

By Senator Smith

14-1251-04

See HB 429

1 A bill to be entitled
 2 An act relating to special risk membership in
 3 the Florida Retirement System; amending s.
 4 121.0515, F.S.; eliminating the Special Risk
 5 Administrative Support Class of the Florida
 6 Retirement System and providing that members of
 7 the Special Risk Administrative Support Class
 8 shall become members of the Special Risk Class;
 9 amending ss. 110.205, 121.021, 121.051,
 10 121.055, 121.071, 121.091, 121.4501, 121.71,
 11 121.72, and 121.73, F.S., to conform; providing
 12 an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Paragraph (a) of subsection (7) of section
 17 121.0515, Florida Statutes, is amended to read:

18 121.0515 Special risk membership.--

19 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT
 20 DATE.--

21 (a) A special risk member who is moved or reassigned
 22 to a nonspecial risk law enforcement, firefighting,
 23 correctional, or emergency medical care administrative support
 24 position with the same agency, or who is subsequently employed
 25 in such a position with any law enforcement, firefighting,
 26 correctional, or emergency medical care agency under the
 27 Florida Retirement System, shall participate in the Special
 28 Risk ~~Administrative Support~~ Class and shall earn credit for
 29 such service at the same percentage rate as that earned by a
 30 special risk ~~regular~~ member. Notwithstanding the provisions of
 31 subsection (4), service in such an administrative support

1 position shall, for purposes of s. 121.091, apply toward
2 satisfaction of the special risk normal retirement date, as
3 defined in s. 121.021(29)(b), provided that, while in such
4 position, the member remains certified as a law enforcement
5 officer, firefighter, correctional officer, emergency medical
6 technician, or paramedic; ~~remains subject to reassignment at~~
7 ~~any time to a position qualifying for special risk membership;~~
8 and completes an aggregate of 6 or more years of service as a
9 designated special risk member prior to retirement.

10 Section 2. Paragraph (x) of subsection (2) of section
11 110.205, Florida Statutes, is amended to read:

12 110.205 Career service; exemptions.--

13 (2) EXEMPT POSITIONS.--The exempt positions that are
14 not covered by this part include the following:

15 (x) Managerial employees, as defined in s. 447.203(4),
16 confidential employees, as defined in s. 447.203(5), and
17 supervisory employees who spend the majority of their time
18 communicating with, motivating, training, and evaluating
19 employees, and planning and directing employees' work, and who
20 have the authority to hire, transfer, suspend, lay off,
21 recall, promote, discharge, assign, reward, or discipline
22 subordinate employees or effectively recommend such action,
23 including all employees serving as supervisors,
24 administrators, and directors. Excluded are employees also
25 designated as special risk ~~or special risk administrative~~
26 ~~support~~ and attorneys who serve as administrative law judges
27 pursuant to s. 120.65 or for hearings conducted pursuant to s.
28 120.57(1)(a). Additionally, registered nurses licensed under
29 chapter 464, dentists licensed under chapter 466,
30 psychologists licensed under chapter 490 or chapter 491,
31 nutritionists or dietitians licensed under part X of chapter

1 468, pharmacists licensed under chapter 465, psychological
2 specialists licensed under chapter 491, physical therapists
3 licensed under chapter 486, and speech therapists licensed
4 under part I of chapter 468 are excluded, unless otherwise
5 collectively bargained.

6 Section 3. Subsection (12) of section 121.021, Florida
7 Statutes, is amended to read:

8 121.021 Definitions.--The following words and phrases
9 as used in this chapter have the respective meanings set forth
10 unless a different meaning is plainly required by the context:

11 (12) "Member" means any officer or employee who is
12 covered or who becomes covered under this system in accordance
13 with this chapter. On and after December 1, 1970, all new
14 members and those members transferring from existing systems
15 shall be divided into the following classes: "Special Risk
16 Class," as provided in s. 121.0515(2); ~~"Special Risk~~
17 ~~Administrative Support Class," as provided in s. 121.0515(7);~~
18 "Elected Officers' Class," as provided in s. 121.052; "Senior
19 Management Service Class," as provided in s. 121.055; and
20 "Regular Class," which consists of all members who are not in
21 the Special Risk Class, ~~Special Risk Administrative Support~~
22 ~~Class,~~ Elected Officers' Class, or Senior Management Service
23 Class.

