

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 621

Optional Retirement Program for the State University System

SPONSOR(S): Heller

TIED BILLS:

IDEN./SIM. BILLS: SB 600

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Governmental Affairs Policy Committee		Haug	Williamson
2)	State Universities & Private Colleges Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)	Full Appropriations Council on General Government & Health Care			
5)				

SUMMARY ANALYSIS

The State University System has an Optional Retirement Program that is a tax-qualified defined contribution plan authorized under the provisions of section 403(b) of the Internal Revenue Code. The program was established to aid the university system in recruiting employees by offering more portability to employees who do not expect to remain in the State University System long enough to vest in the Florida Retirement System Pension Plan.

The bill increases the allowable number of provider companies for the State University Optional Retirement Program from five to seven. The bill also revises the language in s. 121.35, F.S., by removing historical references and obsolete provisions.

The bill takes effect July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

On July 1, 1984, the State University System Optional Retirement Program (SUSORP) was established as an optional program under the Florida Retirement System (FRS) for eligible State University faculty and administrators. The program was later expanded in 1988 to include the State University System Executive Service and in 1999 to include all administrative and professional personnel exempt from career service.

Eligible employees are compulsory participants in SUSORP during their first 90 days of employment. If they fail to enroll in SUSORP and choose a provider company during this period, they default to the FRS and have the balance of the five month election period to choose between the FRS Pension Plan and the Investment Plan. During the 2007-2008 fiscal year, there were 19,126 participants in the SUSORP.¹

The SUSORP is a tax-qualified defined contribution plan authorized under the provisions of section 403(b) of the Internal Revenue Code that provides retirement and death benefits through contracts with designated insurance carriers.² The program was established to aid the university system in recruiting employees by offering more portability to employees who do not expect to remain in the State University System long enough to vest in the FRS Pension Plan. It provides for full and immediate vesting of all contributions submitted to the participating companies on behalf of the participant. Participants direct the investment of contributions and account assets. At retirement, the accumulated benefits are payable to the participant or to his or her beneficiaries or estate.

The employing university contributes on behalf of each SUSORP participant a percentage of the participant's salary as required by law. As of July 1, 2008, this contribution rate remains 10.43 percent of the participant's salary. An amount equivalent to 0.01 percent is retained for program administrative costs. The remaining 10.42 percent is deposited in the participant account. SUSORP participants may contribute by salary reduction an amount not to exceed the percentage contributed by the university to their program accounts.

¹ Board of Governors HB 621 (2009) Substantive Bill Analysis (Feb. 17, 2009) at 2 (on file with the Governmental Affairs Policy Committee).

² The five approved participating companies currently available under SUSORP are: ING, TIAA-CREF, Variable Annuity Life Insurance Company, Jefferson National Life Insurance Company and MetLife Investors USA Insurance Company.

Historically, the Internal Revenue Service regulations for 403(b) plans were general and did not require much oversight of the relationships between provider companies and employees participating in the plan. Accounts were governed by individual contracts. Plan documents showing guidelines and requirements were not required by the Internal Revenue Service. New IRS regulations for 403(b) retirement plans took effect on January 1, 2009. The new regulations place much greater responsibility for plan administration and compliance on the plan sponsor.

The new 403(b) plan regulations require each 403(b) plan to have a written plan document that must include the terms and conditions of the plan, a list of providers, and the requirements for compliance. Plan sponsors now must coordinate administration among providers and ensure that each annuity contract and custodial agreement complies with the plan document and IRS regulations. Plan sponsors also must take a greater role in the monitoring and eligibility of transactions between plan participants and provider companies. Due to these and other new responsibilities of plan sponsors, employers and providers must share a substantial amount of information about employees and plan transactions. The responsibilities placed on plan sponsors by the new regulations bring a much larger administrative burden on the plan sponsors.

Effect of Proposed Changes

The bill increases the allowable number of provider companies for the State University Optional Retirement Program (SUSORP) from five to seven. While a greater number of provider companies could create additional investment options for participants of the plan, it also increases the duties and responsibilities of the Division of Retirement. The Division has biweekly, quarterly, and annual reporting requirements as well as data submission and reconciliation duties to perform for SUSORP participants. The IRS regulations for 403(b) plans recently changed and require more record keeping and coordination of transfers, loans, rollovers, and distributions.

The provisions regarding the maximum number of provider companies are permissive. The plan could have up to seven provider companies instead of a maximum of five. The current provider company contracts expire in 2014. If this bill is enacted and additional providers are added, those providers would have to be selected through a competitive purchasing process.

The bill removes several historical references that show the relationship between the FRS contribution rates and those for the SUSORP before July 1, 2001, as well as how oversight of the SUSORP evolved. The bill also deletes the historical rates for this program without any other statutory summary of these rates being available.

B. SECTION DIRECTORY:

Section 1. Amends s. 121.35, F.S., related to the State University System Optional Retirement Program.

Section 2. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not appear to apply because this bill is not expected to require counties and municipalities to spend funds or to take an action requiring the expenditure of funds, reduce the percentage of a state tax shared with counties or municipalities, or reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Board of Governors included the following comment in its analysis of the bill:

A small subgroup of the SUS Vice Presidential Council of Administrative and Financial Affairs considered the value of adding to the current program offerings and concluded that "choices" are good, competition is good, and that possibly a new vendor in the mix may bring some new and creative plans/pricing to the market.³

The Division of Retirement, Department of Management Services, provided the following comment regarding the removal of historical language:

The transitory history of the governance for state universities and historical rate references may seem redundant, but it helps to explain why the current Board of Governors cannot explain or be accountable for the actions of a previous body and what amounts were required to be contributed when and on what authority. The administration of retirement benefits and the questions/challenges raised by the employees covered are very long-term.⁴

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

Not applicable.

³ Board of Governors HB 621 (2009) Substantive Bill Analysis (Feb. 17, 2009) at 2.

⁴ Email from staff of the Division of Retirement to staff of the Governmental Affairs Policy Committee (Mar. 20, 2009) (on file with the Governmental Affairs Policy Committee).