

STORAGE NAME: h0215a.fpr.doc

DATE: December 17, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FISCAL POLICY & RESOURCES
ANALYSIS**

BILL #: HB 215

RELATING TO: Deferred Retirement Option Program

SPONSOR(S): Representative(s) Fasano

TIED BILL(S): None

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

- (1) COMMITTEE ON STATE ADMINISTRATION YEAS 4 NAYS 0
- (2) FISCAL POLICY & RESOURCES YEAS 12 NAYS 0
- (3) COUNCIL FOR SMARTER GOVERNMENT
- (4)
- (5)

I. SUMMARY:

The Deferred Retirement Option Program (DROP) is an optional retirement program for employees within the Florida Retirement System (FRS). An eligible employee may enter DROP and continue to work. While in DROP the employee's monthly retirement benefit is not paid directly to him or her, but is paid into the DROP, where it earns interest, tax deferred, for as long as the employee remains in DROP, which can be no longer than 60 months. When the employee terminates employment, the money accumulated in the DROP program will be paid to that employee.

Prior to July 1, 2001, an elected officer in DROP, as any other DROP participant, had to terminate his or her employment in order to be paid his or her deferred monthly benefits that had accumulated during the DROP period. Also, prior to July 1, a former DROP participant, who was an elected officer, could not accept employment in an FRS covered position for at least one month after his or her termination from DROP in order to be eligible to return to an FRS covered position.

SB 2 passed in the 2001 legislative session and became law. That law eliminated the termination requirements for elected officers in DROP. In other words, an elected officer does not have to terminate his or her employment to receive payment of his or her monthly retirement benefits accrued during DROP, and does not have to wait one month before accepting employment in a FRS covered position. This bill reinstates those termination requirements and returns the law to the way it was prior to July 1, 2001.

This bill does not appear to have a fiscal impact on state or local governments.

Note. On December 17, 2001, the Committee on Fiscal Policy & Resources adopted an amendment, which will travel with the bill. The amendment provides that an elected officer is not subject to the termination limits of DROP until the end of the term of office during which the limits would have applied.

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 checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

This bill reduces the options for elected officers in DROP; although, the very purpose of DROP was to stimulate permanent retirement and not re-entry into the Florida Retirement System.

B. PRESENT SITUATION:

The Deferred Retirement Option Program (DROP) was created in 1997¹ and has been amended each year since. DROP is an optional program under which an eligible member² of the Florida Retirement System (FRS) may defer receipt of retirement benefits while continuing employment with his or her FRS employer. The deferred monthly benefits accrue in the System Trust Fund on behalf of the participant, plus interest compounded monthly, for the period of time the employee participates in the DROP program, which cannot exceed 60 months. Upon termination of employment, the participant receives the total DROP benefits accrued and begins to receive the previously determined normal retirement benefits. Participation in DROP does not, however, guarantee employment.³

Prior to July 1, 2001, an elected officer⁴ had to terminate employment at the end of his or her DROP period, as did all other DROP participants. Elected officers, after termination of employment, could return to an FRS covered position after 1 month; all other DROP participants can return after 12 months.

In the 2001 legislative session, SB 2 was passed and became law as Chapter 2001-235, Laws of Florida. That bill was amended with regard to elected officer participation in DROP. The amendment eliminated the employment termination requirement for elected officer DROP participants and the commensurate 1-month non-employment requirement.⁵ More particularly the amendment provided:

¹ Chapter 97-180, L.O.F. (CS/CS SB 1824) and Chapter 97-154, L.O.F. (CS/HB 663).

² Eligibility requirements for DROP vary; e.g., for a regular class member: 62 years old or 30 years of employment; for a special risk member: 55 years old or 25 years of employment.

³ Section 121.091(13), F.S.

⁴ An elected officer includes the Governor; Lieutenant Governor; Cabinet Officers; Supreme Court Justices; district court of appeal judges; circuit judges; state attorneys; county court judges; public defenders; constitutional county officers including the sheriff, tax collector, property appraiser, supervisor of elections, clerk of the circuit court, county commissioners, school board members, or elected school board superintendent, or any elected officer of any entity with county-wide jurisdiction; public service commissioners; and any elected officer of a municipality or special district – provided these persons were employed after certain specified dates, as set forth in s. 121.052, F.S.

⁵ Journal of the House of Representatives, May 4, 2001, at 2055, 2056.

Any elected officer who is a participating member of DROP may terminate participation at any time during the 60-month DROP participation period and elect to enroll in the appropriate subclass of the Elected Officers' Class, including participating in the Senior Management Service Class, effective the first day of the following month.

An elected officer who is elected or appointed to an elective office is not subject to termination limitations as provided in chapter 121.

C. EFFECT OF PROPOSED CHANGES:

This bill returns the law to the way it was prior to July 1, 2001, with regard to elected officers and their participation in the Deferred Retirement Option Program (DROP). Prior to July 1, an elected officer in DROP, as any other DROP participant, had to terminate his or her employment in order to be paid his or her deferred monthly benefits that had accumulated during the DROP period. Also, prior to July 1, a former DROP participant, who was an elected officer, had to not accept employment in a Florida Retirement System (FRS) covered position for at least 1 month after his or her termination from DROP in order to be eligible to return to an FRS covered position.

SB 2, as amended, passed in the 2001 legislative session and became law. That law eliminated the termination requirements for elected officers in DROP. This bill reinstates those termination requirements.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

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 to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues 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:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

To date, two elected officers, one judge and one representative of the House of Representatives, have switched out of DROP into another FRS retirement program, without terminating employment, as is allowed by the new law passed in the 2001 legislative session.⁶

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On December 17, 2001, the Committee on Fiscal Policy & Resources adopted an amendment, which will travel with the bill. The amendment provides that an elected officer is not subject to the termination limits of DROP until the end of the term of office during which the limits would have applied.

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

J. Marleen Ahearn, Ph.D., J.D.

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

⁶ Telephone conference, October 22, 2001, with Erin Sjostrom, Director, Division of Retirement, Department of Management Services.

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AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

Staff Director:

Douglas Pile

Lynne Overton