

PUBLIC EMPLOYEE BENEFITS

CS/SB 60 — Florida Retirement System

by Ways and Means Committee and Senators Campbell and Fasano

The Florida Retirement System provides enhanced pension benefits for numerous categories of public safety personnel employed by its more than 840 participating public employers. CS/SB 60 adds to the Special Risk Retirement Class in s. 121.0515, F.S., those personnel in forensic science disciplines employed by law enforcement agencies or medical examiners' offices. Such personnel and their direct supervisors must be eligible for membership in the International Association for Identification and have job duties that specifically encompass the collection, examination, and analysis of physical evidence, and testimony, in direct support of forensic science.

Personnel in this retirement class have a normal service length of the earlier achievement of twenty-five years' service or the attainment of age 55. Service credit in the Special Risk Class accrues at 3 percent per year compared to 1.60-1.68 percent and thirty years' normal service in the Regular Class of retirement. Enhanced benefits are prospective only and a person must have twenty-five years' service in this class to achieve full benefit of the earlier age level.

The bill provides a statement of important state interest in compliance with s. 14, Art. X, State Constitution, and appropriates \$1.4 million to the Florida Department of Law Enforcement for the additional employer matching payroll costs for the first year.

If approved by the Governor, these provisions take effect October 1, 2005.

Vote: Senate 39-0; House 116-0

SB 106 — Florida Retirement System

by Senator Constantine

The multi-employer Florida Retirement System (FRS) requires certification by two Florida licensed physicians prior to the receipt of disability retirement benefits. Many employees have their official headquarters located outside the state and this statutory requirement poses a unique hardship upon them. SB 106 amends s. 121.091, F.S., to permit that disability certification by two physicians licensed in the state in which the full-time employee works, if that location is other than in the State of Florida.

The bill also corrects the quorum requirement for official action by the administrative body, the State Retirement Commission, created in s. 121.122, F.S., which adjudicates FRS benefit eligibility disputes.

Finally, the bill repeals the existing requirement in s. 121.35, F.S., that university faculty seeking enrollment in the State University System Option Annuity Program be employed or appointed for a minimum of one academic year.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 37-0; House 108-0

CS/SB 822 — State Group Insurance Program

by Ways and Means Committee and Senator Crist

Many State of Florida employees are retired from branches of the United States Armed Services and are eligible for continuation of their federal benefits. The 2004 Legislature authorized in budget proviso a self-repealing provision that permits such employees to have their federal TRICARE coverage recognized as the equivalent of state employee workplace benefits. CS/SB 822 places that expiring authorization in general law in ch. 110, F.S., and specifically references the federal benefits as those authorized in the United States Code.

The bill further states that the Department of Management Services may not refuse any properly licensed insurer from competing for any state benefit plan product solely due to the compensation arrangements for its agents.

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

Vote: Senate 38-0; House 118-0

HB 1907 — FRS Payroll Contribution Rates

by House Fiscal Council and Rep. Negron (CS/SB 1152 by Governmental Oversight and Productivity Committee and Senator Argenziano)

It has been the recent custom to enact annual legislation setting the employer payroll contribution rates for the funding of the multi-employer Florida Retirement System. HB 1907 enacts the rates changes for the fiscal year beginning July 1, 2005. It also publishes “default” rates, that is, those rates to take effect in the succeeding fiscal year beginning July 1, 2006, that do not recognize any use of surplus pension assets. The rates set for these two years are as follows:

**Florida Retirement System, Employer Payroll Contribution
Rates by Class, FYs 2006 and 2007, in Percent**

Retirement Class	FY 2005-2006	FY 2006-2007
Regular	6.67	9.53
Special Risk	17.37	21.91
Special Risk, Administrative	8.76	12.39
Elected Officers, State	11.33	14.86
Elected Officers, Judges	17.49	20.43
Elected Officers, County	14.07	17.00
Senior Management	9.29	13.27
DROP	8.22	11.74

The bill also sets the biennial rates for the supplemental pension plan for cooperative extension personnel at the Institute for Food and Agricultural Sciences at the University of Florida. For the July 1, 2005 through June 30, 2007 biennium that rate increases from 13.83 percent to 20.23 percent.

