

STORAGE NAME: h0191a.lec

DATE: February 8, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: HB 191

RELATING TO: The Florida Retirement System

SPONSOR(S): Representatives Fiorentino, Fasano 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) GENERAL APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill expands the definition of "average final compensation" from the average of the highest 5 fiscal years' salaries to the average of the highest 3 fiscal years' salaries **only for members of the Special Risk Class**. This bill also provides a 3% per year accrual value for **Special Risk Class** service from October 1, 1978, to December 31, 1992, if the Special Risk Class member retires after July 1, 2000.

Although this bill does not provide the required funding to provide 3-year average final compensation (AFC) or improved accrual value for October 1978, to December 1992, for Special Risk Class members and, therefore, does not comply with Article X, Section 14, of the Constitution, and Chapter 112, Part VII, F.S., these proposed changes will substantially increase costs to Special Risk Class employers absent another method of funding. Special actuarial studies have been performed for each of these separate benefit improvements, however, because the combined application would have a greater cost than the individual application of each benefit, a separate special study combining the separate features is required.

This bill provides an effective date of July 1, 2000, provided the required actuarial funding is enacted by that time, otherwise the benefit improvements proposed by this bill will not become effective until the required funding of such benefits is enacted.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- 1. Less Government Yes No N/A
- 2. Lower Taxes Yes No N/A
- 3. Individual Freedom Yes No N/A
- 4. Personal Responsibility Yes No N/A
- 5. Family Empowerment Yes No N/A

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

B. PRESENT SITUATION:

“Average final compensation” is currently defined as the average of the 5 highest fiscal years of compensation for creditable service prior to retirement, termination, or death. At retirement, all members of the Florida Retirement System (FRS), including those in the Special Risk Class, have their benefit calculated using the average of the highest 5 fiscal years’ salaries.

The Special Risk Class of membership was established effective December 1, 1970, with an accrual value of 2% per year. In 1974, it was increased to an accrual value of 3% per year, but the Legislature failed to fund the increase in an actuarially sound manner. To eliminate the increasing unfunded liability as a result of this accrual value increase, the 1978 Legislature reduced the accrual value for members of the Special Risk Class from 3% per year back to 2% per year, effective October 1, 1978. This accrual value reduction accompanied a revision of membership eligibility for the Special Risk Class to remedy the under funding of the benefits offered to this class. The Special Risk Class accrual value was gradually increased from 2% to 3% per year over a 5-year period from 1989 to 1993. Members of the Special Risk Class currently earn a 3% per year accrual value for each year of service since 1992.

C. EFFECT OF PROPOSED CHANGES:

The effect of changing the average final compensation (AFC) from the highest 5 fiscal years’ salaries to the highest 3 fiscal years’ salaries will result in higher retirement benefits for Special Risk Class members by bringing their AFC closer to their final compensation. The degree of this impact depends upon the actual pay increases received, generally during the final years prior to retirement. The impact of this change in AFC for Special Risk Class Members is shown as follows:

Compensation Received During Highest 5 Fiscal Years	Employee Receives 3% Pay Increases Per Year
Fiscal Year Ending June 30, 2000	\$63,600
June 30, 1999	\$61,748
June 30, 1998	\$59,949
June 30, 1997	\$58,203

June 30, 1996	\$56,508
5 Year Average (Current Law)	\$60,001
3 Year Average (Proposed Law)	\$61,766
Relative Increase in Benefits	2.94%

The retroactive increase in Special Risk Class accrual value by fiscal year, as proposed by this bill, is outlined below:

<u>Creditable Service Between:</u>	<u>Accrual Value</u>	
	<u>Current Law</u>	<u>Proposed Legislation</u>
12/1/70 - 9/30/74	2.00%	2.00%
10/1/74 - 9/30/78	3.00%	3.00%
10/1/78 - 12/31/88	2.00%	3.00%
1/1/89 - 12/31/89	2.20%	3.00%
1/1/90 - 12/31/90	2.40%	3.00%
1/1/91 - 12/31/91	2.60%	3.00%
1/1/92 - 12/31/92	2.80%	3.00%
1/1/93 and thereafter	3.00%	3.00%

The benefit increase resulting from this proposed legislation for a Special Risk Class member who had service during the entire period is demonstrated below. This comparison assumes 25 years of Special Risk Class Service and an AFC of \$60,000. A member employed during the entire period of October 1978, through December 1992, would receive an additional accrual value of 12.25%.

	Total Compensation Percentage	Option 1 Annual Benefit
Current Law	62.75%	\$37,650
Proposed Legislation	75%	\$45,000
Difference	12.25%	\$ 7,350

This bill does not provide the required funding to provide 3-year AFC or improved accrual value for October 1978, to December 1992, for Special Risk Class members and, therefore, does not comply with Article X, Section 14, of the Constitution, and Chapter 112, Part VII, F.S. Special actuarial studies have been performed for each of these separate benefit improvements, however, because the combined application would have a greater cost than the individual application of each benefit, a separate special study combining these separate features is required.

This bill provides that average final compensation (AFC) shall include: accumulated annual leave payments, not to exceed 500 hours; and all payments defined as compensation in s. 121.021(22), F.S. This bill provides that average final compensation shall not include: compensation paid to professional persons for special or particular services; payments for accumulated sick leave made due to retirement or termination; payments for accumulated annual leave in excess of 500 hours; bonuses as defined in s. 121.021(47), F.S.; third party payments made on and after July 1, 1990, or fringe benefits (for example, automobile allowances or housing allowances).

Providing a 3-year AFC to Special Risk Class members will increase benefits for this class out-of-line with the AFC for benefits of members in the other membership classes of the FRS that would still be governed by a 5-year AFC. Changing the AFC for one class only

will increase administrative costs as this would necessitate a major system reprogramming change.

