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HOUSE OF REPRESENTATIVES
SMARTER GOVERNMENT COUNCIL
ANALYSIS

BILL #: CS/HB 215

RELATING TO: Deferred Retirement Option Program

SPONSOR(S): Council for Smarter Government and 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) SMARTER GOVERNMENT COUNCIL YEAS 10 NAYS 0
(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 that date, 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.

Chapter 2001-235, L.O.F, 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.

The committee substitute provides that an elected officer who is elected or appointed to an elective office (which is eligible for the FRS) and is currently participating in the DROP, is not subject to either termination requirements or re-employment limitations under the Florida Retirement System until the end of the current term of the elected office or until the elected officer is no longer holds the elected office. If the officer continues in office past the completion of the DROP period, the officer will no longer accrue monthly benefits in that officer's DROP account, and will not accrue retirement credit in the FRS. The officer's DROP account will continue to accrue interest but the officer may not receive any proceeds from the account until termination from office.

The bill also provides that any elected officer in office and participating in the DROP prior to the June 30, 2002, (the effective date of the bill) remains subject to the provisions of subparagraph 121.053(1)(b)5. F.S., (the statute section being amended by this bill) as it read pursuant to chapter 2001-235, L.O.F.

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

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

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 1997[1] and has been amended each year since. DROP is an optional program under which an eligible member[2] 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 officer[4] 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

[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.

participants and the commensurate 1-month non-employment requirement.[5] More particularly the amendment provided:

> 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:

The bill provides that an elected officer who is elected or appointed to an elective office (which is eligible for the FRS) and is currently participating in the DROP, is not subject to either termination requirements or re-employment limitations under the Florida Retirement System until the end of the current term of the elected office or until the elected officer is no longer holds the elected office. If the officer continues in office past the completion of the DROP period, the officer will no longer accrue monthly benefits in that officer's DROP account, and will not accrue retirement credit in the FRS. The officer's DROP account will continue to accrue interest but the officer may not receive any proceeds from the account until termination from office.

The bill also provides that any elected officer in office and participating in the DROP prior to the June 30, 2002, (the effective date of the bill) remains subject to the provisions of subparagraph 121.053(1)(b)5. F.S., (the statute section being amended by this bill) as it read pursuant to chapter 2001-235, L.O.F.

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

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

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.

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

At its January 30, 2002 meeting, the Council on Smarter Government adopted a substitute amendment to the traveling amendment and reported the bill favorably as a committee substitute. The amendment refines the criteria under which an elected officer is treated under the DROP where the term office extends past the completion of the 60 month DROP period.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:	Staff Director:
J. Marleen Ahearn, Ph.D., J.D.	J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:	Staff Director:
Douglas Pile	Lynne Overton

AS FURTHER REVISED BY THE SMARTER GOVERNMENT COUNCIL:

Prepared by:	Staff Director:
David M. Greenbaum	Don Rubottom