The bill provides a statement of important state interest in compliance with s. 14, Art. X and s. 8, Art. VII, State Constitution, and Part VII of ch. 112, Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 39-0; House 117-0

CS/CS/SB 1446 — Public Employee Optional Retirement

by Ways and Means Committee; Governmental Oversight and Productivity Committee; and Senator Argenziano

CS/CS/SB 1446 makes a number of changes to the Public Employees Optional Retirement Program, the defined contribution alternative pension plan available to participants in the multi-employer Florida Retirement System (FRS) contained in Part II of ch. 121, F.S.

The bill provides that an employee terminating employment with a participating FRS employer may not resume employment and receive more than ten percent of an account distribution until three calendar months have expired. A participant in the FRS can make changes between plan selections only when actively employed in an employer-employee relationship.

Participants who are due money from their Investment Plan account but have not made a claim for the proceeds will have the account balance forfeited to the Investment Plan after the expiration of ten years.

The bill aligns the benefit distribution provisions due a surviving spouse and beneficiaries with like provisions in the defined benefit Pension Plan.

The State Board of Administration is given the additional authority in s. 215.47, F.S. to invest in asset-backed securities, that is, securities backed by the proceeds of accounts receivable.

Existing references to an advisory committee created at the inception of the Investment Plan are repealed as the committee has fully completed its duties and no longer exists.

Revisions to s. 121.35, F.S., recognize the different incorporation status of one of the provider companies in the State University System Optional Retirement Program and tailor the statute to permit its continued participation in light of its changed legal status.

Participants in the Pension Plan's Deferred Retirement Option Program are permitted to make an eligible rollover distribution of their account balance to the Investment Plan as an additional choice upon termination of employment.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 39-0; House 113-0

PUBLIC RECORDS/OPEN MEETINGS

CS/SB 1144 — Public Records Exemptions

by Governmental Oversight and Productivity Committee and Senator Argenziano

The Committee Substitute for Senate Bill 1144 was the result of Interim Project No. 2005-138, the second phase of a multi-year interim project to clarify and streamline public records requirements. During the 2004 legislative session, the substantive requirements of ch. 119, F.S., the Public Records Act, were reorganized topically so that agencies and the public could locate and determine applicable standards more easily. For example, in 2004 fees for copying public records were co-located, as were legislative policies on access, custodial requirements, and definitions.

In the second stage of the review, public records exemptions were the focus. There are approximately 1,000 exemptions to public records and meetings exemptions. While the Public Records Act contains many exemptions, most exemptions are contained in other sections of law. As the ability of the Legislature to create exemptions is limited to those instances where there is a public necessity to do so, pursuant to the requirements of s. 24, Art. I of the State Constitution, it is important that records custodians are able to determine what information must be protected. Given the number of exemptions in law, and the number of exemptions that are enacted every year, the task of protecting exempt information has become more difficult. In order to ease this burden, the interim project report recommended a reduction in the number of exemptions by creating uniform exemptions, where possible, relocating exemptions that apply to specific

agencies only, and reorganizing exemptions in the Public Records Act that apply to all agencies according to topic.

The Committee Substitute for Senate Bill 1144 removes from the Public Records Act exemptions that apply only to a specific agency or officer, such as the Department of Health or the chief inspector general, and relocates them to statutes that apply to that agency or entity. The committee substitute also relocates provisions that regulate capital postconviction public records. Additionally, the committee substitute creates headings and sub-headings for exemptions in the Public Records Act, and relocates the remaining exemptions in the act appropriately. The headings are: (1) Agency Administration; (2) Agency Investigations; (3) Security; (4) Agency Personnel Information; and (5) Other Personal Information. Finally, the Open Government Sunset Review Act of 1995 is revised to eliminate redundant provisions, and to add a requirement that during the review of an exemption, consideration be given to whether it would be appropriate to recreate that exemption as a uniform exemption.

If approved by the Governor, these provisions take effect October 1, 2005.

