HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL APPROPRIATIONS
FINAL ANALYSIS

BILL #: HB 2393 (PCB GA 00-16)

RELATING TO: Retirement

SPONSOR(S): Committee on General Appropriations and Representative Pruitt

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) GENERAL APPROPRIATIONS YEAS 19 NAYS 1
(2) GENERAL GOVERNMENT APPROPRIATIONS W/D
(3)
(4)
(5)

I. SUMMARY:

This legislation requires the Trustees of the State Board of Administration to establish and administer an optional defined contribution retirement program within the existing Florida Retirement System (FRS), effective June 2002. Participation in the defined contribution retirement program will be in lieu of participation in the defined benefit retirement program. Under the defined contribution retirement program, each participant will have the opportunity to direct the investment of retirement dollars into selected investments. The defined contribution retirement program participants will enjoy retirement benefits based on the market return of the participant-directed investment rather than the fixed benefit guaranteed under the defined benefit retirement program. In addition, the defined contribution retirement benefit will continue to grow even after the participant terminates employment with participating public employers.

The legislation also modifies the existing defined benefit retirement program by reducing the vesting requirement to 6 years, effective July 1, 2001; expanding the Special Risk Class to include community-based correctional probation officers and certain medical workers; and expanding the Senior Management Service Class to include assistant state attorneys, assistant public defenders, assistant statewide prosecutors, and assistant capital collateral counsel.

The legislation increases the retirement benefit to be received by current Special Risk Class members. Under existing law, the Special Risk Class earned between 2% and 2.8% service credits for the service between October 1978 and December 1992. Under this legislation, for persons retiring after July 1, 2000, the service accrual rate will be increased to 3% for each creditable service year completed as a Special Risk Class member.

The Florida Retirement System Trust Fund revenues are expected to be reduced by $209.4 million in FY 2000-01 and $20.1 million in FY 2001-02. These cost savings will be shared by state (roughly 25%) and local governments (roughly 75%). In addition, approximately $654.5 million in FY 2000-01 and $474 million in FY 2001-02 of the actuarial surplus of the fund will be recognized to offset benefit increases and rate reductions.

The State Board of Administration Administrative Expense Trust Fund will receive approximately $40 million for FY 2000-01 and FY 2001-02 to offset the costs incurred in implementing the defined contribution retirement program. The payroll masters for the state and local governments will incur additional costs in implementing the retirement program.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

Less Government -- This legislation privatizes some portion of the public retirement system by authorizing the State Board of Administration to contract with private sector investment managers to invest the public pension funds under the Public Employee Optional Retirement Program. In addition, a new third party administrator will administer the optional program, potentially reducing the responsibility of the Division of Retirement. On the other hand, this legislation requires a significant state-sponsored retirement education effort directed at members of the Florida Retirement System. The State Board of Administration also has increased responsibility in overseeing the successful implementation of the Public Employee Optional Retirement Program, with the potential for additional personnel to oversee and implement the program.

Lower Taxes -- This legislation reduces the vesting requirements for the defined benefit retirement program within the Florida Retirement System. To implement this benefit enhancement, retirement contributions by employers must be increased. Upon implementation of the Public Employee Optional Retirement Program, the costs for participants in that program will exceed the costs required today under the defined benefit program by the current year increase in the defined benefit program. However, the costs of the defined contribution program will be stable, not fluctuating based on market earnings of the Florida Retirement System Trust Fund. To fund those personnel costs, employers may need either to increase revenues or to reduce other expenditures.

On the other hand, for FY 2000-01, the retirement contribution rates paid by all employers are reduced by 1.0 percentage point, or approximately $190 million statewide. This contribution reduction frees up for one year revenues that are typically allocated to personnel costs.

B. PRESENT SITUATION:

Defined Benefit Retirement Program

Generally

Chapter 121, Florida Statutes, establishes a defined benefit retirement system for public employees in Florida called the Florida Retirement System (FRS). The FRS is administered by the Division of Retirement within the Department of Management Services. Membership is compulsory for all employees working in regularly established positions for public employers participating in the FRS (state agencies, county governments, school boards, state universities, community colleges, or some cities and special districts).

The FRS is composed of five classes of membership -- Regular Class, Special Risk Class, Special Risk Administrative Support Class, Elected Officers' Class, and Senior Management Service Class. The Elected Officers' Class is further broken down into three sub-classes -- Judicial, Legislator/Attorney/Governor, and County Officers.

