

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1271 w/CS State Financial Matters
SPONSOR(S): Brown
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1650

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration</u>	<u>5 Y, 0 N w/CS</u>	<u>Williamson</u>	<u>Everhart</u>
2) <u>Appropriations</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1271 with CS proposes to revise miscellaneous provisions relating to the Florida Retirement System (FRS) and relating to the investment of state funds by the Florida State Board of Administration (SBA).

HB 1271 with CS:

- Establishes that the retiree’s spouse, at the time of the retiree’s death, is the designated beneficiary for the Health Insurance Subsidy unless the retiree designated a different beneficiary after marriage.
- Creates a definition of “retiree”.
- Makes plan election dates uniform.
- Requires all FRS employers to regularly communicate the existence of the Pension Plan and Investment Plan to their employees.
- Authorizes the SBA to cash out de minimis accounts (any account containing employer contributions and accumulated earnings of not more than \$5,000).
- Modifies provisions relating to payment of survivor benefits for disabled members of the Investment Plan.
- Provides for participant return of excess contributions erroneously provided by employers.

This bill could have a positive fiscal impact to the FRS Trust Fund. See “FISCAL IMPACT ON STATE GOVERNMENT” section. HB 1271 with CS does not appear to have a negative fiscal impact on state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1271a.sa.doc
DATE: March 16, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to more than 600,000 active and 200,000 retired members and beneficiaries of its more than 800 employers.¹ Benefit payments are administered by the Department of Management Services (DMS) through its Division of Retirement while investment management is provided by the State Board of Administration (SBA). Benefits are exempt from federal taxation until received by the employee.

Defined Benefit Plan (Pension Plan)

Under the FRS "Pension Plan", retirement income is expressed as a percent of final pay. Participants accrue retirement credits based upon their eligibility in one of several membership classes. For most membership classes, normal retirement occurs at 30 years of service or age 62. For public safety employees in the Special Risk Retirement Class, normal retirement occurs at 25 years of service or age 55. Members seeking early retirement receive a five percent reduction in the benefit for each year below their normal age threshold. The defined benefit plan includes a fixed, annual cost of living adjustment of three percent.

All membership classes permit enrollment in a Deferred Retirement Option Program (DROP). Instructional personnel in district school boards may extend employment for an additional five to eight years and receive a lump sum benefit at a fixed rate of interest for that supplemental service. Enrollment in DROP nominally requires the participant to serve the employer with a deferred resignation from employment at the end of the period.²

Defined Contribution Plan (Investment Plan)

In 2000, the Public Employees Optional Retirement Program was created as an alternative defined contribution or "Investment Plan" for its members.³ While a defined benefit plan provides an annuitized monthly benefit expressed as a percent of final pay, a defined contribution plan gives members an equity interest in their employer's payroll contributions and their earnings, although it does not assure a

¹ Department of Management Services 2004 Substantive Bill Analysis, SB 1650, February 16, 2004.

² Section 121.091(13), F.S.

³ Part II of chapter 121, F.S.

guaranteed result. All new FRS-covered employees were given the option to enroll in the Investment Plan and employees were provided a once-in-a-lifetime opportunity to change their current enrollment. DROP enrollment is unavailable for the Investment Plan.

Health Insurance

All state employees are provided with the enrollment opportunity within the first 30 days of retirement to receive post-retirement health insurance coverage and, along with it, a financial stipend. That health insurance subsidy is a five dollar per year of service stipend paid monthly to each retiree. The upper limit is 30 years of service or \$150 a month. Florida law requires all members seeking to keep their health insurance benefits during their retirement to pay the full, active employee premium, unreduced by employer contribution.⁴

Effect of Bill

HB 1271 with CS proposes to revise miscellaneous provisions relating to the FRS and relating to the investment of state funds by the SBA.

