STORAGE NAME: h0885.go
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HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS

BILL #: HB 885

RELATING TO: The Florida Retirement System

SPONSOR(S): Representative Boyd and Others

COMPANION BILL(S): SB 724 (identical)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) GOVERNMENTAL OPERATIONS
(2) GENERAL APPROPRIATIONS
(3)
(4)
(5)

I. SUMMARY:

This bill provides that, effective July 1, 1999, participation in the Senior Management Service Class is compulsory for any member of the Florida Retirement System who is employed as a judge of compensation claims with the Office of Judges of Compensation Claims within the Department of Labor and Employment Security.

This bill further provides that in lieu of participating in the Senior Management Service Class, a judge of compensation claims may participate in the Senior Management Service Optional Annuity Program established under s. 121.055(6), F.S.

The statewide fiscal impact of this legislation for the 31 judges of compensation claims is estimated to be an increase of approximately $65,000 per year based on the proposed July 1, 1999, retirement contribution rates.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Senior Management Service Class (SMSC) is one of five membership classes of the Florida Retirement System. SMSC membership is open only to employees in the following positions, as specified by statute:

Senior Management Service with the State of Florida - these positions are generally division director level and above and were initially included in the SMSC on February 1, 1987.

Local Senior Managers - these positions include community college presidents, appointed school superintendents, the county manager and the city manager of each participating local government and were initially included in the SMSC on January 1, 1990; and effective January 1, 1994, local government employers, including community college boards of trustees, may designate additional senior management positions to be included in the SMSC.

Legislative Managers - these positions include selected managerial staff of the Legislature, the Auditor General and his managerial staff, and the Executive Director of the Ethics Commission and were initially included in the SMSC on January 1, 1990.

State University System Managers - these positions include the Executive Service of the State University System and state university presidents and were initially included in the SMSC on January 1, 1991.

State Board of Administration Managers - these positions are senior-level management with the State Board of Administration and were initially included in the SMSC on January 1, 1991.

Judicial Branch Employees - effective January 1, 1994, the following Judicial Branch Employees were included in the SMSC: State Court Administrator; Deputy State Courts Administrator; Clerk of the Supreme Court; Marshal of the Supreme Court; Executive Director of the Justice Administration Commission; Clerks of the District Courts of Appeals; and the Trial Court Administrator in each judicial circuit.

Effective January 1, 1994, the public defender and state attorney in each of the 20 judicial circuits were permitted to designate additional positions in their offices to be included in the SMSC.

COMPULSORY MEMBERSHIP - Membership in the SMSC is compulsory if a position is designated as eligible for the Senior Management Service Class, unless the member elects to participate in an optional plan as outlined below.

OPTIONAL MEMBERSHIP - SMSC membership is optional in the following cases:

Senior Management Service of the State of Florida, Senior-level Management with the Florida Legislature, and Senior-level Management with the State Board of Administration

1. Within 90 days of appointment to a SMSC position with any of these entities, a member may choose to participate in the Senior Management Service Optional Annuity Program (SMSOAP) instead of the SMSC.

2. Members of a closed retirement system or the Special Risk or Special Risk Administrative Support Classes of the FRS may, within 90 days of appointment to a position eligible for the SMSC, elect to remain in the current retirement plan, transfer to the SMSC, or join the Senior Management Service Optional Annuity Program.

Local Senior Management

Local Senior Managers may elect to withdraw from the Senior Management Service Class and participate in a lifetime annuity program which may be provided by the employing agency.

Senior Management With the State University System

An employee appointed to the Executive Service of the State University System or to the presidency of a state university on or after January 1, 1993, will be automatically enrolled in the State University System Optional Retirement Program (SUSORP) at the beginning of his or her employment. Participation in SUSORP will be compulsory unless her or she elects membership in the SMSC within 90 days of his or her eligible employment. Election to the SUSORP is irrevocable as long as he or she is employed in an eligible position.

Elected Officer's Class

Effective July 1, 1997, members of the Elected Officers' Class (EOC) may, within 6 months of assuming office or 6 months of the effective date of this law for current officeholders, elect membership in the SMSC instead of EOC. Elected state officers may then transfer to the Senior Management Service Optional Annuity Program within 90 days of electing SMSC membership. Local elected officers may, within 90 days of electing SMSC membership, transfer to a locally provided optional annuity program, if offered.