Generally, the Special Risk Class is comprised of law enforcement, firefighting, and correctional personnel. These personnel are eligible for normal retirement at age 55 with 10 years of service or at any age with 25 years of service. The Senior Management Service Class is comprised of selected personnel filling policy-making or managerial positions. These personnel are eligible for normal retirement at age 62 with seven years of service. The Elected Officers' Class is comprised of elected officers. Generally, the Regular Class is comprised of all other personnel. The Regular Class is eligible for normal retirement at age 62 with 10 years of service or at any age with 30 years of service.

For purposes of this legislation, one relevant distinction between classes is the time needed for a member to vest in the defined benefit entitlement. The Regular Class, Special Risk Class, and Special Risk Administrative Support Class members must complete 10 years of creditable service in the FRS before their benefits vest. Members of the Elected Officers' Class must complete at least 8 years of service and members of the Senior Management Service Class must complete at least 7 years.

The annual accrual service credits used in calculating the retirement benefits are another key distinction between classes. The Regular Class and Special Risk Administrative Support Class earn 1.6% of average final compensation for each year of creditable service; the Senior Management Service Class earns 2.0% credits; and the Special Risk Class and Elected Officers' Class earn 3.0% credits. Prior to 1974, the Special Risk Class earned 2.0% credits. Between 1974 and 1978, the Special Risk Class earned 3.0% credits. In 1978, the Legislature prospectively reduced the annual service credits to 2.0% per year. The 2.0% rate remained until 1989 when the rate was increased to 2.2% for 1989, 2.4% for 1990, 2.6% for 1991, 2.8% for 1992, and 3.0% for each year thereafter.

The demographics, experience, and benefit design of each of these classes is different. This results in different contribution rates being paid into the FRS Trust Fund based on the class of membership of each member of the FRS.

A key design feature in the defined benefit program is the guaranteed lifetime payments at a predetermined level for retirees. Once retired, the member may elect to receive benefits either:

a. for the member's lifetime with no continuing benefit at death (option 1);
b. a reduced benefit for life and, if the member dies within 10 years of retirement, a benefit to a beneficiary for the remainder of the 10 years (option 2);
c. a reduced benefit for life of the member; upon the member's death a joint annuitant receives a lifetime benefit (unless the joint annuitant is a child -- then only until age 25) (option 3); or
d. a reduced benefit for the life of the member or joint annuitant; upon the death of either, the survivor receives a lifetime benefit equal to 2/3's of the benefit received when both were living (unless the joint annuitant is a child -- then only until age 25) (option 4).

Disability benefits

The FRS provides disability retirement benefits to its members as an incidental benefit. To claim disability retirement, the member must be 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 (this percentage will be increased from 42% to 65% on July 1, 2000, pursuant to the enactment of chapter 2000-167, Laws of Florida). 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.

Defined Contribution Retirement Program

The State of Florida currently administers three defined contribution retirement programs for public employees. These programs are the State University System Optional Retirement Program (about 10,000 participants), the Senior Management Service Optional Annuity Program (fewer than 100 participants), and the Community College Optional Retirement Program (about 920 participants).

Contributions into the participants' accounts are equal to the normal cost portion of the employer's required retirement contribution for the year for the membership class of the employee plus an amount equal to the retiree health insurance subsidy.

Under the Senior Management Service Optional Annuity Program, benefits are payable only as a lifetime annuity to the participant or beneficiary, as a lump-sum payment upon the participant's death or as a cash-out of a de minimus account ($5000 or less).

Retiree Health Insurance Subsidy

Retirees of the defined benefit retirement program are eligible to receive $5 per month for each year of creditable service completed as a member of the Florida Retirement System, not to exceed $150 per month. This benefit is payable from the Retiree Health Insurance Subsidy Trust Fund and is funded through an assessment of 0.94% of compensation paid by each FRS employer. Participants of the current defined contribution retirement programs receive contributions equal to the employer contribution directly into their retirement accounts during the years of employment. These participants will not receive the subsidies during retirement.

Financial Condition of the Florida Retirement System

The state actuary must conduct an actuarial valuation at least every two years. This valuation study must meet certain minimum standards including a) five year averaging of plan assets; b) an analysis of the factors generating valuation changes; and c) measures of funding status. The results of the valuation study must be submitted to the Legislature by February 1 preceding the next legislative session.

