

STORAGE NAME: h0123.go
DATE: February 27, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 123
RELATING TO: FRS/Special Risk Member
SPONSOR(S): Representative Wasserman Schultz
STATUTE(S) AFFECTED: ss. 121.021 & 121.0515
COMPANION BILL(S): SB 142(s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS
- (2) FINANCE & TAXATION
- (3) GENERAL GOVERNMENT
- (4)
- (5)

I. SUMMARY:

HB 123 will expand the Special Risk Class of the Florida Retirement System (FRS) to include certified paramedics and emergency medical technicians (EMTs). Presently, Special Risk Class membership is limited to firefighters, law enforcement officers, and correctional officers.

As a result of this proposed expansion, eligible EMTs and paramedics will receive enhanced benefits. Rather than accruing retirement credit at the current rate of 1.6 percent per year, they will accrue credit at an accelerated rate of 3 percent annually. In addition, eligible paramedics and EMTs will be permitted to opt for normal retirement after 25 years of special risk service, or upon reaching age 55. Currently, they must complete 30 years of regular service or reach age 62 before they are eligible for normal retirement.

HB 123 will only impact paramedics and EMTs with on-the-scene duties. It will not have any effect on supervisory personnel, administrative personnel, or those EMTs and paramedics who already belong to the Special Risk Class through cross certification as firefighters, law enforcement officers, or correctional officers.

HB 123 will increase employer costs. Based upon the FRS contribution rates which took effect July 1, 1996, the cost to the employer for each affected employee will be an additional 9.67 percent of pay. This will equate to \$2,418 per year for an employee earning \$25,000 annually. Overall, HB 123 will cost local government agencies approximately \$3.6 million annually. The bill's fiscal impact upon state government can not be ascertained, because the number of affected paramedics and EMTs employed by state agencies is unknown.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The FRS is a statewide, defined benefit pension plan. It includes five membership classes: Regular Class, Special Risk Class, Special Risk Administrative Support Class, Elected State and County Officer's Class, and Senior Management Service Class. Approximately 91 percent of FRS members belong to the Regular Class.

In most cases, paramedics and emergency medical technicians (EMTs) belong to the FRS Regular Class. As members of the Regular Class, they are subject to a normal retirement age of 62, or they may opt for normal retirement upon completion of 30 years of service. They accrue retirement credit at a rate of 1.6 percent annually. To fund these benefits, employers must contribute an amount equal to 16.77 percent of each employee's pay. However, those FRS paramedics and EMTs who are cross-certified as firefighters, law enforcement officers, or correctional officers may meet the requirements for membership in the Special Risk Class.

Current law has specific requirements for eligibility in the Special Risk Class. A special risk member is defined as any officer or employee employed as a law enforcement officer, firefighter, or correctional officer who complies with the criteria in s. 121.0515(2), F.S., and is approved by the Division of Retirement.

It was the intent of the Florida Legislature in establishing the Special Risk Class to protect the retirement benefits of employees in these positions by providing an earlier retirement age and higher value for each year of service. It was felt that this work requires extraordinary agility and mental acuity, and persons in these positions, due to diminishing physical and mental faculties, may find they are unable to continue performing their duties to normal retirement without risk to the health and safety of themselves and the public. Accordingly, these members are allowed to retire with full benefits at age 55 and are given a higher value per year, currently 3%, to provide benefits equal to or greater than those a Regular Class member would earn during his longer, 30-year career.

While it is true that emergency medical technicians and paramedics are exposed to hazardous duty, this has no bearing on their eligibility to participate **under current law** in the Special Risk Class. Many employees have hazardous jobs, yet they are not included in the Special Risk Class because their job duties are not covered by the legislative intent or criteria of s. 121.0515, F.S. The Special Risk Class addresses only the need of a group of employees to retire for reasons of aging prior to normal retirement age. If emergency medical personnel are forced to retire prior to normal retirement age because of diminishing physical and mental faculties, they would comply with legislative intent and should be included; however, it is unclear that this is the case.

B. EFFECT OF PROPOSED CHANGES:

HB 123 amends s. 121.021, F.S, which provides definitions related to the FRS. Specifically, HB 123 expands the definition of "special risk member" to include paramedics and EMTs. It also amends s. 121.0515, F.S., to provide detailed criteria for membership in the Special Risk Class.

Paramedics and EMTs will receive enhanced benefits as a result of the proposed changes. At the same time, employers of affected paramedics and EMTs will be required to make greater retirement contributions. For each affected employee, employers will have to contribute an amount equal to 26.44 percent of pay. This will represent a 9.67 percent increase over Regular Class contributions. Overall, employers will be forced to pay an additional 58 percent in retirement costs for each affected employee.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Division of Retirement will be burdened with a slightly increased workload because it will have to examine the qualifications of members of an expanded Special Risk Class.

(3) any entitlement to a government service or benefit?

