eliminated after July 1, 2001. These funds must be utilized for permanent salary increases. The joint Senate and House of Representatives Legislative Budget Commission may authorize the agency to retain an amount greater than 20 percent.

- **Leave Benefits (effective January 1, 2002):** The act provides that permanent career service employees may, subject to available funds, receive a payout of 24 hours of annual leave each December. The total payout is limited to 240 hours over the course of the employee's career with the state, including any leave received at the time of separation. Accrued leave for senior management employees may not exceed that provided for those in the selected exempt service class.
- **Administrative Training:** The act requires the Department of Management Services (DMS) to provide managerial training that includes the following topics: (a) improving the performance of individual employees; (b) improving the performance of groups of employees; (c) relating the efforts of employees to agency goals; (d) strategic planning; and (e) team leadership.
- **Broadbanding:** The act directs the DMS to develop a model civil service classification and compensation program that includes a reduced position classification system and a

pay plan that provides broad-based salary ranges. The DMS is required to submit this proposed program to the Executive Office of the Governor (EOG) and Legislature on or before December 1, 2001. The broadbanding plan will be patterned directly after one now in effect for the Florida Department of Transportation.

- **Probationary periods:** The act extends the period of probation for a newly hired career service employee from six to 12 months. Further, it extends the period of probation for an employee who violates the statutory prohibition against strikes from six to 18 months.
- **Bumping:** The act prohibits agency procedures that allow employees with more seniority to select other positions, whether vacant or filled, during layoffs, except for public safety officers, firefighters, and professional health care providers. It requires the DMS to develop rules that require consideration to be given during layoffs to comparative merit, skills, and experience.
- **Career Service Grievance and Appeal Procedures (effective July 1, 2001):** The act clarifies the career service grievance process. Under the act, a career service employee is permitted to file a grievance regarding any matter the employee believes is unjust, except for matters pertaining to discrimination, sexual harassment, suspensions, reductions in pay, and dismissals. If a grievance is properly filed, the employee is entitled to meet with his or her supervisor and with the agency head, who must file a written response to the grievance. The agency head's decision regarding a grievance is final and may not be appealed.

Career service employees subject to a suspension, reduction in pay, demotion, or dismissal are permitted to appeal to the Public Employees Relations Commission (PERC). This appeal process is like that contained in existing law, except that: (a) PERC no longer has jurisdiction over appeals from transfers and layoffs (these matters may only be addressed by the agency head); (b) the time line for issuing a final order in a case has been shortened from 90 to 30 days; (c) the PERC may not reduce the penalty imposed by an agency head, except for public safety officers, firefighters, and professional healthcare workers if the PERC makes written findings of mitigation; and (d) the PERC must review appeals without regard to any other case or set of facts, except in appeals by public safety officers, firefighters, and professional healthcare workers.

- **Service Classes (effective July 1, 2001):** The act increases the permissible number of Senior Management Service employees from .5 percent to 1.0 percent of the total full-time equivalent (FTE) career service positions. It removes existing law's cap of 1.5 percent of the total FTE career service positions for the permissible number of Selected Exempt Service (SES) employees, and provides that some 16,000 managerial, confidential, and supervisory employees are to be moved into the SES. The act also appropriates more than \$20 million to pay for the increased cost of benefits for those employees moved into the SES.

- **Transfer of PERC (effective July 1, 2001):** The act transfers the PERC to the DMS. It specifically provides that the PERC's independence in matters relating to the disposition of all cases, including career service appeals, is to be preserved.
- **Other-Personal-Services Employment; alternative benefits (effective July 1, 2001):** The act requires the EOG to approve all employment of persons in the other-personal-services (OPS) class, which exceeds 1,040 hours in any 12-month period, except for specified classes of employees.
- **Alternative Benefits (effective July 1, 2001):** The act authorizes the DMS to implement a new retirement program in lieu of Social Security coverage for OPS workers. The DMS is also authorized to contract with provider companies for the federal tax-sheltering of accrued leave payments for terminating employees similar to that in effect under the existing deferred compensation program.
- **Collective Bargaining Impasses:** The act eliminates the appointment of a special master for impasses occurring between a bargaining agent and the Governor in his capacity as a public employer. For such impasses, the parties are to proceed directly to the Legislature. Once notified of the issues that are unresolved, the presiding officers of the Legislature are to appoint a joint select committee to review the parties' positions and to recommend a resolution for all issues. The recommendation must be provided to the presiding officers no later than 10 days before the legislative session is to begin.
- **Career Service Advisory Group:** The act creates the Career Service Advisory Group, the membership of which is to consist of four members who are human resource officials for Florida-domiciled corporations with a workforce of at least 25,000. The group is to provide advice to the DMS and EOG on issues related to the implementation of this act.