As of June 1999, the state actuary estimated that the actuarial liabilities of the System were $68.6 billion and the actuarial assets were $77.8 billion. Thus, an actuarial surplus of $9.2 billion existed. Based on this actuarial valuation, the state actuary recommended that $73 million of the actuarial surplus be recognized to offset potential increases to the normal cost of the FRS for FY 2000-01.

C. EFFECT OF PROPOSED CHANGES:

Defined Contribution Retirement Program

This legislation creates an optional defined contribution retirement program within the FRS pursuant to section 401(a) of the Internal Revenue Code. The plan is non-contributory, meaning the employer pays the full cost of the retirement benefit. Public employees will have the opportunity to choose to participate in either the defined benefit retirement program (the current plan) or the defined contribution program.

The optional retirement program will be administered by the Trustees of the State Board of Administration (SBA). The Board will contract with a third party administrator to provide administrative services to the participating employers and the program participants. The Board will also select investment products to be available in the optional program. Because this type of program allows the participant to direct investments within the products offered, the risk of loss and the benefit of gains rests solely upon the participant.

Unlike the defined benefit retirement program, the defined contribution program offers retirement payments that are not fixed for a lifetime. Rather, a participant may elect to receive the benefits in a lump-sum, by rolling over the distribution to another qualified investment, or in periodic distributions.

The SBA will also select one or more organizations to provide education to system members. Education is an important element of the program since employees will be allowed an option to elect to participate in either the defined benefit or defined contribution retirement programs.

Please see section-by-section below for more details of the program.

Defined Benefit Retirement Program

Vesting

This legislation reduces from 10 years to 6 years the time required to vest for retirement benefits for each class and sub-class of membership within the defined benefit retirement program of the FRS. The legislation also reduces from 10 years to 8 years the time required to vest for regular disability benefits under the defined benefit retirement program. The creditable service needed to be eligible for the retiree health insurance subsidy is reduced to 6 years. The minimum monthly subsidy under the program is reduced from $50 to $30.

Expansion of Class Membership

This legislation expands the membership of the Special Risk Class to include community-based correctional probation officers and certain medical workers employed by the Department of Corrections and the Department of Children and Family Services, effective January 1, 2001.

This legislation expands the membership of the Senior Management Service Class to include assistant state attorneys, assistant public defenders, assistant statewide prosecutors, and capital collateral regional counsel attorneys. However, these employees will not be eligible to participate in the Senior Management Service Optional Annuity Program (SMS OAP).

All local governments, regardless of size, will be permitted to designate at least 10 non-elective full-time positions for Senior Management Service retirement benefits.

Senior Management Service Optional Annuity Program

The legislation also modifies the methods of distribution of benefits through the SMS OAP. Effective July 1, 2000, participants may elect a lump-sum direct rollover distribution of all funds directly to an eligible retirement plan under s. 402(c)(8)(B) of the Internal Revenue Code.

Actuarial Valuation

This legislation requires the valuation to be completed annually (rather than every two years). The actuarial model used for the valuation study must include a specific rate stabilization mechanism. The model must offset, to the extent possible, any experience loss by any actuarial surplus. In addition, when the actuarial surplus exceeds 5% of the actuarial liabilities, a portion of the excess surplus may be used to offset total retirement system costs.

This rate stabilization mechanism is used for valuation purposes only. The Legislature retains the authority to set the retirement contribution rates each year and to address the use of surplus funds in the FRS Trust Fund.

Retirement Contribution Rates

This legislation increases contribution rates for the defined benefit retirement program in future years to coincide with increased costs associated with benefit enhancements to the program. This legislation also reduces the contribution rate by 1.1 percentage points for each class and subclass for FY 2000-01 and 0.1 percentage point for FY 2001-02. See Fiscal Comments below for the estimated rates for the next three fiscal years.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 112.65, F.S., to clarify that benefits paid under the Public Employee Optional Retirement Program (PEORP) are supplemental benefits. Thus, the benefits attributable to the optional retirement program may exceed 100 percent of the employee's average final compensation.

Section 2 amends s. 121.021, F.S., to redefine the FRS to include both a defined benefit retirement program and a defined contribution retirement program.

Section 3 designates the existing Chapter 121, F.S. as part I of the chapter and designates s. 121.4501 and 121.571, F.S., as part II. It also creates s. 121.4501, F.S., to authorize a defined contribution program within the FRS.

Subsection (1) requires the Trustees of the State Board of Administration to create the Public Employee Optional Retirement Program. This program is an optional defined contribution retirement program generally open to employees of governmental employers participating in the FRS.

Subsection (2) provides definitions necessary for the Public Employee Optional Retirement Program.