24 Section 4. Subsection (9) of section 121.051, Florida
25 Statutes, is amended to read:

26 121.051 Participation in the system.--

27 (9) DUAL EMPLOYMENT.--A member may not participate in
28 more than one state-administered retirement system, plan, or
29 class of membership simultaneously. Pursuant thereto:

30 (a) With respect to any member who is not eligible to
31 participate in the Elected Officers' Class, but who is

1 simultaneously employed in two or more positions covered by
2 different Florida Retirement System classes:

3 1. The member must participate in the membership class
4 for the position in which he or she is employed the majority
5 of the time: the Regular Class, Senior Management Service
6 Class, or Special Risk Class, ~~or Special Risk Administrative~~
7 ~~Support Class~~; or

8 2. If the employment is split equally between or among
9 positions, the member may choose any single class of
10 membership for which he or she is eligible, whether or not the
11 positions are full-time positions. The member's choice must be
12 made in writing and remains in effect as long as the member is
13 employed equally in two or more positions.

14 (b) Contributions shall be made and creditable service
15 shall be determined as follows:

16 1. If the member is participating in the Regular
17 Class, retirement contributions shall be made on the total
18 salary the member has received for all covered employment, and
19 at retirement the member's average final compensation shall be
20 calculated on the total salary received from all covered
21 employment.

22 2. If the member is participating in the Senior
23 Management Service Class or Special Risk Class, ~~or Special~~
24 ~~Risk Administrative Support Class~~, retirement contributions
25 shall be made only on the salary received in the designated
26 class of membership. At retirement, the member's average final
27 compensation shall be based only on the salary received in the
28 designated class of membership for any period, including any
29 period of dual employment.

30 Section 5. Paragraph (c) of subsection (6) of section
31 121.055, Florida Statutes, is amended to read:

1 121.055 Senior Management Service Class.--There is
2 hereby established a separate class of membership within the
3 Florida Retirement System to be known as the "Senior
4 Management Service Class," which shall become effective
5 February 1, 1987.

6 (6)

7 (c) Participation.--

8 1. Any eligible employee who is employed on or before
9 February 1, 1987, may elect to participate in the optional
10 annuity program in lieu of participation in the Senior
11 Management Service Class. Such election shall be made in
12 writing and filed with the department and the personnel
13 officer of the employer on or before May 1, 1987. Any eligible
14 employee who is employed on or before February 1, 1987, and
15 who fails to make an election to participate in the optional
16 annuity program by May 1, 1987, shall be deemed to have
17 elected membership in the Senior Management Service Class.

18 2. Any employee who becomes eligible to participate in
19 the optional annuity program by reason of initial employment
20 commencing after February 1, 1987, may, within 90 days after
21 the date of commencement of employment, elect to participate
22 in the optional annuity program. Such election shall be made
23 in writing and filed with the personnel officer of the
24 employer. Any eligible employee who does not within 90 days
25 after commencement of such employment elect to participate in
26 the optional annuity program shall be deemed to have elected
27 membership in the Senior Management Service Class.

28 3. A person who is appointed to a position in the
29 Senior Management Service Class and who is a member of an
30 existing retirement system or the Special Risk Class ~~or~~
31 ~~Special Risk Administrative Support Classes~~ of the Florida

1 Retirement System may elect to remain in such system or class
2 in lieu of participation in the Senior Management Service
3 Class or optional annuity program. Such election shall be made
4 in writing and filed with the department and the personnel
5 officer of the employer within 90 days of such appointment.
6 Any eligible employee who fails to make an election to
7 participate in the existing system, the Special Risk Class of
8 the Florida Retirement System, ~~the Special Risk Administrative~~
9 ~~Support Class of the Florida Retirement System,~~ or the
10 optional annuity program shall be deemed to have elected
11 membership in the Senior Management Service Class.

12 4. Except as provided in subparagraph 5., an
13 employee's election to participate in the optional annuity
14 program is irrevocable as long as such employee continues to
15 be employed in an eligible position and continues to meet the
16 eligibility requirements set forth in this paragraph.

