

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2530

SPONSOR: Senator Webster

SUBJECT: Florida Retirement System

DATE: April 16, 1999 REVISED: 4/20/99 _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|----------------|-----------|-------------------------|
| 1. | <u>Wilson</u> | <u>Wilson</u> | <u>GO</u> | <u>Fav/6 amendments</u> |
| 2. | <u>Hendon</u> | <u>Hadi</u> | <u>FP</u> | <u>Favorable</u> |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |

I. Summary:

The bill revises the payroll contribution rates payable by member governments in the Florida Retirement System (FRS) based upon the June 30, 1998 biennial valuation of this pension plan. The rate reductions reduce member government support by approximately \$1.1 billion during the fiscal year ending June 30, 2000. The bill further clarifies the Division of Retirement's duties with regard to actuarial impact reviews of local government plans, reenacts repealed provisions of law governing eligibility of blind vendors, and makes Internal Revenue Service (IRS) conforming changes to the deferred retirement program.

This bill amends the following sections of the Florida Statutes: 112.63, 112.65, 121.011, 121.021, 121.031, 121.051, 121.052, 121.055, 121.071, 121.052, 121.055, 121.071, 121.081, 121.091, 121.122, 121.24, 121.35, 121.40, and 112.18. The bill further reenacts sections 413.051(11) and (12) and repeals section 121.027, Florida Statutes.

II. Present Situation:

The FRS is a multi-employer, defined benefit pension plan comprised of 791 state, local, and special district government members. The plan was created in 1970 through the combination of three separate retirement plans covering teachers, public employees, and the highway patrol. In 1972 the judicial retirement system was incorporated within it. The FRS provides a guaranteed annuitized pension income to more than 600,000 active members and 170,000 retirees. The FRS has five membership classes covering public safety employees, elected officers, judges, senior managers, and general public employment classes. Members qualify, or vest, for benefits at the completion of ten years of service, although other classes vest at separate seven and eight year intervals. A normal career for the purposes of receiving unreduced benefits is considered to be the earlier of age 62 or thirty years of service. Public safety classes qualify at the earlier attainment of age 55 or twenty-five years of service. Upon the attainment of the normal retirement date each member may enroll in a deferred retirement option program (DROP) for up to five additional

years of employment in which the monthly retirement benefit is placed in a tax-sheltered account earning 6.5 percent interest per annum.

Benefit administration for the FRS is the responsibility of a statutory agency, the Division of Retirement in the Department of Management Services. The division also provides legal oversight on the operation of the more than 400 local government retirement systems. Investment management is undertaken by the State Board of Administration, a constitutional agency headed by the Governor, Treasurer, and Comptroller.

Each public employer contributes a percentage of employee salary to the FRS based upon a biennially determined actuarial requirement. The contribution varies with each retirement class but the composite rate for all classes has been in the 14-16 percent range for several years. Until the end of the prior fiscal year, the FRS carried an unfunded liability, that is, a supplemental contribution rate to amortize the prior liabilities of its predecessor systems and for the payment of benefits promised but not fully paid. The 1998 actuarial valuation of the FRS reported this unfunded liability to be fully paid off and, for the first time in its history, the FRS had a 3.8 percent surplus. Since 1977, Art. X, s. 14, *State Constitution*, has required the prefunding of all public retirement systems on an actuarial sound basis to prevent the intergenerational transfers of unfunded liabilities.

The 1996 Legislature enacted policy changes (ch. 96-423, L.O.F.) to the FRS coverage provided vendors operating concession programs under the auspices of the Division of Blind Services. Generally, those changes assigned responsibility for eligibility and noneligibility of vendors as of a date certain. A group of vendors challenged the legality of this act, *Laurent et. al. v. McMullian, Lover et. al. v. Florida Department of Labor and Employment Security* (Case Nos. 97-1076, 97-2485, Fla. 2d Cir. Ct.). A judgment was received against the defendants on October 21, 1998, and on January 19, 1999, the parties entered into a settlement agreement. The agreement provided for the payment to the plaintiffs of \$26 million, inclusive of attorneys' fees, and additional costs not to exceed \$200,000. The agreement stipulated that there would be no finding of unconstitutionality of the statute in question. Sections 6 and 16 of this bill reestablish blind vendor eligibility for membership in the FRS retroactive to the enactment of that chapter law.

III. Effect of Proposed Changes:

Section 1. Section 112.63, F.S., is amended to provide that the Division of Retirement's responsibility is to acknowledge receipt of local government retirement plan actuarial valuations on at least a triennial basis.

Section 2. Section 112.65, F.S., is amended to rephrase the limitation of benefits provision which prohibits employees from being dually covered for the same term of employment.

Section 3. Section 121.011, F.S., is amended to provide FRS responsibility for the assumption of all prior retirement system folded into the FRS in 1970 and later and to consistently use the phrase "one calendar month," rather than "30 days" to describe the minimum term of reemployment for future eligibility for benefits.

Section 4. Section 121.021, F.S., is amended to include within the definition of “creditable service” the less than twelve continuous months service usually performed by certain school employees who work on an academic calendar year. The change to the definition also incorporates reference to in-state service with another non-FRS employer and leave-of- absence credit provided an employee.

Section 5. Section 121.031, F.S., is amended to specifically cross reference ss. 120.54 and 120.536, F.S., for the authority to engage in rulemaking for the FRS.

Section 6. Section 121.051(6), F.S., is reenacted from its prior repeal through ch. 96-423, L.O.F. The section effects compliance with the settlement agreement in the cases cited above and reestablished employees of the Division of Blind Services vendor program as state employees for purposes of receiving FRS benefits. The section also provides that persons participating in the program after July 1, 1996, shall be independent contractors and ineligible for future FRS benefit coverage.