Qualified paramedics and EMTs will be entitled to a significantly increased retirement benefit (3 percent per year rather than 1.6 percent).

b. If an agency or program is eliminated or reduced:

This bill does not reduce or eliminate an agency or program.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No, however, employer retirement contributions will be increased by 9.67 percent for qualified employees. This could indirectly help necessitate a need for increased taxes.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

The bill does not authorize any fee or tax increase by any local government, however, local employers of qualified paramedics and EMTs will have to contribute an additional 9.67 percent of each qualified employees salary as increased contributions to the FRS. These funds will have to be generated from some source.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No, to the contrary, qualified paramedics and EMTs will receive a significantly increased retirement benefit (3 percent per year rather than 1.6 percent).

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Adds paragraph (c) to s. 121.021(15), F.S., to expand the definition of "special risk member" to include qualified paramedics and EMTs.

Section 2. Amends s. 121.0515(1), (2), and (7)(a), F.S. It expands the Special Risk Class to include paramedics and EMTs. It also provides guidelines for determining whether Paramedics and EMTs are qualified to participate in the Special Risk Class. Lastly, it allows retention of the special risk normal retirement date for certain employees reassigned to administrative support positions.

Section 3. Adds a declaration of an important state interest.

Section 4. Provides that the act will take effect January 1, 1998.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

- 1. Non-recurring Effects:

None.

- 2. Recurring Effects:

Because the number of affected paramedics and EMTs employed by state agencies cannot be determined precisely, the overall cost to state government cannot be estimated. However, employer contribution rates for each affected employee will

increase from 16.77 percent to 26.44 percent. This represents an increase of about 58 percent in employer retirement contributions for each affected employee.

There are very few paramedics and EMTs employed by the state. According to the Division of Retirement, the HRS Emergency Medical Services Certification Section estimates that there are approximately 20 employed statewide in correctional institutions and state hospitals. Most of the paramedic and EMT positions will be in local agencies.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See item 2 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None. However, HB 123 might produce some impact on existing employment contracts. [SEE COMMENTS]

2. Recurring Effects:

In March, 1995, the Senate Committee on Governmental Reform and Oversight requested the Advisory Council on Intergovernmental Relations (ACIR) to research the fiscal impact on local governments of SB 556, a near-identical predecessor of this bill. ACIR conducted a survey requesting information about the number and salaries of paramedics and EMTs employed by local agencies throughout the state. The survey found a total of 1,045 Paramedics and 366 EMTs who then belonged to the Regular Class of the FRS. It calculated the fiscal impact related to paramedics at \$2,888,262 and the fiscal impact related to EMTs at \$746,057. Therefore, ACIR estimated that local governments would have been forced to spend an additional \$3,634,309 annually.

3. Long Run Effects Other Than Normal Growth:

If the Legislature includes paramedics and EMTs within the FRS Special Risk Class, other similarly situated groups might seek membership, or might renew efforts to gain membership. In the past, forensic ward workers, police dispatchers, prison nurses and medical personnel, lifeguards, prison administrators, fire helicopter pilots, and assistant state attorneys have all sought inclusion in the Special Risk Class. By allowing paramedics and EMTs to gain membership, the Legislature will open the door to various other claimants. Arguably, little rational basis exists for

excluding many of the groups mentioned above while, at the same time, according membership privileges to paramedics and EMTs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Because HB 123 will increase the costs of providing paramedic and EMT services, it might stimulate privatization efforts in the emergency services field.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Article VII, Sec. 18, of the Constitution of the State of Florida excuses local governments from complying with state mandates which impose negative fiscal consequences. Subsection (a) provides, "No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds" unless certain requirements are met. However, several exemptions and exceptions exist.

HB 123 will require participating cities and counties to expend additional funds because it will direct them to make higher FRS contributions for a particular group of employees. Therefore, initially at least, HB 123 will fall within the purview of Art. VII, Sec. 18 (a).

Subsection (d) of Art. VII, Sec. 18, exempts those laws which have an insignificant fiscal impact from the requirements of the mandates provision. Whether a particular bill results in a significant impact must be determined on an aggregate, statewide basis. Any bill which requires an expenditure of greater than \$1.4 million is considered to produce a significant impact. According to an ACIR survey conducted in March, 1995, HB 123 would have required local governments to spend an additional \$3,634,309. Therefore, it will not fall within the 'insignificant fiscal impact' exemption.

However, subsection (a) contains an exception for laws which apply "to all persons similarly situated," and which advance an important state interest. HB 123 provides a statement of important state interest, and treats all similarly situated FRS employees in the same manner. Therefore, the bill will probably be excepted from the requirements of Art. VII, Sec. 18 of the Constitution of the State of Florida.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

HB 123 might have some impact on existing employment contracts. Article I, Sec. 10 of the Constitution of the State of Florida reads, "No . . . law impairing the obligation of contracts shall be passed." This provision must be read in conjunction with Article I, Sec. 10, of the Constitution of the United States, which forbids states from passing any law "impairing the Obligation of Contracts." Overall, laws which impair contractual obligations are deemed constitutional if they are reasonable and necessary to serve an important public purpose. *Yellow Cab Co. of Dade County v. Dade County*, 412 So.2d 395 (Fla. 3d DCA 1982).

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

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