OPTIONAL PLANS

Optional retirement programs, including SUSORP, SMSOAP, local annuity programs and the State Community College System Optional Retirement Program (available for certain community college Regular Class members), are defined contribution plans that provide immediate vesting. Contributions to the plan are paid by the employer, and the employee if desired, and may be invested in mutual funds, guaranteed accounts, and other investment offerings. The total contributions to the plan plus the investment earnings determine the final balance of the account. Payout of the account must be paid as a lifetime annuity.

The total contribution rate proposed to become effective July 1, 1999, and required to be paid by the employer on behalf of participants in a local annuity plan is 11.19 percent of the participants salary. This percentage is equal to the total retirement contribution rate proposed for SMSC members of the FRS.

The employee may choose to contribute to his or her annuity account any amount of his or her gross taxable income not to exceed the total contribution paid by the employer, and not to exceed limitations set by the Internal Revenue Code.

Participation in an optional plan is irrevocable as long as the employee remains in an eligible position. If a participant becomes ineligible to continue participating in the optional retirement plan, the employee becomes a member of the FRS.

JUDGES OF COMPENSATION CLAIMS

According to the Division of Retirement, there are 31 judges within the Office of the Judges of Compensation Claims, Department of Labor and Employment Security. Although nominally a part of the Department of Labor and Employment Security (DLES) for administrative support purposes, the office of judges is a separate budget entity and is not under supervision or control of DLES. The budget is totally funded by the Workers' Compensation Administrative Trust Fund.

Because Judges of Compensation Claims are not elected they are ineligible for the Elected Officer's Class. Because they are appointed and the positions were created by the legislature rather than the constitution, they are ineligible for the judicial classification. Not being law enforcement officers they are ineligible for the Special Risk classification. This leaves Senior Management as the only option for upgrading and these judges believe they have a legitimate role in setting policy and are justified in seeking coverage in the SMSC.

B. EFFECT OF PROPOSED CHANGES:

This bill provides that, effective July 1, 1999, participation in the Senior Management Service Class is compulsory for any member of the Florida Retirement System who is employed as a judge of compensation claims with the Office of the Judges of Compensation Claims within the Department of Labor and Employment Security.

This bill also provides that in lieu of participating in the Senior Management Service Class, a judge of compensation claims may participate in the Senior Management Service Optional Annuity Program established under s. 121.055(6), F.S.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

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?

This bill will expand the Senior Management Service to include judges of compensation claims and these judges will receive a higher benefit (2% value for each year of future service) as opposed to the 1.6% value for each year of service they currently receive as Regular Class employees.

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. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

No.

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

Including judges of compensation claims in the SMSC rather than the Regular Class of the FRS will require an additional 1.98% contribution on the payroll of these judges which is the difference between the proposed contribution rate of 11.19% for SMSC and the proposed contribution rate of 9.21% for the Regular Class.

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. <u>Personal Responsibility:</u>

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. <u>Individual Freedom:</u>

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

N/A

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

No.

5. <u>Family Empowerment:</u>

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?

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:

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:

s. 121.055, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 121.055(1), F.S., providing that, effective July 1, 1999, participation in the Senior Management Service Class (SMSC) is compulsory for any member of the Florida Retirement System who is employed as a judge of compensation claims with the Office of Judges of Compensation Claims within the Department of Labor and Employment Security; and providing that in lieu of participating in the SMSC, a judge of compensation claims may participate in the Senior Management Service Optional Annuity Program.

Section 2. Provides an effective date of July 1, 1999.

III. <u>FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. <u>Non-recurring Effects</u>:

None.

2. <u>Recurring Effects</u>:

There are 31 judges with an annual payroll rate of $3,269,105 within the Office of Judges of Compensation Claims, Department of Labor and Employment Security. Based upon the proposed employer contribution rates to be effective July 1, 1999, the Office of the Judges of Compensation Claims would pay an additional 1.98% of the salaries of its judges; the difference between the proposed Regular Class retirement contribution rate of 9.21% and the proposed SMSC retirement contribution rate of 11.19%. The additional cost equates to $64, 728 per year.

The cost to the Office of the Judges of Compensation Claims (which is an independent agency of the Department of Labor and Employment Security, and receives its salary funding from the Workers' Compensation Administration Trust Fund) would be the difference between the proposed Regular Class contribution rate and the proposed SMSC contribution rate (.0198) multiplied by the salaries of all affected members.

FY 99-00	$64,728
FY 00-01	66,670
FY 01-02	68,670

Note: Based upon information provided by the Office of the Judges of Compensation Claims. Cost figures are increased by 3% per year.

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.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   None.

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

   None.

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:	Staff Director:
Jimmy O. Helms	Jimmy O. Helms