

STORAGE NAME: h0229s1.go

DATE: February 8, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: CS/HB 229

RELATING TO: Florida Retirement System Special Risk Class Membership For Correctional Probation Officers

SPONSOR(S): Committee on Governmental Operations and Representatives Crady, Fasano and others

TIED BILL(S):

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

- (1) GOVERNMENTAL OPERATIONS YEAS 7 NAYS 0
- (2) CORRECTIONS
- (3) GENERAL APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

This bill creates the "Keith Ward Act" and adds correctional probation officers, the supervisors of such officers, and probation and parole circuit and deputy circuit administrators to the Special Risk Class of the Florida Retirement System (FRS), effective January 1, 2001. The correctional probation officers must meet certification criteria currently required under s. 943.1395, F.S.

The cost to the Department of Corrections as a result of this bill will be 11.01% of the salaries of the 3,638 affected employees. This represents the difference between the current Regular Class contribution rate of 9.21% and the Special Risk Class rate of 20.22%. This translates into dollar costs of \$6,888,138 for the six-month period January 1, 2001 to June 30, 2001. The recurring fiscal year 2001-2002 costs are calculated at \$14,189,563. These costs are based upon membership and salary information provided by the Department of Corrections.

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

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:

Current law has specific eligibility requirements for membership in the Special Risk Class of the Florida Retirement System. These requirements limit membership to members employed as law enforcement officers, firefighters, correctional officers, emergency medical technicians or paramedics who meet the criteria in s. 121.0515, F.S. Such members are eligible for special risk membership because they may not be able to continue working in their special risk positions (which are physically demanding and require extraordinary agility and mental acuity) to the normal retirement age of 62, due to the normal aging processes. Accordingly, Special Risk Class members are provided a career benefit at an earlier age or with fewer years of service than is provided for Regular Class members.

Membership in the Special Risk Class is attractive for two reasons:

1. A Special Risk Class member receives 3% of average final compensation (AFC), as opposed to 1.60% to 1.68% for a Regular Class member, for each year of service earned.
2. A Special Risk Class member reaches normal retirement at an earlier age (55 vs. 62) or with fewer years of service (25 vs. 30) than a Regular Class member.

Currently there are certification requirements, as a condition of employment, for correctional probation officers under s. 943.1395, F.S. These certification requirements and the job duties of a correctional probation officer do not fulfill the present legislative intent and criteria for Special Risk Class membership. Correctional probation officers were members of the Special Risk Class before October 1, 1978. This group of employees was removed from the Special Risk Class effective October 1, 1978, because they failed to meet the revised certification requirements in s. 943.1395, F.S., and their primary duties did not constitute custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported.

While correctional probation officers and their supervisors may be exposed to hazardous duty, this has no bearing on their eligibility to participate under current law in the Special Risk Class. Many employees have hazardous jobs, yet they are not included in the Special Risk Class because the current legislative intent or criteria of s. 121.0515, F.S., do not

cover their job duties. The Special Risk Class criteria addresses only the need of a group of employees to retire earlier than other employees due to the adverse effects of aging upon their ability to perform their job duties and insure the safety of their coworkers, themselves, and the public.

All FRS members, regardless of the class of membership, are currently entitled to the same in-line-of-duty disability and death benefits.

C. EFFECT OF PROPOSED CHANGES:

This bill adds correctional probation officers, the supervisors of such officers, and probation and parole circuit and deputy circuit administrators to the Special Risk Class of the Florida Retirement System (FRS), effective January 1, 2001. The correctional probation officers must meet certification criteria currently required under s. 943.1395, F.S.

Correctional probation officers, the supervisors of such officers, and probation and parole circuit and deputy circuit administrators will receive an 87.5% improvement in their accrual value for service after January 1, 2001; the difference in the accrual value of the Special Risk Class benefit over the Regular Class benefit. The supervisory positions included in this bill are part of the chain of command of this group of probation officers which is consistent with the chain of command currently recognized in the Special Risk Class for law enforcement officers, firefighters, and correctional officers and their supervisors.

There are no local government positions that qualify for the Special Risk Class under this bill. Therefore, it appears the state Department of Corrections is the only employer with affected positions. The Department of Corrections will pay an additional 11.01% (based upon current contribution rates) of the salaries of its 3,638 affected employees. This is the difference between the retirement contribution rate for Regular Class members of 9.21% and the recommended rate of 20.22% for Special Risk Class members.

Expanding the Special Risk Class to include correctional probation officers and certain supervisors and administrators will open the door for Special Risk Class coverage requests from other groups who consider their positions dangerous, but whose positions also do not comply with the current Special Risk Class legislative intent and membership criteria.

The primary job duties and responsibilities of a correctional probation officer as stated in this bill must be "supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within institutions of the community; or the member must be the supervisor of a member or members who have such responsibilities." However, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included; however, probation and parole circuit and deputy circuit administrators shall participate in the Special Risk Class. If correctional probation officers are granted Special Risk Class membership it would create an expectation of such membership for other professionals working within institutions who provide inmate supervision and counseling (classroom instructors, psychiatrists, psychologists, etc.) but who are not currently eligible for Special Risk Class membership.

Correctional probation officers are required to interact with probationers, parolees, or community controllees outside of a controlled institutional setting. Presumably, the inherent dangers in this aspect of their job duties is one of the primary motivations for this proposed legislation. The curricula and the total hour requirements for certification of correctional probation officers is less stringent than that of a law enforcement officer.

Currently law enforcement officers and correction officers must successfully complete a more stringent education certification requirement. [See attached comparison of certification requirements.]

This bill provides only prospective Special Risk Class coverage, effective January 1, 2001. Service between October 1, 1978, and December 31, 2000, will not count towards a special risk normal retirement date.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates a short title, the "Keith Ward Act."

Section 2. Amends s. 121.021(15)(b), F.S., providing, effective January 1, 2001, the term "special risk member" also includes any member who is employed as a correctional probation officer and meets the special criteria set forth in s. 121.0515(2)(d), F.S.

Section 3. Amends s. 121.0515(2), F.S., establishing criteria for correctional probation officers to be included as Special Risk Class members of the FRS; requiring that such officers be certified, or be required to be certified, in compliance with s. 943.1395, F.S., and have primary duties and responsibilities including supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within institutions of the community, or by the supervisor of such an officer; and providing for inclusion of probation and parole circuit and deputy circuit administrators in the Special Risk Class, but excluding administrative support personnel.

Section 4. Provides a legislative determination and declaration that the provisions of this act fulfill an important state interest.

Section 5. Provides an effective date of January 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

The cost to the Department of Corrections as a result of this bill will be 11.01% of the salaries of the 3,638 affected employees. This is the difference between the current Regular Class contribution rate of 9.21% and the Special Risk Class rate of 20.22%.

**Recurring Effects: FY 00-01(6mo.) \$ 6,888,138
FY 01-02(12mo.) \$14,189,563
FY 02-03(12mo.) \$14,615,250**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

If the demographics of the group of affected members differ significantly from those of the current class members, this bill could have a fiscal impact on the FRS Trust Fund, and could possibly increase or decrease the contribution rates of the Regular Class and the Special Risk Class of membership. A census of the group after the positions are specified, and possibly a special study, would be required to determine the impact of the bill.

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 spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

It is not anticipated that the Division of Retirement, of the Department of Management Services, will need additional rulemaking authority to administer this legislation.

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C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Governmental Operations, at its February 8, 2000, committee meeting, adopted a technical amendment to correct a drafting error by reinserting one word that was inadvertently deleted from current statutory language when the bill was drafted. This action does not require a revision to the body of the bill analysis.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

Jimmy O. Helms