Subsection (3) provides the specific eligibility requirements for participation in the optional retirement program. Participation in the optional program is in lieu of participation in the defined benefit program.

A participant will retain any earned benefit under the defined benefit program. However, the participant has the option to transfer the present value of the accumulated benefit obligation under defined benefit retirement program to the participant's account in the defined contribution retirement program.

The present value of the accumulated benefit obligation is determined by using the discount rate and other actuarial assumptions used at the most recent valuation of the FRS Trust Fund, and a benefit commencement age of 62 or a hypothetical age after 30 years of service, whichever is less. For Special Risk members, the benefit commencement age is 55 or a hypothetical age after 25 years of service, whichever is less. By using the lesser age rather than the greater age used by the retirement system, this legislation may increase the amount that will be transferred.

The SBA must establish transfer procedures by rule. The transfers must occur no later than 30 days after the member's election to participate in the defined contribution program. The transfers are not subject to commissions or other fees.

Subsection (4) sets a phased in schedule for current employees to elect participation in the optional program. Employees of state entities will be given the option to join the optional program between June 1, 2002, and August 31, 2002. Employees of education-related employers will have the option between September 1, 2002 and November 30, 2002. All other local government employees will be given the option to join between December 1, 2002, and February 28, 2003. New employees hired after an option window has opened for their employer will have 180 days to elect to participate. After the election window is closed, each employee will have one additional opportunity to choose to move from one program to the other program.

Subsection (5) sets forth the mechanism to distribute contributions in the optional program. The employers will pay the appropriate contributions to the third party administrator (TPA). The TPA will distribute the applicable contributions to the department (disability and health insurance subsidy contributions), to the board (administrative costs) and to the participant's accounts.

Subsection (6) sets forth the vesting requirements for the optional program. To vest in the employer contributions made under the optional program, the participant must complete 1 work year of service. Former service under the defined benefit retirement program is counted for the purposes of vesting in the optional program contributions. To vest in the balance transferred from the defined benefit retirement program, the participant must complete 6 years of creditable service. Again, service under the defined benefit retirement program and the optional program are used to compute these years. If a participant fails to vest in any portion of the optional retirement program accumulations prior to terminating, the participant has 5 years to return to employment. Failure to return to employment within the 5 years results in a forfeiture of the unvested accumulation, including any unvested amount transferred from the defined benefit program.

Subsection (7) provides for the methods for benefit payments under this program. The benefit payout methods must be in compliance with s. 401(a) of the Internal Revenue Code. To receive any benefit payments, the participant must be terminated from all employment with FRS employers. Benefits are payable to a participant as:

a. A lump sum;
b. A lump sum direct rollover to another plan; or
c. Periodic distributions, as authorized by the SBA.

Benefits are payable to a beneficiary of a participant as:

a. A lump sum;
b. An eligible rollover to an individual retirement account or annuity, or
c. A partial lump-sum payment and an eligible rollover.

Subsection (8) provides the details of the administration of the program. The Trustees of the SBA, the Department of Management Services, and the various employers will administer the program.

Duties of the Trustees of the SBA:

a. Adopt rules establishing the roles and responsibilities of the various parties involved in the program;
b. Establish criteria to evaluate and select with a third party administrator to provide administrative services;
c. Select and contract with a third party administrator;
d. Establish criteria to evaluate and select with an organization to provide educational services;
e. Select and contract with organizations to provide educational services;
f. Contract with any consultant for professional services, including legal, accounting, consulting, and actuarial services, and investment advice;
g. Develop the form and content of all contracts offered under the optional program; and
h. Resolve conflicts between the third party administrator and any approved provider.

Duties of the Department of Management Services:

a. Adopt rules necessary to implement the optional program in coordination with the defined benefit retirement program; and
b. Contract with consultants for professional services, including legal, consulting, accounting, and actuarial services, and with the third-party administrator to provide some services to the defined benefit program.

Duties of the Third Party Administrator:

Provide administrative services to the optional retirement program, including consolidated billing; individual and collective record keeping and accounting; asset purchase, control and safekeeping; and direct disbursement of funds.

Duties of the Education Contractor

Provide educational services to employers, employees, participants, and beneficiaries.

