

**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.)

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

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BILL: CS/SB 574

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Diaz

SUBJECT: Special Risk Class

DATE: March 7, 2019                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	<b>Fav/CS</b>
2.	_____	_____	AEG	_____
3.	_____	_____	AP	_____

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 574 revises criteria for membership in the Special Risk Class of the Florida Retirement System to include specified employees of the Florida State Hospital, the Northeast Florida State Hospital, the North Florida Evaluation and Treatment Center, and the Sunland Center at Marianna and at Chattahoochee, including the Development Disabilities Defendant Program and Pathways. The bill provides a legislative determination that the act fulfills an important state interest.

The Department of Children and Families (DCF) and the Agency for Persons with Disabilities (APD) will incur higher retirement contributions to fund these enhanced benefits for employees moving from the Regular Class to the Special Risk Class of the Florida Retirement System as specified in the bill. Based on the employer contribution rates in effect today and assuming all positions in the enumerated class codes qualify for Special Risk Class membership, the DCF will incur additional costs of \$3.4 million in FY 2019-2020 and \$6.8 million annually thereafter to shift 1601 positions. APD will incur additional costs of \$1.35 million in FY 2019-2020 and \$2.7 million annually thereafter to shift 668 positions.

The bill takes effect on January 1, 2020.

## II. Present Situation:

### The Florida Retirement System (FRS)

#### *General Background*

The Florida Retirement System (FRS) was established in 1970.<sup>1</sup> The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2018, the FRS had 643,333 active members, 415,800 annuitants, 16,032 disabled retirees, and 33,432 active participants of the Deferred Retirement Option Program (DROP).<sup>2</sup> As of June 30, 2018, the FRS consisted of 1,002 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 267 special districts that have elected to join the system.<sup>3</sup>

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

- The Regular Class<sup>4</sup> consists of 551,997 active members and 7,349 in renewed membership;
- The Special Risk Class<sup>5</sup> includes 72,642 active members and 976 in renewed membership;
- The Special Risk Administrative Support Class<sup>6</sup> has 87 active members;
- The Elected Officers' Class<sup>7</sup> has 2,050 active members and 120 in renewed membership; and
- The Senior Management Service Class<sup>8</sup> has 7,881 active members and 207 in renewed membership.<sup>9</sup>

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.

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<sup>1</sup> Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, (FRS CAFR) at p. 35. Available online at:

[https://www.rol.frs.state.fl.us/forms/2017-18\\_CAFR.pdf](https://www.rol.frs.state.fl.us/forms/2017-18_CAFR.pdf). (Last visited March 1, 2019.)

<sup>2</sup> *Id.* at p. 160.

<sup>3</sup> *Id.* at 196.

<sup>4</sup> The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> All figures from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, at p. 163.

### ***The Special Risk Class of the FRS***

The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S.

When originally establishing the Special Risk Class of membership in the FRS, the Legislature recognized that persons employed in certain categories of positions:

are required to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other membership classes and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom.<sup>10</sup>

Compared to Regular Class members, a person who is a member in the Special Risk Class earns a higher annual service accrual rate, may retire at an earlier age and is eligible to receive higher disability and death benefits. As a result, the contribution rates to fund the normal cost of the Special Risk benefits is higher than the contribution rates to fund the normal cost of the Regular Class benefits. Similarly, the contribution rates to fund the unfunded liabilities of the Special Risk Class is higher than the similar type contribution rates for the Regular Class.

### **Mental Health Treatment Facilities**

The DCF runs three mental health treatment facilities: the Florida State Hospital (FSH); the Northeast Florida State Hospital (NEFSH) and the North Florida Evaluation and Treatment Center (NFETC). The FSH provides civil and forensic services, the NEFSH provides only civil services, and the NFETC only provides forensic services.