17 5. Effective from July 1, 2002, through September 30,
18 2002, any active employee in a regularly established position
19 who has elected to participate in the Senior Management
20 Service Optional Annuity Program has one opportunity to choose
21 to move from the Senior Management Service Optional Annuity
22 Program to the Florida Retirement System defined benefit
23 program.

24 a. The election must be made in writing and must be
25 filed with the department and the personnel officer of the
26 employer before October 1, 2002, or, in the case of an active
27 employee who is on a leave of absence on July 1, 2002, within
28 90 days after the conclusion of the leave of absence. This
29 election is irrevocable.

30 b. The employee will receive service credit under the
31 defined benefit program of the Florida Retirement System equal

1 to his or her years of service under the Senior Management
2 Service Optional Annuity Program. The cost for such credit
3 shall be an amount representing the present value of that
4 employee's accumulated benefit obligation for the affected
5 period of service.

6 c. The employee must transfer the total accumulated
7 employer contributions and earnings on deposit in his or her
8 Senior Management Service Optional Annuity Program account. If
9 the transferred amount is not sufficient to pay the amount
10 due, the employee must pay a sum representing the remainder of
11 the amount due. In no case may the employee retain any
12 employer contributions or earnings thereon from the Senior
13 Management Service Optional Annuity Program account.

14 Section 6. Subsections (1) and (4) of section 121.071,
15 Florida Statutes, are amended to read:

16 121.071 Contributions.--Contributions to the system
17 shall be made as follows:

18 (1) The following tables state the required retirement
19 contribution rates for members of the Regular Class or
20 ~~Special Risk Class, or Special Risk Administrative Support~~
21 ~~Class~~ and their employers in terms of a percentage of the
22 member's gross compensation. A change in a contribution rate
23 is effective with the first salary paid on or after the
24 beginning date of the change. Contributions shall be made or
25 deducted as may be appropriate for each pay period and are in
26 addition to the contributions required for social security and
27 the Retiree Health Insurance Subsidy Trust Fund.

28 (a)1. Retirement contributions for regular members are
29 as follows:

30
31

1	Dates of Contribution		
2	Rate Changes	Members	Employers
3	July 1, 2001, through June 30, 2002	0%	9.91%

4
5 2. Effective July 1, 2002, the retirement
6 contributions for regular members shall be specified in s.
7 121.71.

8 (b)1. Retirement contributions for special risk
9 members are as follows:

10			
11	Dates of Contribution		
12	Rate Changes	Members	Employers
13	July 1, 2001, through June 30, 2002	0%	22.07%

14
15 2. Effective July 1, 2002, retirement contributions
16 for special risk members shall be specified in s. 121.71.

17 ~~(c)1. Retirement contributions for special risk~~
18 ~~administrative support members are as follows:~~

19			
20	Dates of Contribution		
21	Rate Changes	Members	Employers
22	July 1, 2001, through June 30, 2002	0%	12.55%

23
24 ~~2. Effective July 1, 2002, retirement contributions~~
25 ~~for special risk administrative support members shall be~~
26 ~~specified in s. 121.71.~~

27 (4) The following table states the required employer
28 contribution on behalf of each member of the Regular Class or
29 ~~Special Risk Class, or Special Risk Administrative Support~~
30 ~~Class~~ in terms of a percentage of the member's gross
31 compensation. Such contribution constitutes the entire health

1 insurance subsidy contribution with respect to each such
2 member. A change in the contribution rate is effective with
3 the first salary paid on or after the beginning date of the
4 change. The retiree health insurance subsidy contribution rate
5 is as follows:

6	7	8	9
	Dates of Contribution		Contribution
	Rate Changes		Rate
9	October 1, 1987, through December 31, 1988		0.24%
10	January 1, 1989, through December 31, 1993		0.48%
11	January 1, 1994, through December 31, 1994		0.56%
12	January 1, 1995, through June 30, 1998		0.66%
13	July 1, 1998, through June 30, 2001		0.94%
14	Effective July 1, 2001		1.11%

15
16 Such contributions shall be deposited by the administrator in
17 the Retiree Health Insurance Subsidy Trust Fund.