Vote: Senate 39-0; House 117-0

GENERAL GOVERNMENT OPERATIONS

CS/CS/SB 1146 — Center for Efficient Government

by General Government Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Argenziano, Dockery, and Lynn

Center for Efficient Government and Commission on Efficient Government

The bill establishes the Center for Efficient Government (Center) and the Commission on Efficient Government (Commission) within the Department of Management Services (DMS). The Center will implement a gate process for evaluating agency procurements, support the Commission in reviewing agency business cases, assist agencies in the procurement process, and maintain data on procurements. The Commission will oversee the Center, evaluate and grant approval of proposed procurements within the gate process, and monitor the performance of procurements which have advanced through the gate process. The Commission will consist of seven members, four of whom are agency heads, and three of whom are from the private sector. The DMS is appropriated \$1,023,554 and nine FTEs for the Center and the Commission. The Center and the Commission will terminate on July 1, 2010.

Procurements for services costing \$10 million or more in any fiscal year, procurements requiring adjustments to agency budgets of \$1 million or more, and other specified procurements, must go through the gate process, which consists of the following gates:

- Proposal identification gate, including the business case
- Procurement preparation gate, including the solicitation documents
- Contract development gate, including the proposed unexecuted contract
- Transition management gate, including contractor's readiness to perform
- Post-implementation gate, including reporting on contractor performance.

At each gate, the Commission must review procurements required to go through the process, and either approve or deny the procurement, depending on whether the procurement has met the requirements of each gate. If the Commission withholds approval of a procurement, the Commission must notify the President of the Senate, the Speaker of the House of Representatives, and the Governor.

Business Case and Contract Terms

An agency must develop a business case and include certain contractual terms for procurements of contractual services worth \$1 million or more, and provide a copy of the business case to the President of the Senate and the Speaker of the House of Representatives before releasing the solicitation, for those procurements not going through the Commission gate process. The business case describes and analyzes the procurement and must include, among other things, a cost-benefit analysis, performance standards, timeframes for key events, public records law plans, and a transition plan. The contractual terms must also include terms relating to elements from the business case, and provisions that the contractor annually verify its financial statements, that the contractor considers employment of displaced state workers, and that venue for any contract dispute must be Leon County.

Contract Amendments, Renewals, and Extensions

Contracts may not be amended without first submitting the proposed amendment to the Governor for approval, and to legislative appropriations committees for notice, when the amendment would increase the value of contracts between \$1 and 10 million by \$1 million, or contracts valued at more than \$10 million by 10 percent or more. All contract extensions or renewals must be accompanied by documentation of contractor performance, and extensions or renewals of certain large contracts must pass through those gates in the gate process that the Commission deems appropriate.

Other Provisions

When the annual value of a contract exceeds \$1 million, one of the persons conducting negotiations must be certified as a contract negotiator by the Department of Management Services.

The Chief Financial Officer may review and comment upon, prior to their execution, contracts exceeding \$1 million in value.

If a contract shifts duties from state employees to a contractor, all affected FTEs must be identified in the business case, and placed in reserve until the end of the second year of the contract.

Only a public officer or public employee may select state employees, approve performance standards or salary adjustments for state employees, or hire, promote, or dismiss a state employee.

A contractor may not knowingly participate through decision approval, preparation of a purchase request, investigation, or auditing, in the procurement of services by an agency from an entity in which the contractor has a material interest.

The bill repeals s. 14.203, F.S., the unused State Council on Competitive Government, and conforms a reference to an existing public records exemption relating to social security numbers in repealed section.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 39-0; House 116-2

CS/CS/SB 1494 — Information Technology Management

by General Government Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Argenziano and Lynn

This bill substantially alters the organizational deployment and accountability for information technology operations and strategic policy development in the Executive Branch of state government.

The bill brings a closer coordination between information technology needs and the legislative budget instructions provided in s. 216.023, F.S.

The bill creates a Florida Technology Council to succeed to the role played by the State Technology Office (STO) since 2000. The State Technology Office is abolished. The role to be played by the successor Council is significantly altered as well. All operating duties assigned the STO in the areas of data center management, law enforcement radio communications, SUNCOM, and wireless communications are transferred back to its former parent agency, the Department of Management Services. The successor FTC becomes a strategic planning and policy development unit that will work with existing state agency chief information officers and a legislative oversight panel in the development of a comprehensive executive branch operating and governance template for the coordination of information technology operations.