Subsection (9) provides for the selection, evaluation and monitoring of investment products and providers. The Trustees of the SBA have the discretion to designate and contract for a number of investment products for use in the optional program. The Trustees of the SBA also shall contract with approved providers to offer multiple products and services when such an arrangement offers the participants value that is not offered through individual investment products. As a condition of offering any product through the optional program, the provider must agree to make the product available to the participants under the most beneficial terms afforded to any other customer (a “most favored nation” clause). The Trustees of the SBA are required to monitor the performance of each product and provider and, when necessary, terminate the product or provider. Account balances in terminated products will be transferred to products that remain available under the optional program.

Subsection (10) provides details on the education component. The education component must be available to employees at least 90 days before the employees must make the election between the defined benefit program and the optional program. The education component will consist of initial and on-going transfer education for eligible employees, an on-going education and communication component for all employees, and a communication component for employers. All materials used in the education component must be approved by the SBA prior to dissemination.

Subsection (11) enumerates the requirements for the participant statements. The statements must be provided quarterly and must account for all contributions into the participant’s accounts, the earnings of the account, any fees or other charges that apply, and the product’s performance relative to appropriate benchmarks. The third party administrator must provide quarterly and annual statements to the SBA regarding the optional program.

Subsection (12) charges two advisory committees with oversight responsibilities. The Investment Advisory Council may comment on the recommendations regarding selection and evaluation criteria to be used for the investment products and providers.

The Public Employee Optional Retirement Program Advisory Committee is created. This seven member body will make recommendations on the selection of the third party administrator, the education providers, and investment providers and investment products. The Committee’s recommendations on the third party administrator are due by January 1, 2001; the recommendations on the education providers are due by April 1, 2001; and the recommendations on the investment products and providers may be provided on a continuing basis. The initial appointments of committee members are for a term of 24 months.

Subsection (13) provides that the optional program will be administered so as to comply with the federal requirements under s. 401(a) of the Internal Revenue Code.

Subsection (14) requires the SBA to develop an Investment Policy Statement for the optional program. The products and providers must be in compliance with the policy statement.

Subsection (15) states that the fiduciary standards will be guided by federal ERISA standards.

Subsection (16) provides legislative intent regarding the disability benefits available to participants of the optional program. The Department of Management Services is directed to study the potential options of providing disability coverage and the fiscal impacts on employers and employees.

Subsection (17) provides that participants are covered by social security.

Subsection (18) provides that participants are eligible to receive the retiree health insurance subsidy, subject to s. 112.363, F.S.

Section 3 also creates s. 121.571, F.S., to set the contribution rates for each class and each benefit under the optional program. The contribution rates are broken down into three categories -- participant accounts, disability and administrative/education -- and differ based on class membership. The contribution rates may be modified by general law.

Section 4 amends s. 121.021, F.S., to redefine “normal retirement date” by reducing the number of years of creditable service needed to retire at age 62 for Regular Class members from 10 years to 6 years and reducing the number of years of creditable service needed to retire at age 55 for Special Risk Class members. This section provides that the 6 year vesting requirement is effective July 1, 2001, for those employees currently employed by an FRS participating employer. For FRS members not employed on July 1, 2001, the member must return to active employment for one work year after July 1, 2001, or meet the vesting requirement applicable prior to July 1, 2001, whichever is less. This section is effective July 1, 2001.

Section 5 amends s. 121.051, F.S., to correct a reference to the Florida Retirement System Trust Fund.

Section 6 amends s. 121.0515, F.S., to allow special risk administrative support class to retain the special risk class normal retirement date (55 years old or 25 years of service) if the employee completes at least 6 years of service in the special risk class prior to retirement. This section is effective July 1, 2001.

Section 7 amends s. 121.052, F.S., to delete language made redundant by the reduction of the Regular Class vesting requirement from 10 years to 6 years. This section is effective July 1, 2001.

Section 8 amends s. 121.053, F.S., to clarify the ability for members of the Elected Officers’ Class to receive an additional retirement benefit and to correct a reference to the Florida Retirement System Trust Fund. This section is effective July 1, 2001.

Section 9 amends s. 121.081, F.S., to reduce the number of years of creditable service (from 10 to 6 years) that must be completed before a member can purchase past service. This section is effective July 1, 2001.

Section 10 amends s. 121.1115, F.S., to reduce the number of years of creditable service (from 10 to 6 years) that must be completed before a member can purchase out-of-state or federal service. This section is effective July 1, 2001.

Section 11 amends s. 121.1122, F.S., to reduce the number of years of creditable service (from 10 to 6 years) that must be completed before a member can purchase in-state service. This section is effective July 1, 2001.