18 Section 7. Paragraph (a) of subsection (1) of section
19 121.091, Florida Statutes, is amended to read:

20 121.091 Benefits payable under the system.--Benefits
21 may not be paid under this section unless the member has
22 terminated employment as provided in s. 121.021(39)(a) or
23 begun participation in the Deferred Retirement Option Program
24 as provided in subsection (13), and a proper application has
25 been filed in the manner prescribed by the department. The
26 department may cancel an application for retirement benefits
27 when the member or beneficiary fails to timely provide the
28 information and documents required by this chapter and the
29 department's rules. The department shall adopt rules
30 establishing procedures for application for retirement

31

1 benefits and for the cancellation of such application when the
2 required information or documents are not received.

3 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or
4 her normal retirement date, the member, upon application to
5 the administrator, shall receive a monthly benefit which shall
6 begin to accrue on the first day of the month of retirement
7 and be payable on the last day of that month and each month
8 thereafter during his or her lifetime. The normal retirement
9 benefit, including any past or additional retirement credit,
10 may not exceed 100 percent of the average final compensation.
11 The amount of monthly benefit shall be calculated as the
12 product of A and B, subject to the adjustment of C, if
13 applicable, as set forth below:

14 (a)1. For creditable years of Regular Class service, A
15 is 1.60 percent of the member's average final compensation, up
16 to the member's normal retirement date. Upon completion of the
17 first year after the normal retirement date, A is 1.63 percent
18 of the member's average final compensation. Following the
19 second year after the normal retirement date, A is 1.65
20 percent of the member's average final compensation. Following
21 the third year after the normal retirement date, and for
22 subsequent years, A is 1.68 percent of the member's average
23 final compensation.

24 2. For creditable years of special risk service, A is:

25 a. Two percent of the member's average final
26 compensation for all creditable years prior to October 1,
27 1974;

28 b. Three percent of the member's average final
29 compensation for all creditable years after September 30,
30 1974, and before October 1, 1978;

31

1 c. Two percent of the member's average final
2 compensation for all creditable years after September 30,
3 1978, and before January 1, 1989;

4 d. Two and two-tenths percent of the member's final
5 monthly compensation for all creditable years after December
6 31, 1988, and before January 1, 1990;

7 e. Two and four-tenths percent of the member's average
8 final compensation for all creditable years after December 31,
9 1989, and before January 1, 1991;

10 f. Two and six-tenths percent of the member's average
11 final compensation for all creditable years after December 31,
12 1990, and before January 1, 1992;

13 g. Two and eight-tenths percent of the member's
14 average final compensation for all creditable years after
15 December 31, 1991, and before January 1, 1993;

16 h. Three percent of the member's average final
17 compensation for all creditable years after December 31, 1992;
18 and

19 i. Three percent of the member's average final
20 compensation for all creditable years of service after
21 September 30, 1978, and before January 1, 1993, for any
22 special risk member who retires after July 1, 2000, ~~or any~~
23 ~~member of the Special Risk Administrative Support Class~~
24 ~~entitled to retain the special risk normal retirement date who~~
25 ~~was a member of the Special Risk Class during the time period~~
26 ~~and who retires after July 1, 2000.~~

27 3. For creditable years of Senior Management Service
28 Class service after January 31, 1987, A is 2 percent;

29 4. For creditable years of Elected Officers' Class
30 service as a Supreme Court Justice, district court of appeal
31 judge, circuit judge, or county court judge, A is $3\frac{1}{3}$ percent

1 of the member's average final compensation, and for all other
2 creditable service in such class, A is 3 percent of average
3 final compensation;

4 Section 8. Paragraph (c) of subsection (3) of section
5 121.4501, Florida Statutes, is amended to read:

6 121.4501 Public Employee Optional Retirement
7 Program.--

8 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.--

9 (c)1. Notwithstanding paragraph (b), each eligible
10 employee who elects to participate in the Public Employee
11 Optional Retirement Program and establishes one or more
12 individual participant accounts under the optional program may
13 elect to transfer to the optional program a sum representing
14 the present value of the employee's accumulated benefit
15 obligation under the defined benefit retirement program of the
16 Florida Retirement System. Upon such transfer, all service
17 credit previously earned under the defined benefit program of
18 the Florida Retirement System shall be nullified for purposes
19 of entitlement to a future benefit under the defined benefit
20 program of the Florida Retirement System. A participant is
21 precluded from transferring the accumulated benefit obligation
22 balance from the defined benefit program upon the expiration
23 of the period afforded to enroll in the optional program.