The bill requires a system of progressive pecuniary accountability in which agency responsibility for technology project management and investment control becomes more significant as project scope and sophistication increases. The bill makes the Council the linchpin in the development of a more strategic vision on the marshalling of resources but does not place this entity in a control position over the plural executive branch agencies. The Council receives separate funding of \$2 million and sixteen positions in the bill.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 39-0; House 116-0

CS/HB 1305 — Department of State

by Tourism Committee and Rep. Detert and others (CS/SB 2152 by Governmental Oversight and Productivity Committee and Senators Argenziano and Peaden)

This bill addresses numerous statutory responsibilities of the Department of State. The bill deletes obsolete statutory language, it clarifies responsibilities of departmental divisions, and it provides additional safeguards of state funds for the Cultural Endowment, Cultural Facilities, and Regional Cultural Facilities Programs.

The bill designates the Division of Cultural Affairs as the state arts administrative agency. It also requires a post-audit for cultural endowment recipients. It requires a recordation of a restrictive covenant for cultural facility and regional facility grantees, as well as a requirement for bonds and for repayment of grant awards. The bill also creates a citizen support organization to assist the division with its cultural and arts programs.

The bill permits members of the Florida Historical Commission to stay in office until a replacement is appointed and permits the presiding officer to appoint a designee to chair certain grant panels.

The bill also designates the Division of Library and Information Services as the state library administrative agency for federal purposes. The bill creates definitions for the statutory sections governing the Division of Library and Information Services. Further, the bill creates a citizen support organization to assist the division with its library, archives, and records management programs.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 39-0; House 114-0

CS/CS/CS/SB 1010 — Administrative Procedures

by Ways and Means Committee; Judiciary Committee; Governmental Oversight and Productivity Committee; and Senators Bennett and Dockery

This bill amends statutory provisions relating to Internet publication of the *Florida Administrative Weekly*, and revises and creates various duties of the Joint Administrative Procedures Committee (JAPC). The bill revises some duties of the Department of State and the Administration Commission, and revises duties with respect to rulemaking for agencies. The bill revises provisions relating to the timing and substance of petitions for administrative review of agency actions.

The bill also:

- Expands eligibility under the Florida Equal Access to Justice Act, through which small business parties may receive attorney's fees and costs when they prevail in certain adjudicatory or administrative proceedings, to include certain individuals whose net worth did not exceed \$2 million at the time of the state agency action.
- Clarifies an agency's duty to report on changes made to proposed rules after a final public hearing.
- Requires the Division of Administrative Hearings and agencies to recommend types of cases or disputes suitable for a statutory summary hearing process.
- Requires an agency's final order in certain cases involving disputed issues of material fact to explicitly rule on the exceptions that parties raise to the recommended order.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 39-0; House 117-0

HB 509 — Prompt Payment for Construction Services

by Rep. Reagan and others (CS/CS/SB 632 by Regulated Industries Committee; Community Affairs Committee; and Senators Bennett, King, and Crist)

This bill re-designates the "Florida Prompt Payment Act," which currently applies to local governments, as the "Local Government Prompt Payment Act," and creates a new "Florida Prompt Payment Act" to apply to state projects.

The bill reduces time frames during which contractors and subcontractors must issue payments to their subcontractors and suppliers. It also provides procedures for payment of the retainage state and local governments may withhold from each payment to contractors during construction, and for settling disputes relating thereto. Upon substantial completion of construction projects, the bill requires state and local governments to develop a list of items (a punch list) for final acceptance of construction services purchased.

If approved by the Governor, these provisions take effect October 1, 2005.

Vote: Senate 38-0; House 113-0

CS/CS/SB 652 — Public Construction Bonds

by Judiciary Committee; Governmental Oversight and Productivity Committee; and Senator Sebesta

Amends the model bond form contained in s. 255.05(3), F.S., which may be used for public construction projects, to add a space for entry of a bond number, and include language on the face of the bond stating that any action instituted by a claimant under the bond for payment must be in accordance with the notice and time limitation provisions contained in s. 255.05(2), F.S. The bill amends s. 255.05(4), F.S., to provide that the payment bond provisions of all public construction bonds are to be construed as statutory bonds that shall not under any circumstances be converted into common law bonds. The bill amends s. 255.05(6), F.S., to provide that payment bond forms executed by a public owner must reference the time and notice limitation provisions in this section.

The bill provides that a surety issuing a payment or performance bond on certain projects is not an insurer for the purpose of specified civil remedies.

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

Vote: Senate 38-0; House 118-0