

STORAGE NAME: h0127a.ft

DATE: April 5, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
FINANCE & TAXATION
ANALYSIS**

BILL #: HB 127

RELATING TO: Disability Retirement/Special Risk Class Members

SPONSOR(S): Representative Fiorentino and others

TIED BILL(S):

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

- (1) GOVERNMENTAL OPERATIONS YEAS 6 NAYS 0
 - (2) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 9 NAYS 0
 - (3) FINANCE & TAXATION YEAS 12 NAYS 0
 - (4) GENERAL APPROPRIATIONS
 - (5)
-

I. SUMMARY:

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 (AFC) for an option 1 benefit, effective January 1, 2001.

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 requirements, 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%, based on Special Study 95-3.

The Division of Retirement's analysis of this legislation indicates that 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 disabled in the line of duty.

Based on Special Study 95-3, the six month cost to increase this benefit to Special Risk Class members only for the period 1/01 to 6/01 is actuarially estimated to be \$1,449,000. The full fiscal year cost from 7/01 to 6/02 is estimated to be \$3,042,900.

The effective date of this bill is January 1, 2001.

The Committee on Governmental Operations and the Committee on Law Enforcement and Crime Prevention each adopted an amendment to this bill. Please refer to the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of this analysis.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

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

C. EFFECT OF PROPOSED CHANGES:

This bill increases the minimum in-line-of-duty (ILOD) disability benefit for Special Risk Class members only from 42% to 65% of average final compensation (AFC) for an option 1 benefit, effective January 1, 2001.

Under this bill, Special Risk Class members receive an improved minimum ILOD disability benefit. The benefit increases from a minimum of 42% of average final compensation (AFC) to a minimum of 65% of AFC for an option 1 benefit only for members of the Special Risk Class. The minimum in-line-of-duty benefit for other FRS Classes remains at 42% of AFC.

Increasing the minimum ILOD disability benefit to 65% of the AFC makes retiring under ILOD disability retirement more financially attractive than retiring under normal retirement or non-ILOD disability retirement in many cases. This translates into increased workload for the Division of Retirement.

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 raises the tax-free portion of an ILOD disability benefit from 42% to 65%, which helps 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.

Raising the minimum ILOD FRS disability benefits may reduce Workers' Compensation (WC) costs for employers (ILOD disability retirees are more likely to receive WC payments). As a result of 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. WC 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.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 121.091(4)(f), F.S., 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, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

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. Based on Special Study 95-3, the retirement contribution rates must be increased for each of the two Special Risk Classes as follows: Special Risk Class - 0.13% and Special Risk Administrative Support Class - 0.21%. The cost to State Government is outlined below and the cost to Local Government is shown under B. Fiscal Impact on Local Government.

| | |
|---------------------------------------|------------------|
| FY 1/01 - 6/01: (6 months) | \$434,175 |
| FY 7/01 - 6/02: | \$911,767 |
| FY 7/02 - 6/03: | \$957,600 |

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

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. Based on Special Study 95-3, the retirement contribution rates must be increased for

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each of the two Special Risk Classes as follows: Special Risk Class - 0.13% and Special Risk Administrative Support Class - 0.21%. The cost to Local Government is outlined below.

| | |
|--------------------------------------|--------------------|
| FY 1/01 - 6/01 (6 months) | \$1,014,825 |
| FY 7/01 - 6/02 | \$2,130,450 |
| FY 7/02 - 6/03 | \$2,237,550 |

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

If this benefit improvement was expanded to include all FRS membership classes the first year cost would be approximately \$15,000,000.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill requires cities and counties to expend funds, and appears to fall under the mandates provision on the Florida Constitution. However, the bill fulfills an important state interest (See amendment by the Committee on Law Enforcement and Crime Prevention) and "applies to all persons similarly situated". (See Article VII, Section 18(a), Florida Constitution) Therefore, even though sufficient funds to finance the expenditure have not been appropriated, cities and counties will be bound by this law. This is true even if the bill is approved by less than two-thirds of the membership of each house in the legislature.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that cities and counties have 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 cities and counties.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The bill as originally drafted violated the provisions of Article X, Section 14 of the State Constitution. That provision states: "A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provisions for the funding of the increase in benefits on a sound actuarial basis." This problem was addressed by the amendment passed in the Committee on Law Enforcement and Crime Prevention. (See Amendment Section.)

B. RULE-MAKING AUTHORITY:

The Division of Retirement, within the Department of Management Services, has sufficient rule-making authority to implement the provisions of this bill.

C. OTHER COMMENTS:

An amendment should be offered as follows: on page 2, line 7, insert after b. "Effective January 1, 2001," in order to make it clear that Special Risk members who have already retired on an ILOD disability are not eligible to have their benefit improved. If the benefit improvement were to be ruled retroactive, there would be an even greater increase in employer contributions required to fund the increased unfunded liability, plus the additional administrative cost of identifying and reworking the accounts of affected Special Risk ILOD retirees. (See Amendment Section.)

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its January 19, 2000, meeting, the Committee on Governmental Operations adopted a technical amendment inserting on page 2, line 7, after b. "Effective January 1, 2001," to make it clear that Special Risk members who have already retired on an in-line-of-duty disability are not eligible to have their benefit improved. This clarifies that the intent of the bill is prospective and not retroactive.

At the meeting of February 7, 2000, the Committee on Law Enforcement and Crime Prevention adopted an amendment inserting sections 2, 3, and 4. The amendment provides for funding of the benefits provided in the bill by increasing the contribution rates for the Special Risk Class by 0.21 percentage points, and by increasing the contribution rates for the Special Risk Administrative Support Class by 0.13 percentage points. The amendment also provides a declaration that a proper and legitimate state purpose is served and that the act fulfills an important state purpose.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

Jimmy O. Helms

AS REVISED BY THE COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

Staff Director:

Allen Mortham Jr.

Kurt E. Ahrendt

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AS FURTHER REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

Prepared by:

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