The current law standard of just cause for career service employee suspension and dismissal and existing law on affirmative action in state employment were not amended by this act.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided above.

*Vote: Senate 23-15; House 73-43*

## **HB 47 — Volunteer and Community Service**

by Rep. Bense and others (SB 674 by Senators Saunders and Crist)

HB 47 creates the "Florida Volunteer and Community Service Act of 2001" to authorize the Executive Office of the Governor to foster policies among state agencies which encourage citizen participation and volunteerism. The existing Florida Commission on Community Service authorized by s. 14.29, F.S., is directed to provide an assessment of volunteer activities in the

state. It and its direct support organization, "Volunteer Florida, Inc.," are charged to assist agencies in gathering the support they need to foster volunteer activities.

If approved by the Governor, these provisions are effective upon becoming a law.

*Vote: Senate 33-0; House 118-0*

## **CS/SB 1012 — Guaranteed Energy Performance Savings Contracting**

by Governmental Oversight & Productivity Committee and Senator Garcia

The bill reforms several aspects of the Guaranteed Energy Performance Savings (GEPS) Contracting Act, which permits state and local government agencies to pay for energy conservation measures over a 10-year period with the savings that result from implementation of the measure.

Under the bill, the types of energy conservation measures that may be purchased are expanded to include: (a) renewable energy systems, such as solar, biomass, or wind systems; (b) devices that reduce water consumption or sewer charges; (c) storage systems, such as fuel cells and thermal storage; and (d) generating technologies, such as microturbines. Further, the term for agency payment for a conservation project is expanded from 10 to 20 years.

In order for a state agency to enter a GEPS contract, the bill requires that a GEPS contractor provide the agency with a report that summarizes the costs of the energy conservation measure and provides an estimate of the energy cost savings the measure will generate. Only if the report demonstrates that savings will exceed costs may the agency: (a) be held liable for costs associated with developing the report; and (b) enter a GEPS contract.

A GEPS contract may provide for third party, tax exempt financing, and must require that the contractor provide the agency with an annual reconciliation statement. If a shortfall occurs in the projected annual energy cost savings, the contractor is liable for that shortfall. If excess savings are realized, the GEPS contract may provide for allocation of the excess among the parties. The excess savings, however, may not be used to cover shortfalls that occur in subsequent contract years.

Lead agencies are designated to assist state agencies when executing GEPS contracts. The Office of the Comptroller is permitted to develop model GEPS contracts, and the Department of Management Services is permitted to provide technical assistance and to engage in activities that promote GEPS contracting. All state agency GEPS contracts must be approved by the Office of the Comptroller prior to execution.

If approved by the Governor, these provisions take effect October 1, 2001.

*Vote: Senate 39-0; House 116-1*

### **CS/SB 1172— Local Government Health Insurance/Prescription Drugs**

by Governmental Oversight & Productivity Committee and Senators Mitchell, Latvala, Clary, and Smith

The committee substitute extends to small cities, counties, and district school boards the eligibility to participate in the state employee health insurance and prescription drug program. As a condition of participation the local governments must issue a request for proposal to determine if they can receive an equivalent offer of coverage from a local provider they find acceptable prior to entry into the state plan. If the governing authority chooses to apply for membership it must maintain that status for at least three years, provide advance notice of termination, and is barred from reapplication for two years. Applicant governments must pay a monthly enrollment fee per person covered to pay for plan administration. Participating local governments will be rated separately from the state employee members and any costs or savings will be allocated to their respective components of the total membership. A failure to remit or reimburse the state for its costs may subject the local government to the loss of non-debt service funds. An additional condition of participation requires the local governments to execute separate salary reduction agreements with their own employees if they wish to participate in the State of Florida's benefit cafeteria plan which provides pre-tax treatment of premium contributions.

CS/SB 1172 also includes a declaration of important state interest to bring the bill into compliance with s. 18, Art. VII, State Constitution, on the recognition and funding of local government mandates.

If approved by the Governor, these provisions take effect upon becoming a law and apply to local governments for the insurance plan year beginning January 1, 2003.

