

STORAGE NAME: h0805s1.cor

DATE: March 30, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CORRECTIONS
ANALYSIS**

BILL #: CS/HB 805

RELATING TO: FRS/Special Risk and Senior Management

SPONSOR(S): Committee on Governmental Operations, Representative Kilmer and others

TIED BILL(S):

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

- (1) GOVERNMENTAL OPERATIONS YEAS 6 NAYS 0
 - (2) CORRECTIONS
 - (3) GENERAL APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

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. This bill also adds those FRS members employed in a state forensic facility as defined in s. 916.106, F.S., for the treatment of forensic clients to the Special Risk Class of the FRS. To qualify, these members must have been certified as a correctional officer as defined in s. 943.10(2), F.S. Effective January 1, 2001, this bill makes participation in the Senior Management Services Class compulsory for assistant state attorneys, assistant statewide prosecutors, and assistant public defenders. Effective July 1, 2000, this bill makes participation in the Senior Management Services Class compulsory for all legislative assistants.

The cost to the Department of Corrections as a result of including the 3,638 affected correctional probation officers, supervisors, parole circuit and deputy circuit administrators in the Special Risk Class is \$6,888,138 for the six-month period from January 1, 2001, to June 30, 2001. The recurring fiscal year 2001-2002 costs are calculated at \$14,189,563.

The forensic residential unit staff are not currently required to be certified as correctional officers. This proposed requirement for certification has implications that the training will become a part of the minimum requirement for working in the forensic facility. To be eligible, the employee would require correctional officer training at a cost of \$1,000 per person for the 530 classroom hour course. There are 654 employees providing custody, control, and physical restraint of residents within the facility which would produce a potential training cost of \$654,000. There would be an additional cost of 11.01% of the salaries of any forensic employees who qualify (the difference between the Regular Class contribution rate of 9.21% and the Special Risk Class rate of 20.22%).

The additional annual cost of including assistant state attorneys, assistant statewide prosecutors, and assistant public defenders in the Senior Management Class is \$3,112,426 for the 3,065.80 FTE positions that qualify. The cost of adding legislative assistants to the Senior Management Service Class for the 242 FTE positions would be approximately \$180,000 initially.

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 FRS. 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.

The Senior Management Service Class of the FRS became effective February 1, 1987, and has existed as a separate system of personnel administration for employees of the executive branch whose responsibilities primarily and essentially require policymaking or managerial oversight. The class is limited in size to no more than .5 percent of the total full-time equivalent positions in career service. Exempt from the Career Service System, Senior Management Service employees are not subject to continuing employment contracts or civil service protections, and serve at the pleasure of the state or local agency employer.

By establishing this membership class, the Legislature created a uniform system of recruiting and retaining competent individuals to top-policymaking, managerial positions in state government. In addition, many of these professionals recruited by officials whose tenures are subject to the elective process, are not likely to remain in state government for

the 10 years required to vest Regular Class retirement benefits. Consequently, the SMSC has a shorter vesting period (7 years of service) and a higher accrual rate (2 percent). To fund these benefits, employers currently contribute 11.19 percent of each employee's gross pay.

Currently, the only employees in the forensic facility at Florida State Hospital (FSH) that are required to be certified as a correctional officer are in the Institutional Security Class Series.

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 FRS, effective January 1, 2001. The correctional probation officers must meet certification criteria currently required under s. 943.1395, F.S. In addition, the member's primary duties must be the 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. This bill also adds to the Special Risk Class any member of the FRS employed in a state forensic facility, established for the treatment of forensic clients. To qualify, these individuals must have been certified as a correctional officer as defined in s. 943.10(2), F.S., in compliance with certification requirements in s. 943.1395, F.S., and their primary responsibilities must require the custody, control, and physical restraint of patients in a forensic unit of a state hospital, or the member must be the supervisor of a member or members who have such responsibilities.

This bill also makes participation in the Senior Management Service Class of the FRS compulsory for all legislative assistants, effective July 1, 2000.

Additionally, this bill makes participation in the Senior Management Service Class of the FRS compulsory for assistant state attorneys, assistant statewide prosecutors, and assistant public defenders, effective January 1, 2001. Expansion of the Senior Management Service Class to these groups of attorneys may result in additional requests to expand the class to include all state employee attorneys.

This bill provides a legislative determination and declaration that its provisions fulfill an important state interest.

Except as otherwise provided herein, the effective date of this bill is January 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 121.021,(15)(c), 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)(e), F.S.

Section 2. Amends s. 121.0515(2), F.S., adding criteria for correctional probation officers, supervisors, and probation and parole circuit and deputy circuit administrators to participate in the Special Risk Class of the FRS. Additionally, criteria is added for members and supervisors employed in a forensic facility to qualify for participation in the Special Risk Class of the FRS. This section also provides for the exclusion of specific personnel.

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Section 3. Provides a legislative determination and declaration that the provisions of this bill fulfill an important state interest.

Section 4. Amends s. 121.055(1)(c) and (h), F.S., providing that participation in the Senior Management Service Class shall be compulsory for all legislative assistants, effective July 1, 2000, and assistant state attorneys, assistant statewide prosecutors, and assistant public defenders, effective January 1, 2001.

Section 5. Provides that except as otherwise provided herein, the effective date of this bill is January 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The cost to the Department of Corrections as a result of including correctional probation officers in the Special Risk Class will be 11.01% of the salaries of the 3,638 affected employees. This is a difference between the current Regular Class contribution rate of 9.21% and the Special Risk Class rate of 20.22%. The initial recurring 12 months additional cost is \$14,189,563.

Currently, forensic residential unit staff are not required to be certified as correctional officers as required in this bill. There are 654 employees at FSH Forensic that as part of their primary responsibility provide the custody, control and physical restraint of residents within the facility. The cost that would be incurred to provide training to these employees for the 530 hour classroom course for certification would be approximately \$1,000 per person or a total of \$650,000. Depending upon the number who qualify for special risk, an additional 11.01% contribution on their salaries would be required.

The additional annualized recurring cost of including all 242 legislative assistants in the Senior Management Class is approximately \$180,000.

The additional annualized recurring cost of including the 3,065.80 FTE assistant state attorneys, assistant statewide prosecutors, and assistant public defenders in the Senior Management Services Class is \$3,112,426.

Once the positions to be placed in Special Risk and Senior Management are finalized, the Division of Retirement may need to study the potential fiscal impact of the change on the Florida Retirement System Trust Fund.

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:

None.

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 in the aggregate.

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 Department of Management Services will need additional rule-making authority to implement this legislation.

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C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

This bill as originally filed provided an effective date of January 1, 2001, however, one provision of the bill becomes effective July 1, 2000. Consequently, at its March 23, 2000, meeting the Committee on Governmental Operations adopted an amendment changing the effective date to read: "except as otherwise provided herein, this act shall take effect January 1, 2001." The bill was reported favorably as a committee substitute and this updated bill analysis reflects this change.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

Jimmy O. Helms

AS REVISED BY THE COMMITTEE ON CORRECTIONS:

Prepared by:

Staff Director:

Jo Ann Levin

Jo Ann Levin