

STORAGE NAME: h0127.ga

DATE: April 8, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL APPROPRIATIONS
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 disability benefit for Special Risk Class members from 42% to 65% of average final compensation 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 Committee on Law Enforcement and Crime Prevention adopted an amendment to provide appropriate funding by increasing contribution rates for the Special Risk Class and the Special Risk Administrative Support Class. Please refer to the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of this analysis.**

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 adopted an amendment to this bill to clarify that the application of this benefit is prospective only. 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 checked="" type="checkbox"/> | N/A <input 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:

As amended, the bill increases the retirement contribution rates for employers participating in the Florida Retirement System. To fund those personnel costs, the employer may need to either increase taxes or reduce other expenditures.

B. PRESENT SITUATION:

The Florida Retirement System provides disability retirement benefits to its members. To claim disability retirement, the member must become totally and permanently disabled. This means that the member is prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as an officer or employee. For regular disability (not in-line-of-duty related), the member must complete 10 years of creditable service to be entitled to a monthly disability. For in-line-of-duty disability, the member is entitled to the benefit regardless of service.

The minimum annual in-line-of-duty disability benefit for all classes of FRS membership is 42% of average final compensation for an option 1 benefit. The minimum annual regular disability benefit is 25% of average final compensation for an option 1 benefit. The option 1 benefit is the maximum retirement benefit payable to the member during his or her lifetime.

C. EFFECT OF PROPOSED CHANGES:

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

Under this bill, Special Risk Class members receive an improved minimum in-line-of-duty disability benefit. The benefit increases from a minimum of 42% of average final compensation to a minimum of 65% of average final compensation 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 average final compensation.

Increasing the minimum in-line-of-duty disability benefit to 65% of the average final compensation makes retiring under in-line-of-duty disability retirement more financially attractive than retiring under normal retirement or regular disability retirement in many cases. This translates into increased workload for the Division of Retirement.

Social Security benefit payments and Workers' Compensation payments to in-line-of-duty disability retirees are exempt from federal income taxes. In-line-of-duty 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 in-line-of-duty disability benefit from 42% to 65%, which helps a disabled member. However, guaranteeing 65% of a Special Risk member's average final compensation for in-line-of-duty 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 in-line-of-duty FRS disability benefits may reduce Workers' Compensation (WC) costs for employers (in-line-of-duty 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 in-line-of-duty 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 in-line-of-duty 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 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 legislation, as amended, requires cities and counties to expend funds; however, the legislation contains a legislative finding that the provisions fulfill an important state interest. (See amendment by the Committee on Law Enforcement and Crime Prevention) and "applies to all persons similarly situated". Thus, this legislation, as amended meets an exception set forth in the Constitution and is binding upon cities and counties.

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:

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

STORAGE NAME: h0127.ga

DATE: April 8, 2000

PAGE 6

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

Prepared by:

Staff Director:

Allen Mortham Jr.

Kurt E. Ahrendt

AS FURTHER REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

Prepared by:

Staff Director:

Kama D.S. Monroe

Alan Johansen

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL APPROPRIATIONS:

Prepared by:

Staff Director:

Joseph L. McVaney

David K. Coburn