Section 7. Section 121.052, F.S., is amended to provide reduced payroll contribution rates for the fiscal year beginning July 1, 1999, for the Elected Officers’ Class of the FRS (legislators, from 22.33 percent to 14.31 percent; Governor, Lieutenant Governor and Cabinet officers, from 22.33 percent to 14.31 percent; State Attorneys and Public Defenders, from 22.33 percent to 14.31 percent; Justices and Judges, from 27.21 percent to 20.48 percent and county elected officers, from 26.99 percent to 17.05 percent).

Section 8. Section 121.055, F.S., is amended to provide reduced payroll contribution rates, from 23.10 percent to 11.19 percent for the fiscal year beginning July 1, 1999 for the Senior Management Service Class. The amended section also adjusts from \$3500 to \$5000 the amount considered to be a de minimis portion of a retirement account requiring completed liquidation upon termination.

Section 9. Section 121.071, F.S., is amended to provide reduced payroll contribution rates, from for members of the Special Risk Class, from 24.38 percent to 20.14 percent; Special Risk Administrative Support Class, from 14.64 percent to 11.53 percent; and the Regular Class, from 15.51 percent to 9.21 percent of the FRS for the fiscal year beginning July 1, 1999.

Section 10. Section 121.081, F.S., is amended to consistently use the term “1 calendar month” instead of “30 calendar days” to describe the minimum reemployment period required to claim educational leave credit. The section also requires the completion of one year of creditable service prior to claiming prior service credit.

Section 11. Section 121.091, F.S., is amended to provide additional documentation for the claiming of disability retirement benefits. The proposed new requirements state that the disability must have occurred during a FRS-covered employment relationship, that the member was totally and permanently disabled, and that the employee has not been employed elsewhere after employment termination. Furthermore, competent medical evidence attesting to the illness or injury occurring during covered employment must accompany any application for an in-line-of-duty disability application.

A survivor may purchase up to one year of service credit only from a deceased member whose employment is terminated by death within one year of satisfying vesting and retirement eligibility. The survivor must pay the contribution rate for the period of service being claimed plus 6.5 percent interest compounded annually but may use accumulated annual leave, sick leave, or a combination of both to satisfy this requirement.

Lastly, this section corrects two incorrect statutory cross references in the 1998 amendments to the DROP program.

Section 12. Section 121.122, F.S., is amended to correct a statutory cross reference.

Section 13. Section 121.24, F.S., is amended to provide rulemaking authority to the State Retirement Commission.

Section 14. Section 121.35, F.S., is amended to adjust upward from the current \$3500 to \$5000 the definition of a de minimis account requiring full liquidation upon employment termination of a member of the state university system enrolled in the optional annuity program.

Section 15. Section 121.40, F.S., is amended to provide for a forfeiture of all supplemental retirement benefits to reemployed but retired cooperative extension personnel of the University of Florida's Institute of Food and Agricultural Sciences.

Section 16. Section 413.051, F.S., is reenacted to provide eligibility for licensees in the Blind Vendors Program. This provision reestablishes Florida law prior to the enactment of ch. 96-423, L.O.F., and provides for retirement payments to the division for continued participant eligibility in the FRS.

Section 17. Section 112.18, F.S., is amended to add state law enforcement officers to the presumption of in-line-of-duty disability resulting from the onset of tuberculosis, heart disease, or hypertension.

Section 18. Section 121.027, F.S., relating to the division's rulemaking authority, is repealed.

Section 19. The bill is effective upon becoming law except that sections 6 and 16, affecting blind vendors, shall operate retroactively to June 7, 1996.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The effect of the bill is to lower payroll contribution rates by almost \$1.1 billion for the ensuing fiscal year. Local governments operating on an October to September fiscal year will experience a reduction in plan costs effective with the fourth quarter of this fiscal year.

Based upon the percentage representation of employer membership in the FRS, the cumulative payroll savings for the 1999-2000 fiscal year is approximately \$323,035,000 for state agencies and approximately \$868,913,000 for all other local government employers. The actual receipt of these savings will be a function of appropriations policy of the local legislative body or, in the case of local government agencies participating in funding formulae such as the Florida Educational Finance Program or Community College Program Fund, of the State of Florida General Appropriations Act and related implementing legislation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 17 produces an eight basis point fiscal impact which is not otherwise reflected in the published contribution rates in the bill. A conforming amendment, below, makes this change to bring the section into compliance with s. 14 of Art. X, *State Constitution*, which requires prefunding of retirement benefits on a sound actuarial basis.

VIII. Amendments:

#1 by Governmental Oversight and Productivity:

Amends s. 121.055, F.S., to permit a member of the Senior Management Service Class to withdraw from the FRS altogether. (WITH TITLE AMENDMENT)

#2 by Governmental Oversight and Productivity:

Provides an eight basis point increase in the payroll contribution rate for the Special Risk Class of the FRS to fund the enhanced health presumption benefits for law enforcement officers provided in the bill.

#3 by Governmental Oversight and Productivity:

Increases from age 50 to age 52 the time at which a member of the Special Risk Class of the FRS may begin to participate in the deferred retirement option program.

#4 by Governmental Oversight and Productivity:

Amends s. 112.64, F.S., to permit a nonrecurring “pension experience dividend” to be declared whenever the assets of the FRS exceed its liabilities by more than 20%. (WITH TITLE AMENDMENT)

#5 by Governmental Oversight and Productivity:

Provides for review and comment on FRS actuarial reports by the Board of Trustees of the FRS (Governor, Treasurer, and Comptroller). (WITH TITLE AMENDMENT)

#6 by Governmental Oversight and Productivity:

Creates an eleventh estimating conference within s. 216.136, F.S., for the purpose of conducting reviews of actuarial assumptions on the FRS. (WITH TITLE AMENDMENT)