24 2. For purposes of this subsection, the present value
25 of the member's accumulated benefit obligation is based upon
26 the member's estimated creditable service and estimated
27 average final compensation under the defined benefit program,
28 subject to recomputation under subparagraph 3. For state
29 employees enrolling under subparagraph (4)(a)1., initial
30 estimates will be based upon creditable service and average
31 final compensation as of midnight on June 30, 2002; for

1 district school board employees enrolling under subparagraph
2 (4)(b)1., initial estimates will be based upon creditable
3 service and average final compensation as of midnight on
4 September 30, 2002; and for local government employees
5 enrolling under subparagraph (4)(c)1., initial estimates will
6 be based upon creditable service and average final
7 compensation as of midnight on December 31, 2002. The dates
8 respectively specified above shall be construed as the
9 "estimate date" for these employees. The actuarial present
10 value of the employee's accumulated benefit obligation shall
11 be based on the following:

12 a. The discount rate and other relevant actuarial
13 assumptions used to value the Florida Retirement System Trust
14 Fund at the time the amount to be transferred is determined,
15 consistent with the factors provided in sub-subparagraphs b.
16 and c.

17 b. A benefit commencement age, based on the member's
18 estimated creditable service as of the estimate date. The
19 benefit commencement age shall be the younger of the
20 following, but shall not be younger than the member's age as
21 of the estimate date:

22 (I) Age 62; or

23 (II) The age the member would attain if the member
24 completed 30 years of service with an employer, assuming the
25 member worked continuously from the estimate date, and
26 disregarding any vesting requirement that would otherwise
27 apply under the defined benefit program of the Florida
28 Retirement System.

29 c. For members of the Special Risk Class ~~and for~~
30 ~~members of the Special Risk Administrative Support Class~~
31 ~~entitled to retain special risk normal retirement date~~, the

1 benefit commencement age shall be the younger of the
2 following, but shall not be younger than the member's age as
3 of the estimate date:

- 4 (I) Age 55; or
5 (II) The age the member would attain if the member
6 completed 25 years of service with an employer, assuming the
7 member worked continuously from the estimate date, and
8 disregarding any vesting requirement that would otherwise
9 apply under the defined benefit program of the Florida
10 Retirement System.

11 d. The calculation shall disregard vesting
12 requirements and early retirement reduction factors that would
13 otherwise apply under the defined benefit retirement program.

14 3. For each participant who elects to transfer moneys
15 from the defined benefit program to his or her account in the
16 optional program, the division shall recompute the amount
17 transferred under subparagraph 2. not later than 60 days after
18 the actual transfer of funds based upon the participant's
19 actual creditable service and actual final average
20 compensation as of the initial date of participation in the
21 optional program. If the recomputed amount differs from the
22 amount transferred under subparagraph 2. by \$10 or more, the
23 division shall:

24 a. Transfer, or cause to be transferred, from the
25 Florida Retirement System Trust Fund to the participant's
26 account in the optional program the excess, if any, of the
27 recomputed amount over the previously transferred amount
28 together with interest from the initial date of transfer to
29 the date of transfer under this subparagraph, based upon 8
30 percent effective annual interest, compounded annually.

31

1 b. Transfer, or cause to be transferred, from the
2 participant's account to the Florida Retirement System Trust
3 Fund the excess, if any, of the previously transferred amount
4 over the recomputed amount, together with interest from the
5 initial date of transfer to the date of transfer under this
6 subparagraph, based upon 6 percent effective annual interest,
7 compounded annually, pro rata based on the participant's
8 allocation plan.

