

STORAGE NAME: h1067a.go
DATE: April 21, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: HB 1067
RELATING TO: In-Line-of-Duty Disability Benefits for Special Risk Members
SPONSOR(S): Representative Fiorentino and others
COMPANION BILL(S): SB 128 (Identical)

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

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
 - (2) GENERAL APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill increases the minimum in-line-of-duty (ILOD) disability benefit for Special Risk Class members for 42% to 65% of average final compensation (AFC) for an option 1 benefit effective January 1, 2000.

This bill does not provide the required funding for this increased benefit and therefore, does not comply with Article X, Section 14, of the Constitution, and s. 112, Part VII, Florida Statutes. In order to comply with required constitutional and statutory funding, retirement contribution rates must be increased for each of the two Special Risk Classes as follows: Special Risk Class - .13% and Special Risk Administrative Support Class - .21%.

All employees who qualify for ILOD disability benefits are equally in need of the 65% minimum option 1 benefit. Therefore, if such a benefit is made available to Special Risk Class members disabled in the line of duty, it should also be made available to all other members of the FRS.

Based on Special Study 95-3, the first year cost to provide this increased benefit to Special Risk Class and Special Risk Administrative Support Class members is \$1,380,000.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The current minimum in-line-of-duty (ILOD) disability benefit for **all** classes of FRS membership is 42% of average final compensation (AFC) for an option 1 benefit.

Social Security benefit payments and Workers' Compensation payments to ILOD disability retirees are exempt from federal income taxes. ILOD disability benefits are exempt from federal income taxes up to the minimum established by the FRS. This bill would raise the tax-free portion of an ILOD disability benefit from 42% to 65%, which would help a disabled member. However, guaranteeing 65% of a Special Risk member's AFC for ILOD retirement, in addition to Social Security benefits and Workers' Compensation payments, may cause the total of these benefits to meet or exceed the member's income at the time of his or her disability, a concept often criticized in the press.

Increasing the minimum ILOD disability benefit to 65% of the AFC will make retiring under ILOD disability retirement more financially attractive than retiring under normal retirement or non-ILOD disability retirement in many cases. Currently, a Special Risk Class member retiring under ILOD disability with more than 14 years of Special Risk Class service receives a higher benefit than the minimum 42% currently established (assuming a 3% per year accrual value). If the minimum ILOD disability benefit is increased to 65%, a Special Risk Class member would have to retire with more than 21.66 years of service before a benefit based on his or her actual years of service would produce a benefit greater than the 65% minimum proposed (assuming a 3% per year accrual value).

Raising the minimum ILOD FRS disability benefits may reduce workers' compensation (WC) costs for employers (ILOD disability retirees are more likely to receive workers' compensation payments). As a result of a Florida Supreme Court decision (*Grice v. Escambia County Sheriff's Department*, No. 86,327), workers' compensation payments to an ILOD retiree may be reduced based upon the initial amount a retiree receives from his or her FRS benefit and Social Security payment. Workers' compensation payments to ILOD retirees are paid only to the extent that the retiree's average weekly wage exceeds the total of the initial FRS benefit and the initial Social Security benefit, plus cost-of-living adjustments.

B. EFFECT OF PROPOSED CHANGES:

This bill increases the minimum in-line-of-duty (ILOD) disability benefit for Special Risk Class members from 42% to 65% of average final compensation for an option 1 benefit effective January 1, 2000.

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?

No.

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

The in-line-of-duty disability benefit for Special Risk Class members would be increased from 42% of average final compensation to 65%.

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

This bill does not eliminate or reduce 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.

- 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?

No.

3. Personal Responsibility:

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

No.

- 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:

This 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?

N/A

- 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:

This 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. STATUTE(S) AFFECTED:

Amends s. 121.091, F.S., 1998 Supplement.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s.121.091(4)(f), F.S., 1998 Supplement, increasing the in-line-of-duty disability benefit for Special Risk Class members of the Florida Retirement System from forty-two percent to sixty-five percent of average final compensation for an option 1 benefit.

Section 2. Provides an effective date of January 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

FY 99-00	\$413,500
FY 00-01	\$868,000
FY 01-02	\$912,000

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See 2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

FY 99-00	\$ 966,500
FY 00-01	\$2,029,000
FY 01-02	\$2,131,000

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

Per Milliman and Robertson, Consulting Actuaries to the Florida Retirement System, Mr. Robert Dezube, Enrolled Actuary:

This bill **does not** comply with the requirements of Article X, Section 14 of the Constitution.

This bill **does not** comply with the provisions of Chapter 112, Part VII, Florida Statutes.

This bill increases the minimum in-line-of-duty disability benefit for Special Risk Class members from 42% of average final compensation (AFC) to 65% of AFC for an option one benefit.

In its present form, this bill does not provide the required increase in contribution rates to fund this benefit improvement and, therefore, does not comply with the constitutional and statutory requirements for full and concurrent funding of benefit improvements. The costs presented are based upon rates for the Special Risk Class and Special Risk Administrative Support Class from Special Study 95-3. This study is four years old and, if redone, the cost of providing this benefit could change.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not provide funding for the increased benefit that it grants; however, if this bill becomes law, it will necessitate increasing the Special Risk Class contribution rates as a percent of payroll that municipalities and counties must contribute for their Special Risk Class members.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of municipalities or counties to raise revenues in the aggregate.

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

This bill does not reduce the amount of a state tax shared with counties or municipalities.

V. COMMENTS:

In order to make it clear that this bill does not provide retroactive benefits, an amendment should be adopted inserting on page 2, line 8, after b. "Effective January 1, 2000, " sixty-five percent of the average monthly compensation as of the disability retirement date for a member of the special risk class. If it were ruled retroactive, there would be an even greater increase in employer contributions required to fund the increased unfunded liability, in addition to the administrative cost of identifying and reworking affected ILOD retirees.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its April 21, 1999, committee meeting, the Committee on Governmental Operations adopted one amendment to HB 1067 which did the following:

Increased the contribution rates that apply to the Special Risk Class of the FRS by 0.13 percentage points and increased the contributions rates that apply to the Special Risk Administrative Support Class of the FRS by 0.21 percentage points to fund this increase in benefits, effective July 1, 1999; included a

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provision that these increased contribution rates shall be in addition to all other changes to such contribution rates which take effect on that date; directs the Division of Statutory Revision to adjust accordingly the contribution rates set forth in s. 121.071, F.S.; includes a provision that the Legislature determines and declares that this act fulfills an important state interest; and modifies the effective date.

The adoption of this amendment will, if it successfully becomes law along with the other sections of the bill, overcome the original version of the bill's failure to comply with Article X, Section 14, of the Constitution and Chapter 112, Part VII, Florida Statutes.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

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