With respect to the Investment Plan, it:

- Establishes that the retiree's spouse, at the time of the retiree's death, is the designated beneficiary for the Health Insurance Subsidy unless the retiree designated a different beneficiary after marriage.
- Defines "retiree" as a former participant of the plan who has terminated employment and has taken a distribution other than a mandatory distribution of a de minimis account (any account containing employer contributions and accumulated earnings of not more than \$5,000).
- Makes plan election dates uniform so that all potential enrollees would have until the last business day of the fifth month from the date of hire or other qualifying event to make an election to enroll in the plan.
- Requires all FRS employers to regularly communicate the existence of the two FRS plans and plan choices when administering personnel functions, using educational materials supplied by the SBA and DMS.
- Authorizes the SBA to cash out de minimis accounts.
- Removes the provision requiring payment of a participant's remaining account balance in the FRS Trust Fund to the deceased disabled retiree's beneficiary.
- Provides for participant return of excess contributions erroneously provided by employers, adjusted for investment gain or loss.
- Provides that the SBA, its designated agent, the Public Employee Optional Retirement Program Trust Fund, DMS, or the FRS Trust Fund will not incur any loss or gain as a result of employer correction of excess contributions.

HB 1271 with CS also revises statutory guidelines for investment of the assets of the FRS Trust Fund to treat alternative investments the same as real estate investments and to restrict investments in foreign obligations. It renames the FRS "Total Fund Investment Plan" as the FRS "Defined Benefit Plan Investment Policy Statement".

C. SECTION DIRECTORY:

Section 1 amends s. 112.363, F.S., establishing a retiree's spouse, at the time of the retiree's death, as the designated beneficiary for the Health Insurance Subsidy unless the retiree changed the beneficiary after marriage.

⁴ Section 112.363, F.S.

Section 2 amends s. 121.4501, F.S., creating a definition, providing deadlines for election and removal from the optional retirement program, requiring communication of retirement options; and authorizing certain employees to change retirement plans.

Section 3 amends s. 121.591, F.S., authorizing the SBA and the DMS to cash out certain accounts under certain circumstances and removing the ability of a deceased disabled retiree's beneficiary to receive certain trust fund account balances.

Section 4 amends s. 121.78, F.S., revising criteria for certain employer contributions and requiring certain participants to repay excess employer contributions under certain circumstances.

Section 5 amends s. 215.47, F.S., providing criteria for certain fixed income obligations for investments and deleting a provision allowing certain general foreign government-backed investments.

Section 6 amends s. 215.475, F.S., providing for a Florida Retirement System Defined Benefit Plan Investment Policy Statement.

Section 7 amends s. 215.5601(4), F.S., making a conforming change.

Section 8 provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

HB 1271 with CS authorizes the SBA to cash out de minimis accounts (any account containing employer contributions and accumulated earnings of not more than \$5,000). It is unclear the amount of the fiscal impact on the state because the number of accounts with earnings not more than \$5,000 is unknown.

2. Expenditures:

HB 1271 with CS does not create, modify, amend, or eliminate a state expenditure.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

HB 1271 with CS does not create, modify, or eliminate a local revenue source.

2. Expenditures:

HB 1271 with CS does not create, modify, amend, or eliminate a local expenditure.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

HB 1271 with CS does not regulate the conduct of persons in the private sector.

D. FISCAL COMMENTS:

The SBA has reported that some public employers have failed to advise their employees of the two pension choices available in the workplace. Other employers either have not been distributing the official descriptive material relating to this choice or directing, or "spinning," information from other providers not a part of the FRS product offerings.

Chapter 215, F.S., lists the type of investments that are permitted for the FRS. Current law provides two different statements on the appropriateness of investments in products that are not dollar-denominated, thus limiting the SBA's discretion from debt or equity exposure held in other currencies. While dollar- and non-dollar language is contained in the authorization granted by s. 215.47, F.S., the most recent change added dollar-denominated as the modifier.⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. HB 1271 with CS does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 15, 2004, the Committee on State Administration adopted five amendments to HB 1271 and reported the bill favorably with CS. Provisions were removed from the bill:

- Authorizing vested, terminated members of the Pension Plan who left covered employment before the Investment Plan was established and who had no other opportunity to join the plan, to participate in the Investment Plan; and
- Allowing vested members of the FRS who terminated covered employment after the Investment Plan was established, but who had not exercised their one-time option to switch plans, to make a "second-chance" plan switch without being required to first return to covered employment.

HB 1271 with CS adds DMS and the FRS Pension Plan Trust Fund to the hold harmless language contained in the bill as filed. In essence, neither agency nor retirement plan can incur losses or gains as a result of FRS employer errors or corrections. The bill with CS also provides that expenditures associated with investments in private equity and other assets acquired through participation in alternative investments will be included as part of the cost of the investment, thereby treating alternative investments the same as real estate investments.

⁵ *Id.*