

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 722

INTRODUCER: Senator Garcia

SUBJECT: Retirement

DATE: January 12, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	GO	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 722 amends s. 121.101, F.S., to set the level of the annual cost of living adjustment for all Florida Retirement System pension plan retirees and annuitants beginning July 1, 2018. For the annual cost of living adjustment for a retiree and beneficiary retiring on or after July 1, 2011, with service credit earned before July 1, 2011, the factor calculated may not be a product of less than 2.

State agencies, universities and colleges, school districts, counties, and various other local governments participating in the Florida Retirement System will bear the cost.

II. Present Situation:

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with most members contributing three percent of their salaries.²

¹ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2017, at p. 33. Available online at: https://www.rol.frs.state.fl.us/forms/2016-17_CAFR.pdf. (Last visited January 3, 2018.)

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2017, the FRS had 637,643 active members, 406,374 annuitants, 16,150 disabled retirees, and 32,233 active participants of the Deferred Retirement Option Program (DROP).³ As of June 30, 2017, the FRS consisted of 995 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 173 cities and 260 special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- The Regular Class⁵ consists of 552,600 active members, plus 3,116 in renewed membership;
- The Special Risk Class⁶ includes 71,612 active members;
- The Special Risk Administrative Support Class⁷ has 93 active members;
- The Elected Officers' Class⁸ has 2,082 active members, plus 85 in renewed membership; and
- The Senior Management Service Class⁹ has 7,912 members, plus 116 in renewed membership.¹⁰

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

Pension Plan

The pension plan is administered by the Secretary of the Department of Management Services through the Division of Retirement.¹¹ Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹² For members enrolled on or after

³ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2017, at p. 144.

⁴ *Id.*, at 180.

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁷ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁸ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹⁰ All figures from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2017, at p. 147.

¹¹ Section 121.025, F.S.

¹² Section 121.021(45)(a), F.S.

July 1, 2011, the member vests in the pension plan after eight years of creditable service.¹³ Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.¹⁴ For most members of the pension plan, normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.¹⁵ For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.¹⁶ Members initially enrolled in the pension plan on or after July 1, 2011, have longer service requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.¹⁷

Cost of Living Adjustments

For pension plan members whose effective retirement date was before July 1, 2011, the member's monthly retirement benefit is increased by 3 percent each July 1.

For members who retire on or after July 1, 2011, the member's monthly retirement benefit is increased on July 1 of each year by 3 percent prorated by the member's service credit earned prior to July 1, 2011 divided by the member's total service credit earned.¹⁸

Members who initially enroll in the FRS on or after July 1, 2011, receive no cost of living adjustment during retirement. This is because the member's total service will be post-2011, resulting in the 3 percent adjustment prorated to 0 percent. The maximum cost of living adjustment under s. 121.101, F.S., is 3 percent. Members of the investment plan do not receive a cost of living adjustment during retirement.

Reinstatement of Cost of Living Adjustments

At the time the COLA was modified in 2011, the Legislature included a provision that allowed the 3 percent COLA to be reinstated contingent on the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the 3 percent COLA. If the legislature provides such funding and enacts sufficient employer contributions, the provision regarding the prorated COLA expires and the COLA reverts to 3 percent annually.¹⁹

¹³ Section 121.021(45)(b), F.S.

¹⁴ Section 121.091, F.S.

¹⁵ Section 121.021(29)(a)1., F.S.

¹⁶ Section 121.021(29)(b)1., F.S.

¹⁷ Sections 121.021(29)(a)2. and (b)2., F.S.

¹⁸To illustrate the formula of years of service as of 7/2011 divided by years of service after 7/2011 multiplied by 3.00%.

Example 1 – 24 years of service before 7/11, 6 years after 7/11: $24/30=.80 \times 3.0\% = 2.4\%$ Cost of living adjustment.

Example 2 – 6 years before 7/11, 24 years after 7/11: $6/30=.002 \times 3\% = .006$ Cost of living adjustment. Accordingly, it appears that employees hired after July 1991 will have a COLA of 2% or less.

¹⁹ Section 121.101(5), F.S.

Consumer Price Indices

The Bureau of Labor Statistics (BLS) within the federal Department of Labor models an experimental consumer price index (CPI) for Americans 62 years of age and older. This index is referred to as Consumer Price Index for the Elderly or CPI-E. The fixed market basket of goods and services used for this index is different from the fixed market basket used for the Consumer Price Index for All Urban Consumers (CPI-U).

The annual percentage change in the CPI-U for the period December 1982 through December 2011 was 2.9 percent. The annual percentage change in the CPI-E for the same period was 3.1 percent.²⁰ The BLS does not forecast the CPI-E.

III. Effect of Proposed Changes:

Section 1 amends s. 121.101(4)(c), F.S., to provide that a retiree and beneficiary retiring on or after July 1, 2011, with service credit earned before July 1, 2011, the factor calculated may not be a product of less than 2. This will affect all employees hired after July 1991 who would otherwise have cost of living adjustments of less than 2 percent by setting a floor of 2 percent.

Section 2 provides a legislative finding of a legitimate state purpose and fulfills an important state interest.

Section 3 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (a) of s. 18, Art. VII of the Florida Constitution provides in pertinent part that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds . . . unless the legislature has determined that such law fulfills an important state interest and unless: . . . the expenditure is required to comply with a law that applies to all persons similarly situated.”

This bill includes legislative findings that the bill fulfills important state interests (see section 9), and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, universities, community colleges, counties, and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁰ http://www.bls.gov/opub/ted/2012/ted_20120302.htm (last viewed January 5, 2018).

D. Other Constitutional Issues:

Article X, section 14 of the Florida Constitution provides:

A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Therefore, an actuarial study will be necessary.

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

The bill does not provide the adjustments to contribution rates necessary to fund the cost of the retirement benefit enhancements.

B. Private Sector Impact:

According to DMS, members and annuitants of the FRS who retire on or after July 1, 2011, will be entitled to a cost of living increase of no less than 2 percent. However, the COLA is paid beginning with the July benefit payment. The amount is based on the prior June benefit that is increased by the COLA percentage. The earliest a retiree or beneficiary benefit could be affected is the July 2018 benefit payment issued on the last state working day of July 2018, at this time there are no retirees that would be impacted by this change whose individually determined COLA is less than 2.0 percent.

C. Government Sector Impact:

While undetermined, the bill does not provide the funding necessary to implement the benefit enhancement. In addition, an actuarial special study is required to determine the fiscal impact for which the Legislature must provide funding to meet constitutional and statutory requirement for benefit improvements to the Pension Plan.

According to DMS, programming changes for benefit calculations as well as publication and education changes will be necessary if this proposal becomes law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to DMS, the implementation process will need to start prior to the effective date in this version of the bill to be prepared to implement the provisions of the bill in July 2018. It would be helpful to DMS to have the bill become effective upon becoming law with the effective date of the 2-percent minimum COLA for Tier I FRS members retiring on or after July 1, 2011,

specified for July 1, 2018, to cover the need to expend funds for preparation prior to the effective date of the provision..

VIII. Statutes Affected:

This bill substantially amends section 121.101 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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