

STORAGE NAME: h0207a.go
DATE: February 27, 1997

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

BILL #: HB 207

RELATING TO: The Florida Retirement System (Redefining Creditable Service)

SPONSOR(S): Representative Ziebarth

STATUTE(S) AFFECTED: ss. 121.021 & 121.052

COMPANION BILL(S):

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

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

I. SUMMARY:

If enacted, HB 207 will redefine the term "creditable service," with respect to the Florida Retirement System (FRS), to exclude service as a part-time elected official in the offices of legislator, district school board member, county commissioner, or county council member, effective January 1, 1998.

Accordingly, as of January 1, 1998, such part-time elected officials will not be able to participate in the FRS during their period of elected service. They are currently eligible for membership in the Elected State and County Officers' Class (ESCOC) within the FRS.

It is estimated that the effect of this bill will result in savings to employers of such part-time elected officers.

The effective date of this bill is upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently any employee, full-time or part-time, working in a regularly established position with a participating employer is a compulsory member of the FRS. All members earn a full month of service credit for each month in which they earn salary for work performed. All of the offices specifically excluded by this legislation - legislators, district school board members, county commissioners, and county council members - are currently included in the Elected State and County Officers' Class (ESCOC).

Historically, legislation filed on this subject expressed concern about the "windfall" benefits that some legislators and other elected officials may receive if and when they move from their elected position to a high-paying position with an FRS employer. This would be due to the 3% accrual rate earned by ESCOC members being applied to an Average Final Compensation (AFC) consisting of high salaries earned in an upper management position in state or local government. This bill attempts to remedy this perceived inequity; however, since part-time employment is covered for all other employees, it may be perceived as unfair to totally disallow retirement benefits for part-time officials.

The term "part-time" is not defined for FRS service credit purposes. If an employee is in a regularly established position with a participating employer, it makes no difference if that employee is part-time or full-time. A full month of service credit is earned for each month that the employee receives a salary for work performed. Some legislators and other elected officials spend many more hours than others in their elected service and consider themselves as more than part-time officials.

It may be perceived to be inequitable to exclude "part-time" elected officials from FRS membership while continuing to provide membership to part-time nonelected employees. It may be perceived to be more equitable to change the retirement class assignment of legislators and other elected officials prospectively to either the Regular Class or the Senior Management Service Class. These officials would retain retirement benefits but the potential for "windfall" benefits would be greatly reduced. Alternatively, benefits could be calculated separately; adding together the benefit calculated separately for each class.

B. EFFECT OF PROPOSED CHANGES:

This bill redefines "creditable service" to exclude service as a part-time elected official in the offices of legislator, district school board member, county commissioner, or county council member, effective January 1, 1998. This bill excludes these part-time elected officials, currently eligible for membership in the ESCOC, from participating in the FRS during their period of elected service.

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?

This bill does not appear to create, increase or reduce, either directly or indirectly any authority to make rules or adjudicate disputes.

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

The Division of Retirement has indicated that it will require no additional personnel or resources to administer the provisions of this bill.

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

If this bill is enacted, it will prospectively eliminate all retirement benefits for the part-time elected offices of legislator, district school board member, county commissioner, or county council member, for that period of time wherein they serve in such capacities.

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

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

It does not appear that this bill passes on any responsibilities, costs and powers to another program, agency, level of government, or private entity. It is estimated that prospectively eliminating retirement benefits for the part-time elected offices stipulated in this bill will result in cost savings to employers of such officers.

(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?

This bill does not appear to increase anyone's taxes.

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

This bill does not appear to require or authorize an increase in any fees.

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

This bill does not appear to directly reduce total taxes, either rates or revenues, however, it is estimated that prospectively eliminating the accrual of FRS retirement benefits for the named part-time elected officers during their terms of service will result in cost savings.

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

This bill does not appear to reduce any fees, however, it will result in prospectively reducing retirement contributions for those employers of the part-time elected officials named in this bill.

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

This bill does not appear to authorize any fee or tax increase by any local government.

3. Personal Responsibility:

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

The bill will prospectively eliminate the accrual of FRS retirement benefits for part-time elected legislators, district school board members, county commissioners, or county council members, during their terms of service.

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

The beneficiaries of the legislation will be the employers of the named part-time elected officials and it is estimated they will realize cost savings.

4. Individual Freedom:

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

This bill will prospectively eliminate the accrual of FRS retirement benefits currently available to part-time legislators, district school board members, county commissioners, or county council members, who participate in the Florida Retirement System.

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

It does not appear to do so.

5. Family Empowerment:

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

This bill does not appear 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?

This bill does not appear to affect the legal rights and obligations between family members.

- 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:

N/A

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 121.021(17)(c), F.S. It redefines "creditable service," effective January 1, 1998, to exclude any period of service as a part-time elected official in the offices of legislator, district school board member, or county commissioner or county council member.

Section 2. Amends s. 121.052, F.S. It removes legislators, county commissioners, and school board members from membership in the FRS Elected State and County Officers' Class, and strikes "Legislators" and the applicable contribution rate for them from the table of required contribution rates effective July 1, 1996, for members of the Elected State and County Officers' Class. Please see Section VI, of this bill analysis, entitled Amendments or Committee Substitute Changes.

Section 3. Provides that the act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Because, effective January 1, 1998, if this bill is enacted, retirement contributions will not be required on the salaries earned by 160 legislators, it is estimated that the state will realize the following fiscal year savings:

1997-98 (6 months)	(\$ 485,000)
1998-99	(\$1,019,000)
1999-00	(\$1,070,000)

These estimated savings by the Division of Retirement are based upon prospectively excluding these part-time elected officials effective January 1, 1998.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Please see item 2 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

This bill will prospectively eliminate retirement contributions for an estimated 664 positions at the local level. It is estimated that local agencies will realize the following savings:

1997-98 (6 months)	(\$2,627,000)
1998-99	(\$5,517,000)
1999-00	(\$5,792,000)

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

To the extent that these part-time elected officials may turn to the private sector to purchase retirement benefits, there may be some indeterminate benefit to the private sector.

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

Indeterminate.

D. FISCAL COMMENTS:

This bill, if enacted, may result in the estimated savings indicated for state and local government because it will exclude part-time legislators, district school board members, county commissioners or county council members, currently eligible for membership in the Elected State and County Officers' Class, from participating in the FRS during their period of elected service.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill will not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

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:

The Division of Retirement will require no additional personnel or resources to administer the provisions of this bill.

This bill complies with the requirements of Article X, Section 14, of the Constitution and with the provisions of Chapter 112, Part VII, Florida Statutes.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On page 7, line 26, "Legislators" and the applicable contribution rate effective July 1, 1996, are stricken. This is a technical error because the changes in the bill are not effective until January 1, 1998. Legislators have already earned credit for 1996 and will remain members during 1997 regardless of how the bill is reported. It is recommended that this error be corrected and legislators be removed from the contribution chart prospectively from the effective date of the proposed changes which is January 1, 1998.

Amendment 1, which provided that the provisions of HB 207 shall not apply to any part-time elected official in the offices of legislator, district school board member, or county commissioner or county council member who is in office on January 1, 1998, and that such official shall continue to earn "creditable service" so long as the official continues holding such part-time elected office, **failed to be adopted.**

Amendment 2, a technical amendment correcting the scrivener's error alluded to in the first paragraph was adopted.

Amendment 3 was adopted which also would have excluded city council members and mayors, effective January 1, 1998, from participating in the Florida Retirement System during their period of service.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Legislative Research Director:

Jimmy O. Helms

Jimmy O. Helms