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

### **CS/HB 501 — Boards, Councils, and Commissions**

by Smarter Government Council and Reps. Brummer and Cantens (CS/SB 1410 by Governmental Oversight & Productivity Committee and Senator Posey)

The 1999 Legislature required each department of the executive branch to survey the boards, councils, committees, and commissions ("boards") under its jurisdiction, and for this information to be provided to the Department of Management Services. Each agency was asked to identify the entities under its jurisdiction that had been created pursuant to federal or state statute, Executive Order of the Governor, or administrative directive by the agency or department head; to provide the number of members, the entity's public purpose, the duties of the entity, and the type of entity (regulatory, advisory, constituency, policy, or other); to identify the appropriations for the entity, the staffing, and the accomplishments of the entity; and, to make recommendations regarding whether to abolish, revise, or continue the entity. This information was compiled by the department in a report entitled the "Boards and Commissions Review," January 2000. A number of entities were repealed in the 2000 Legislative Session. This committee substitute

abolishes many additional entities recommended for abolishment by the agencies as included in the above report. Approximately three dozen entities were abolished by the bill.

If approved by the Governor, these provisions take effect June 30, 2001.

*Vote: Senate 34-1; House 96-18*

## **SB 1738 — Information Technology**

By Senator Bronson

This act is a comprehensive information technology package that contains substance from CS/SB 1560 by the Natural Resources Committee and Senator Peaden and others, HB 1945 by the State Administration Committee and Rep. Brummer, CS/SB 876 by the Governmental Oversight & Productivity Committee and Senator Garcia, and CS/SB 2210 by the Regulated Industries Committee and Senator Campbell and others.

The act creates the Internet Publication Pilot Project. Under this 18-month project, the Department of Environmental Protection (DEP) and the State Technology Office (STO) are directed to publish any DEP notice, normally required by ch. 120, F.S. to be published in the Florida Administrative Weekly (FAW), on the Internet at the DEP's website. The FAW must contain a notice that states the DEP website address, and that all DEP notices may be found at the DEP's website. All notices published on the DEP website must be archived in a searchable Internet database. The DEP is required to report to the Governor and the Legislature on the cost-effectiveness of the pilot project by December 31, 2002.

The act modifies the competitive bid process for state agencies, as set forth in ch. 287, F.S., by creating two new methods for agency procurement: (1) an invitation to negotiate; and (2) a request for quote. An "invitation to negotiate" is defined as a written solicitation that calls for responses to select one or more entities with which to commence negotiations for the procurement of commodities or contractual services. An "invitation to negotiate" may only be used if an agency determines that the use of an invitation to bid or a request for proposal will not result in the best value to the state based on factors, including, but not limited to, price, quality, design, and workmanship. A "request for quote" is defined as a solicitation that calls for pricing information for purposes of competitively selecting and procuring commodities and contractual service from qualified or registered vendors that are under contract with the Department of Management Services (DMS). The act also adds that a protest to the terms, conditions, and specifications of a request for a proposal, request for a quote, invitation to bid, or invitation to negotiate, or to the modification of any contract must be filed within 72 hours after notice provided pursuant to ch. 120, F.S.

The act requires the DMS, in consultation with the STO, to prescribe procedures for procuring information technology and for negotiating information technology contracts. It requires the STO, in consultation with the DMS, to assess the technological needs of agencies, to evaluate

contracts related thereto, and to determine whether to enter into a written agreement with the letting federal, state, or political subdivision body to provide information technology for a particular agency. It authorizes the STO to enter into joint purchasing agreements for information technology. It permits the STO to collect fees for the use of an on-line procurement system. Fees that are collected are to be used to cover the projected costs of the system. Furthermore, it permits the STO to create strategic information technology alliances for the acquisition and use of information technology.

The act transfers the responsibilities for the “One-Stop Permitting System” from the DMS to the STO. It provides that existing law’s 60-day time frame for approving or denying Internet permit applications does not apply to applications evaluated under a federally delegated or approved permitting system. It deletes existing law that requires agencies to waive permit fees during the first six months in which online permit applications are received.

Finally, the act provides that the Department of Business and Professional Regulation is solely responsible for the contents of all initial and renewal licensure documents. It specifies the types of information that must be required in such documents, and provides that documents may be submitted by electronic means.

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

*Vote: Senate 38-0; House 96-19*

## **SB 1986 — Group Insurance for Public Employees**

by Senator Sanderson

Senate Bill 1986 amends s. 112.08, F.S., to permit local governments to directly negotiate for replacement insurance coverage for their employees, in lieu of issuance of an advertisement for competitive bids, when faced with the financial impairment of their current carrier which could interrupt employee coverage.

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

*Vote: Senate 32-0; House 117-0*