Section 12 amends s. 121.121, F.S., to reduce the number of years of creditable service (from 10 to 6 years) that must be completed before a member can purchase service for up to 2 years for an authorized leave of absence. This section is effective July 1, 2001.

Section 13 amends s. 215.32, F.S., to correct a reference to the Florida Retirement System Trust Fund.

Section 14 amends s. 112.665, F.S., to clarify a reference to part I of chapter 121, F.S.

Section 15 amends s. 121.091(1), F.S., to upgrade the service credit earned for certain Special Risk Class members to 3% annually for the period September 30, 1978, through December 31, 1992. The eligible Special Risk Class members are limited to those persons retiring on or after July 1, 2000.

Section 16 provides concurrent funding for the benefit enhancements relating to service credit accrual rates for Special Risk members retiring after July 1, 2000. It is the legislative intent that a portion of the actuarial surplus for the Florida Retirement System will be recognized to offset the costs of granting the benefit increases. If the actuarial surplus is not adequate to fully fund this benefit increase, the contribution rates for the Special Risk Class will be increased effective July 1, 2002, unless the Legislature provides an alternative funding mechanism.

Section 17 amends s. 121.091(4), F.S., to reduce the length of service required to become eligible for a regular disability benefit from 10 years to 8 years, and to reduce the time requirement for disability benefits for judges from 10 years to 6 years. This section is effective July 1, 2001.

Section 18 amends s. 112.363, F.S., to clarify what qualifications must be met for a retiree or a retiree's surviving spouse to be eligible to receive the retiree health insurance subsidy. The minimum payment amounts are reduced to $30, consistent with changes to the vesting requirements of the defined benefit retirement program. This section is effective July 1, 2001.

Section 19 amends s. 121.055, F.S., to allow small local governments to designate up to ten non-elected employees as senior managers. In addition, this provision allows Senior Management Service Optional Annuity Program distributions to be rolled over into an individual retirement account. This section also expands the Senior Management Service Class to include the assistant state attorneys, assistant public defenders, assistant statewide prosecutors, and assistant capital collateral regional counsels; however, these personnel are not permitted to participate in the Senior Management Service Optional Annuity Program.

Section 20 provides concurrent funding to offset the costs attributable to the reduction in the vesting requirement to 6 years. This section expresses legislative intent that a portion of the actuarial surplus for the Florida Retirement System will be recognized to offset such costs for FY 2001-02. Absent legislative action to recognize an additional portion of the actuarial surplus for FY 2002-03, the retirement contribution rates will be increased for each class and sub-class of membership within the defined benefit retirement program of the FRS.

Section 21 increases the retirement contribution rates to fund the increased normal costs resulting from the 1999 actuarial experience study, effective July 1, 2001. For FY 2000-01, a portion of the actuarial surplus of the FRS Trust Fund will be recognized to fund the cost.

Section 22 reduces the retirement contribution rate for each class or sub-class by 1.00 percentage point for FY 2000-01. This section expresses legislative intent that a portion of the actuarial surplus will be recognized to offset these costs.

Section 23 increases the retirement contribution rates to fund the increased normal costs of the defined benefit retirement program resulting from the implementation of the Public Employee Optional Retirement Program. This section is effective July 1, 2002.

Section 24 reduces the retirement contribution rates for each membership class by 0.1 percentage point for FY's 2000-01 and 2001-02. For FY 2000-01 and 2001-02, a portion of the actuarial surplus of the FRS Trust Fund will be recognized to offset the cost of this rate reduction.

Section 25 imposes an assessment on each FRS employer equal to 0.1% of the gross compensation paid by the employer. These funds will be transferred to the State Board of Administration to fund the implementation of the Public Employee Optional Retirement Program.

Section 26 amends s. 121.031, F.S., to require an annual valuation of the System and to require those valuation reports to be available by December 31 of each year. This section also establishes a contribution rate stabilization mechanism to be used for actuarial valuation and reporting purposes.

Section 27 directs the Department of Management Services to report to the Legislature of six year vesting in the defined benefit retirement program on the incidental disability benefits and the health insurance subsidy.

Section 28 amends s. 121.021, F.S. to expand the Special Risk Class to include community-based correctional probation officers and certain medical workers represented in the Professional Health Care bargaining unit.

Section 29 amends s. 121.0515, F.S. , to provide specific eligibility criteria for the community-based correctional probation officers and the medical workers to be meet as a condition of Special Risk Class membership.

Section 30 provides that the legislature finds that this act fulfills an important state interest.