The Florida State Hospital, located in Chattahoochee, Florida, is a state psychiatric hospital that provides civil and forensic services.<sup>11</sup> Forensic services for persons who are charged with a felony and have been found to be incompetent to proceed with their trial due to mental illness, or who have been acquitted of a felony by reason of insanity are governed by ss. 916.111 - 916.185, F.S.

The hospital's civil services are comprised of the following three units comprising a total of 490 beds:

- Civil Admissions evaluates and provides psychiatric services primarily for newly admitted acutely ill male and female civil residents between the ages of 18 and 64;

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<sup>10</sup> Section 121.0515(1), F.S.

<sup>11</sup> See <http://www.myflfamilies.com/service-programs/mental-health/fsh/services-programs> (last visited on March 1, 2019).

- Civil Transition Program serves civil residents and individuals previously in a forensic setting who no longer need that level of security and with court approval, may reside in a less restrictive civil environment; and
- Specialty Care Program serves a diverse population of individuals requiring mental health treatment and services, including civil and forensic step downs.

The hospital's forensic services evaluates and treats persons with felony charges who have been adjudicated incompetent to stand trial or not guilty by reason of insanity. Forensic services is comprised of the following two units;

- Forensic Admission is a maximum security facility that assesses new admissions, provides short-term treatment and competency restoration for defendants found incompetent to stand trial, and behavior stabilization for persons committed as not guilty by reason of insanity; and
- Forensic Central provides longer-term treatment and serves a seriously and persistently mentally ill population who are incompetent to proceed or not guilty by reason of insanity.

The Northeast Florida State Hospital (NEFSH), located in Macclenny, Florida, is a state psychiatric hospital that provides civil services.<sup>12</sup> The facility operates 633 beds and is the largest state-owned provider of psychiatric care and treatment to civilly committed individuals in Florida. Referrals are based upon community and regional priorities for admission.

The North Florida Evaluation and Treatment Center (NFETC), located in Gainesville, Florida, is an evaluation and treatment center for people with mental illnesses who are involved in the criminal justice system.<sup>13</sup> The center has 193 beds open for the evaluation and treatment of residents who have major mental disorders. These residents are either incompetent to proceed to trial or have been judged to be not guilty by reason of insanity.

The Agency for Persons with Disabilities operates the Sunland Center in Marianna, the Developmental Disabilities Defendant Program (DDDP) in Chattahoochee, and the Tacachale facility in Gainesville. The Development Disabilities Defendant Program is a 146 bed, co-ed, secure facility, located on the grounds of Florida State Hospital in Chattahoochee, Florida. DDDP is the State of Florida's only admission facility for individuals charged with a felony crime and found to be incompetent to proceed to trial based on a developmental or intellectual disability.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 121.0515, F.S., to add certain employees of the Department of Children and Families and the Agency for Persons with Disabilities to the Special Risk Class of the Florida Retirement System (FRS).

To be eligible for Special Risk Class membership, the employee must be a member of the FRS, spend at least 65 percent of his or her time performing duties that involve contact with patients or inmates at certain DCF and APD facilities, and be employed in the following job classes:

- Abuse registry counselor (class code 5961).

<sup>12</sup> See <http://www.myflfamilies.com/service-programs/mental-health/nefsh/about.shtml> (last visited on March 2, 2019).

<sup>13</sup> See <http://www.myflfamilies.com/service-programs/mental-health/neftc/about.shtml> (last visited on March 2, 2019).

<sup>14</sup> <http://apd.myflorida.com/sunland/about.htm> (last viewed March 1, 2019).