9 4. As directed by the participant, the board shall
10 transfer or cause to be transferred the appropriate amounts to
11 the designated accounts. The board shall establish transfer
12 procedures by rule, but the actual transfer shall not be later
13 than 30 days after the effective date of the member's
14 participation in the optional program unless the major
15 financial markets for securities available for a transfer are
16 seriously disrupted by an unforeseen event which also causes
17 the suspension of trading on any national securities exchange
18 in the country where the securities were issued. In that
19 event, such 30-day period of time may be extended by a
20 resolution of the trustees. Transfers are not commissionable
21 or subject to other fees and may be in the form of securities
22 or cash as determined by the state board. Such securities
23 shall be valued as of the date of receipt in the participant's
24 account.

25 5. If the board or the division receives notification
26 from the United States Internal Revenue Service that this
27 paragraph or any portion of this paragraph will cause the
28 retirement system, or a portion thereof, to be disqualified
29 for tax purposes under the Internal Revenue Code, then the
30 portion that will cause the disqualification does not apply.

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1 Upon such notice, the state board and the division shall
2 notify the presiding officers of the Legislature.

3 Section 9. Subsection (3) of section 121.71, Florida
4 Statutes, is amended to read:

5 121.71 Uniform rates; process; calculations; levy.--

6 (3) Required employer retirement contribution rates
7 for each membership class and subclass of the Florida
8 Retirement System for both retirement plans are as follows:

	Percentage of Gross Compensation, Effective July 1, 2003	Percentage of Gross Compensation, Effective July 1, 2004	
10			
11			
12			
13			
14	Membership Class	July 1, 2003	July 1, 2004
15	Regular Class	6.18%	10.07%
16	Special Risk Class	17.32%	22.15%
17	Special Risk Administrative		
18	Support Class	8.71%	12.58%
19	Elected Officers' Class -		
20	Legislators, Governor,		
21	Lt. Governor,		
22	Cabinet Officers,		
23	State Attorneys,		
24	Public Defenders	11.28%	15.48%
25	Elected Officers' Class -		
26	Justices, Judges	17.44%	20.70%
27	Elected Officers' Class -		
28	County Elected Officers	14.02%	17.81%
29	Senior Management Class	8.16%	11.59%
30	DROP	8.00%	11.56%
31			

1 Section 10. Subsection (4) of section 121.72, Florida
2 Statutes, is amended to read:

3 121.72 Allocations to optional retirement program
4 participant accounts; percentage amounts.--

5 (4) Effective July 1, 2002, allocations from the
6 Florida Retirement System Contributions Clearing Trust Fund to
7 optional retirement program participant accounts shall be as
8 follows:

9

10 Membership Class	Percentage of Gross
	11 Compensation
12 Regular Class	9.00%
13 Special Risk Class	20.00%
14 Special Risk Administrative Support Class	11.35%
15 Elected Officers' Class -	
16 Legislators, Governor,	
17 Lt. Governor, Cabinet Officers,	
18 State Attorneys, Public Defenders	13.40%
19 Elected Officers' Class -	
20 Justices, Judges	18.90%
21 Elected Officers' Class -	
22 County Elected Officers	16.20%
23 Senior Management Service Class	10.95%

24 Section 11. Subsection (3) of section 121.73, Florida
25 Statutes, is amended to read:

26 121.73 Allocations for optional retirement program
27 participant disability coverage; percentage amounts.--

28 (3) Effective July 1, 2002, allocations from the FRS
29 Contribution Clearing Fund to provide disability coverage for
30 participants in the optional retirement program, and to offset
31 the costs of administering said coverage, shall be as follows:

1		
2	Membership Class	Percentage of Gross
3		Compensation
4	Regular Class	0.25%
5	Special Risk Class	1.33%
6	Special Risk Administrative Support Class	0.45%
7	Elected Officers' Class -	
8	Legislators, Governor,	
9	Lt. Governor, Cabinet Officers,	
10	State Attorneys, Public Defenders	0.41%
11	Elected Officers' Class -	
12	Justices, Judges	0.73%
13	Elected Officers' Class -	
14	County Elected Officers	0.41%
15	Senior Management Service Class	0.26%
16	Section 12. This act shall take effect upon becoming a	
17	law.	
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