Section 31 requires the SBA to seek an expedited opinion from the Internal Revenue Service regarding the qualified status of the defined contribution retirement program.

Section 32 provides effective dates and a contingent implementation date for the program.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Florida Retirement System Trust Fund

The revenues flowing into the FRS Trust Fund will be reduced by approximately $209.4 million for FY 2000-01 and $20.1 million for FY 2001-02. These reductions are the result of the across-the-board contribution rate reductions authorized in this legislation (1.1 percentage points for FY 2000-01 and 0.1 percentage point for FY 2001-02). The normal costs of the system are expected to rise in the out-years. In addition, the revenues flowing into the FRS Trust Fund will be increased by approximately $12.2 million in FY 2000-01 and $25.6 million annually thereafter as a result of the enhanced retirement benefits addressed in sections 19 and 29 of this legislation.

SBA Administrative Expense Trust Fund

For fiscal years 2000-01 and 2001-02, the SBA Administrative Expense Trust Fund will receive approximately $40 million during the period to be used to implement the Public Employee Optional Retirement Program. These revenues are a result of an assessment of 0.1 percentage point imposed on FRS employers' payrolls.

2. Expenditures:

Florida Retirement System Trust Fund

While the legislation does not expend additional funds from the FRS Trust Fund, the legislation does direct the state actuary to "recognize" a portion of the actuarial surplus to offset specific new liabilities of the FRS. For FY 2000-01, approximately $654.5 million of the funds currently in the FRS Trust Fund will be recognized to offset the costs associated with the experience study, the 1.1 percentage point contribution rate reduction, and the enhanced benefits for Special Risk Class for the period 1978 through 1992. For FY 2001-02, approximately $474 million will be recognized to offset the costs associated with the enhanced benefits for Special Risk Class, the 0.1 percentage point contribution rate reduction, and six year vesting.

SBA Administrative Expense Trust Fund

The SBA is granted broad authority to expend available funds in implementing the PEORP. It is estimated that the SBA will have approximately $40 million available for FY 2000-01 and FY 2001-02.

General Revenue Fund and Other Trust Funds

Benefit Enhancements

This legislation extends Special Risk retirement benefits to community-based correctional probation officers and to certain medical workers employed by the Department of Corrections and Department of Children and Family Services. The costs of these new benefits, funded from the General Revenue Fund, are estimated to be $10.55 million for FY 2000-01 and $22.2 million annually thereafter.

This legislation extends Senior Management Service retirement benefits to assistant state attorneys, assistant public defenders, assistant statewide prosecutors and capital collateral regional counsels. The costs of these new benefits, funded from the General Revenue Fund, are estimated to be $1.6 million for FY 2000-01 and $3.4 million annually thereafter.

Contribution Rates

The legislation increases the retirement contribution rates to fund the normal cost increases attributable to the 1999 actuarial experience study, the reduction in the vesting requirements for selected classes of membership and the implementation of the Public Employee Optional Retirement Program, but provides rate reductions for FY's 2000-01 and 2001-02. The following fiscal impact on state agencies will be associated with the contribution rate changes.

Amount	**Amount**	**Amount**

Year 1	**Year 2**	**Year 3**
FY 00-01	FY 01-02	FY 02-03
-$52.4 million	$14.5 million	$52.3 million

State employers also will enjoy a $18.6 million cost savings in FY 2000-01 through the recognition of a portion of the actuarial surplus to offset the normal cost increase associated with the experience study of the FRS TF, and a $22.3 million cost savings in FY 2001-02 through the recognition of a portion of the actuarial surplus to offset the normal cost increases associated with the new vesting requirements.

Department of Banking and Finance

In order to implement the requirements of the state as an employer under the PEORP, the Department of Banking and Finance has estimated that it will cost approximately $1.65 million to modify the current state payroll database. The department also estimates a recurring cost of approximately $140,000 for two additional positions within the Bureau of State Payrolls.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

As a result of the PEORP contributions being due on the fifth day of the month immediately following the end of the payroll period, the revenue generated by interest earnings on these funds may be increased or decreased depending upon the actual remittance experience by each local government. Local governments that remit contributions under the defined benefit retirement plan after the fifth day of the month may experience a reduction in interest earnings. Other local governments that remit every two weeks may experience an increase in interest earnings.

2. Expenditures:

The following Fiscal Impact on Local Governments will be associated with the retirement contribution rate increases and decreases described in Section III.A.2.