Changing the AFC to the highest 3 fiscal years for Special Risk Class members will require an increase in the contribution rate for this class if it is intended that the employer pick up the additional cost. The current benefit is employer funded through a percentage contribution rate on payroll. The increase for this benefit only is shown below:

Changing AFC From 5 Years to 3 Years
Based upon FRS Special Study 99-1(B) prepared by Milliman & Robertson

	Special Risk Class Contribution Rates	
	<u>Regular</u>	<u>Admin. Support</u>
Current Employer Rate*	20.22%	11.53%
*All normal cost		
Increase In Rate:		
Normal Cost	1.06%	0.60%
UAL (Unfunded Actuarial Liability)	1.59%	1.81%
Total Increase	2.65%	2.41%
Total Required Employer Rate To Fund Benefit Increase	22.87%	13.94%

Opponents of singling out Special Risk Class members only to receive this increased benefit point out that all FRS members equally deserve a 3-year AFC. Providing a 3-year AFC to all members will bring FRS benefits more in line with the 5 other retirement systems that are used for comparison purposes. The California State Teachers' Retirement System, the New York State Teachers' Retirement System, the Ohio State Teachers' Retirement System, and the Texas Teachers' Retirement System all have a 3-year AFC. The California Public Employees' Retirement System has a 1-year AFC. According to the 1997 Survey of State and Local Government Employee Retirement Systems, sponsored by the Public Pension Coordinating Council, there are 47 statewide retirement systems that provide an average final compensation period of 3 or less years.

To improve the accrual value for Special Risk Class service between October 1, 1978, and December 31, 1992, alone, will increase the contribution rate for the Special Risk Class by an additional 3.69%.

This bill provides a legislative declaration that the provisions of this bill fulfill an important state interest. This declaration refers to the benefits of a retirement system funded in an actuarially sound manner, as required by Section 14 of Article X of the State Constitution and Part VII of Chapter 112 of the Florida Statutes. Since no funding is provided in this bill for the proposed increase in benefits, this bill appears to conflict with the declaration of important state interest.

This bill provides an effective date of July 1, 2000, provided that the provisions of this bill which provide for additional benefit improvements shall not take effect until legislation is enacted to properly fund such benefit improvement as required by Section 14, Article X, of the State Constitution.

D. SECTION-BY-SECTION ANALYSIS:

Please refer to Section C, Effects of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None, because the changes proposed by this bill are not funded.

2. Expenditures:

This bill does not provide the funding required by the Constitution and state law to implement 3-year AFC for the Special Risk Class and improved Special Risk Class accrual value for service between October 1, 1978, and December 31, 1992.

Based upon Special Study 99-1(B), the increase in the employer contribution rate required to fund only the 3-year AFC for Special Risk and Special Risk Administrative Support Class members would be:

Increase:

Special Risk Regular	2.65%
Special Risk Admin.	2.41%

Fiscal Year State Costs:

7/00 - 6/01	\$17,083,000
7/01 - 6/02	\$17,937,000
7/02 - 6/03	\$18,834,000
7/03 - 6/04	\$19,776,000
7/04 - 6/05	\$20,765,000

Based upon Special Study 99-2(B), the required increase in employer contribution rate required to fund only the accrual value upgrade for Special Risk Class members would be 3.69%.

Fiscal Year State Costs:

7/00 - 6/01	\$23,587,000
7/01 - 6/02	\$24,766,000
7/02 - 6/03	\$26,005,000
7/03 - 6/04	\$27,305,000
7/04 - 6/05	\$28,670,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None, because the changes proposed by this bill are not funded.

2. Expenditures:

Based upon Special Study 99-1(B), the increase in the employer contribution rate required to fund only the 3-year AFC for Special Risk and Special Risk Administrative Support Class members would be 2.65% and 2.41% respectively.

Fiscal Year Local Costs:

7/00 - 6/01	\$40,140,000
7/01 - 6/02	\$42,147,000
7/02 - 6/03	\$44,255,000
7/03 - 6/04	\$46,467,000
7/04 - 6/05	\$48,791,000

Based upon Special Study 99-2(B), the required increase in the employer contribution rate required to fund only the accrual value upgrade for Special Risk Class members would be 3.69%.

Fiscal Year Local Costs:

7/00 - 6/01	\$55,825,000
7/01 - 6/02	\$58,617,000
7/02 - 6/03	\$61,548,000
7/03 - 6/04	\$64,625,000
7/04 - 6/05	\$67,856,000

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill does not provide the funding required by the Constitution and Florida Statutes to implement a 3-year AFC for the Special Risk Class and improved Special Risk Class accrual value for service between October 1, 1978, and December 31, 1992. If properly funded, this bill would affect all Special Risk Class members and their employing agencies.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not provide funding to properly fund the increased retirement benefits as required by Section 14, Article X, of the State Constitution, however, the proposed legislation does apply to all similarly-situated persons and contains a statement that the Legislature formally determines the existence of an important state interest. The effective date of this bill also provides that the additional benefit improvements shall not take effect until legislation is enacted to properly fund such benefit improvements as required by Section 14, Article X, of the State Constitution. If a legislative decision is made to fund

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these improvements by increasing the Employer Special Risk Contribution Rates then cities and counties would be required to spend money or take action that requires the expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of cities or counties to raise total revenues over 2/1/89 levels.

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

This bill does not reduce the total aggregate city/county percentage share of a state tax below 2/1/89 levels.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

See A. above.

B. RULE-MAKING AUTHORITY:

It is not anticipated that additional rule-making authority will be necessary to administer this proposed legislation.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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:

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