- Barber/beautician (class codes 6201, 6205, and 6206).
- Behavioral program associate (class codes 5750 and 5762).
- Behavioral program specialist (class codes 5751 and 5763).
- Certified radiologic technologist (class codes 5523, 5524, 5527, and 5528).
- Chaplain (class codes 5819 and 5820).
- Child protective investigator (class code 8371).
- Child protective field support consultant (class code 8374).
- Children, youth, and families counselor (class code 5954).
- Classroom teacher (class codes 4144 and 4147).
- Custodial worker (class codes 6511 and 6526).
- Dental assistant (class codes 5632 and 5633).
- Dental hygienist (class code 5641).
- Dental technician (class code 5644).
- Dietetic technician (class code 5594).
- Direct services aide (class code 5702).
- Education and training specialist (class code 1328).
- Food control specialist (class code 6217).
- Food support worker (class code 6213).
- Health support aide (class codes 5504 and 5505).
- Human services counselor (class codes 5934, 5936, 5937, 5940, and 5941).
- Human services program specialist (class code 5877).
- Human services worker (class codes 5706, 5709, 5781, and 5784).
- Librarian (class code 4315).
- Librarian specialist (class codes 4318 and 4319).
- Licensed practical nurse (class code 5599).
- Pharmacy technician (class codes 5500 and 5501).
- Rehabilitation therapist (class codes 5562 and 5563).
- Residential unit specialist (class code 5736).
- Senior chaplain (class code 5823).
- Senior licensed practical nurse (class codes 5597 and 5600)
- Social services counselor (class codes 5953 and 5960).
- Storekeeper (class codes 0918, 0921, and 0922).
- Teacher aide (class codes 4133 and 4142).
- Therapy aide (class codes 5556 and 5557).
- Training specialist (class codes 1322 and 1324).
- Unit treatment and rehab specialist (class codes 5776 and 5791).
- Vocational instructor (class codes 1309, 1310, 1311, 1312, 1313, and 1315).
- Volunteer services center specialist (class code 6000).
- Volunteer services specialist (class code 5997).

The DCF and APD facilities that must employ these members are the Florida State Hospital, the Northeast Florida State Hospital, the North Florida Evaluation and Treatment Center, the Sunland Center at Marianna and at Chattahoochee, including the Development Disabilities

Defendant Program and Pathways. Employees of the Tacachale facility do not appear to qualify for Special Risk Class membership under the bill.

**Section 2** provides a legislative determination that the bill fulfills an important state interest.

**Section 3** provides the bill takes effect January 1, 2020.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not impose, authorize, or raise a state tax or fee.

E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill does not impact state and local taxes and fees.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Children and Families (DCF) and the Agency for Persons with Disabilities (APD) will incur higher retirement contributions to fund these enhanced benefits for employees moving from the Regular Class to the Special Risk Class of the Florida Retirement System as specified in the bill. Based on the employer contribution rates in effect today and assuming all positions in the enumerated class codes qualify for Special Risk Class membership, the DCF will incur an additional \$3.4 million in FY

2019-2020 and \$6.8 million annually thereafter to shift 1601 positions. APD will incur an additional \$1.35 million in FY 2019-2020 and \$2.7 million annually thereafter to shift 668 positions.

#### VI. Technical Deficiencies:

Traditionally, when a new cohort of employees are made eligible for membership in the Special Risk Class of the Florida Retirement System, s. 121.0515(2), F.S., is amended to describe the membership of the group. Subsection (3) of s. 121.0515, F.S., is amended to describe the unique criteria that the new cohort must meet. To continue this methodology of authorizing new members for Special Risk, the Legislature may want to consider the following amendment to clearly expand the membership of the Special Risk Class.

“(2) MEMBERSHIP

(i) Effective January 1, 2020, “special risk member” includes any member who meets the special criteria set forth in paragraph (3)(j).”

#### VII. Related Issues:

Although not included in the enumerated list of class codes, the supervisors of these members are eligible to petition the State Retirement Commission for membership if the supervisors can demonstrate that they have similar qualifying duties as the enumerated employees.

#### VIII. Statutes Affected:

This bill substantially amends the section 121.0515 of the Florida Statutes.

#### IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Governmental Oversight and Accountability on March 6, 2019:**

The committee substitute reinstates current law provisions relating to the primary duties and responsibilities that must be met by a correctional officer to be eligible for Special Risk Class membership in the Florida Retirement System.

- B. Amendments:

None.