Amount Year 1	**Amount Year 2**	**Amount Year 3**
FY 00-01	FY 01-02	FY 02-03
-$158.3 million	$40.6 million	$157.9 million

Local government employers also will enjoy a $53.1 million cost savings in FY 2000-01 through the recognition of a portion of the actuarial surplus to offset the normal cost increase associated with the experience study of the FRS TF, and a $66.5 million cost savings in FY 2001-02 through the recognition of a portion of the actuarial surplus to offset the normal cost increases associated with the new vesting requirements.

Local governments will have increased costs of $14.4 million for FY 2000-01 and $15.1 million for FY 2001-02 attributable to the assessments imposed to offset the implementation costs of the PEORP.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private sector entities that provide investment management may be selected to provide investment products and services to participants of the Public Employee Optional Retirement Program. Private sector entities that provide education on retirement planning may be selected to educate the members of the Florida Retirement System.

D. FISCAL COMMENTS:

The retirement contribution rates for the defined benefit retirement program by class/subclass membership for each fiscal year are noted below:

	FY 1999-00	**FY 2000-01**	**FY 2001-02***	**FY 2002-03***
Regular Class	9.21%	8.11%	9.38%	10.12%
Special Risk Class	20.32%	19.22%	20.35%	22.10%
SR Admin. Supp. Class	11.53%	10.43%	12.08%	12.50%
Elected Officers Class:				
Judicial	20.48%	19.38%	20.38%	20.82%
Leg-Atty-Cabinet	14.31%	13.21%	14.21%	15.04%
County	17.05%	15.95%	17.06%	17.33%
Senior Mgmt. Serv. Class	11.19%	10.09%	11.48%	11.74%

* The FY 2000-01 reductions may be carried forward into future years only by further acts of the Legislature.

The estimates of the increases to the normal cost of the defined benefit program as a result of the implementation of the optional retirement program are subject to change based on the demographics of the employee population that remains in the defined benefit program after the optional program is implemented.

IV. <u>CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION</u>:

A. APPLICABILITY OF THE MANDATES PROVISION:

This legislation will require counties and cities to spend money. However, the provisions requiring the expenditure of funds by cities and counties apply to similarly situated persons (all FRS employers) and the legislation contains a legislative finding that the provisions fulfill an important state interest. Thus, this legislation meets an exception set forth in the Constitution and is binding upon cities and counties.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This legislation does not reduce the revenue raising authority of cities and counties.

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

This legislation does not reduce the percentage of a state tax shared with cities and counties.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This legislation grants the State Board of Administration and the Division of Retirement additional rulemaking authority to implement the PEORP.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 26, 2000, the Florida House of Representatives adopted 25 amendments to HB 2393 on second reading. These amendments are described below.

Amendment 1 increases the contributions flowing into the defined contribution retirement program participant accounts and decreases the contributions allocated for disability benefits under the program.

Amendment 2 provides the rate stabilization mechanism for the Florida Retirement System Trust Fund and requires an actuarial study to be conducted annually.

Amendment 3 increases the accrual rate relating to service during the period of 1978 through 1992 for Special Risk Class members who retire after July 1, 2000. In addition, to fund this benefit increase, the Legislature directs a portion of the actuarial surplus of the FRS Trust Fund to be recognized to offset the costs.

Amendment 7 reduces the service time required to be eligible to receive a regular disability benefit under the defined benefit retirement program from 10 years to 8 years.

Amendment 8 provides that a portion of the surplus will be recognized to offset the cost of reducing the retirement contribution rate by 0.1 percentage point for FY 2000-01 and FY 2001-02.

Amendments 4 through 6 and 9 through 25 clarify and conform various provisions of the bill.

On May 2, 2000, the House adopted a strike everything amendment that:

1. Reduces vesting requirements to 6 years for all classes of the defined benefit retirement program.

2. Reduces retirement contribution rates by 1.0 percentage points for FY 2000-01.

3. Extends Special Risk benefits to community-based correctional probation officers and certain medical workers.

4. Extends Senior Management Service Class benefits to assistant state attorneys, assistant public defenders, assistant statewide prosecutors, and capital collateral regional counsels.

The bill passed the House on a vote of 119-0.

VII. SIGNATURES:

COMMITTEE ON GENERAL APPROPRIATIONS:

Prepared by:	Staff Director:
Joseph L. McVaney	David K. Coburn

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON GENERAL APPROPRIATIONS:

Prepared by:	Staff Director:
Joseph L. McVaney	David K. Coburn