

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 191 w/CS Retirement/Disability/Special Risk

SPONSOR(S): Brummer

TIED BILLS: None

IDEN./SIM. BILLS: HB 207, SB 1598, SB 2256

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>	<u></u>	<u>Gordon</u>	<u>Baker</u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill provides that a Special Risk Class member of the Florida Retirement System (FRS) who is a law enforcement officer, correctional officer, correctional probation officer, firefighter, emergency medical technician, or paramedic, who is catastrophically injured in the line of duty and unable to perform the duties of his or her position, as opposed to any employment, will be declared totally and permanently disabled for retirement purposes, unless proven otherwise by the administrator.

The current employer contribution rates to the Florida Retirement System Trust Fund for the regular and special risk classes are: 6.18% for Regular Class; 17.32% for the Special Risk Class; and 8.71% for the Special Risk Administrative Support Class. This bill increases the FRS contribution rates for the Special Risk Class by 0.02% and for the Special Risk Administrative Support Class by 0.14% to pay for the enhanced disability retirement benefits.

This bill funds the benefit increase for the affected classes by an employer-paid increase to the FRS Trust Fund and provides a declaration of important state interest. The estimated fiscal impact to the state, based on the contribution rate increases in the bill, is \$180,000 in FY 04-05, and \$189,000 FY 05-06. The estimated fiscal impact to local governments is \$406,000 in FY 04-05, and \$426,000 in FY 05-06.

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

STORAGE NAME: h0191a.sa.doc

DATE: March 22, 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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:

This bill increases benefits to state and local employees who are injured due to the intentional acts of another, without requiring the responsible party to pay the costs of such increased benefit.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Retirement System (FRS) provides retirement and disability benefits for Florida government employees that are participants of the FRS. All state and county employees, including the state universities and state community colleges, are compulsory members of the FRS. Cities and special districts, however, may choose to participate in the FRS. The current employer contribution rates to the Florida Retirement System Trust Fund for the regular and special risk classes are: Regular Class – 6.18%; Special Risk Class – 17.32%; and Special Risk Administrative Support Class – 8.71%.

Limited disability benefits are payable to certain employees covered by the FRS for any illness or injury causing the individual to be totally and permanently disabled. An employee must have five to 10 years of creditable service before the disability in order to be eligible for this benefit. An increased disability benefit, in lieu of a worker’s compensation benefit, and available regardless of the years of service, is payable to the employee if the illness or injury causing the disability occurred in the line of duty. The general disability benefit is 42% of the employee’s average final compensation (AFC). The in line of duty benefit for special risk employees (category includes police officers, firefighters, emergency medical technicians, and paramedics) is at least 65% of the AFC.¹

Effect of Bill

This bill provides that members of the Special Risk Class who are catastrophically injured in the line of duty and unable to perform the duties of their position, as opposed to any employment, may be declared totally and permanently disabled for retirement purposes. Specifically, an FRS Special Risk Class member who is employed as a law enforcement officer, correctional officer, correctional probation officer, firefighter, emergency medical technician, or paramedic who is catastrophically injured, as defined in s. 766.118(1)(a), F.S.,² in the line of duty, is considered totally and permanently disabled, unless proven otherwise by the administrator. Such employee who has suffered a

¹ Section 121.091(4), F.S.

² The bill references the definition of catastrophic injury found at s. 766.118(1)(a), F.S., which means a permanent impairment caused by: 1. Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk; 2. Amputation of an arm, a hand, a foot, or a leg involving the effective loss of use of that appendage; 3. Severe brain or closed-head injury as evidenced by: a. Severe sensory or motor disturbances; b. Severe communication disturbances; c. Severe complex integrated disturbances of cerebral function; d. Severe episodic neurological disorders; or e. Other severe brain and closed-head injury conditions at least as severe in nature as any condition provided in sub-subparagraphs a.-d.; 4. Second-degree or third-degree burns of 25 percent or more of the total body surface or third-degree burns of 5 percent or more to the face and hands; 5. Blindness, defined as a complete and total loss of vision; or 6. Loss of reproductive organs which results in an inability to procreate.

catastrophic injury in the line of duty will receive the higher in-line-of-duty benefit unless the administrator can prove that the employee can still “render useful and efficient service”. This bill thus creates an easier standard for the injured employee to meet in order to receive a higher disability benefit, and represents a shift in the burden of proof from the employee to the administrator.

This bill increases the FRS contribution rates for the Special Risk Class from 17.32%³ to 17.34% (+0.02%), and for the Special Risk Administrative Support Class from 8.71%⁴ to 8.85% (+0.14%). It also provides a declaration of important state interest.

C. SECTION DIRECTORY:

Section 1 declares a public purpose for this bill.

Section 2 amends s. 121.091(4)(b), F.S., to shift the burden of proof for entitlement to certain in-line-of-duty disability benefits.

Section 3 increases the contribution rates for the Special Risk and Special Risk Administrative Support classes effective July 1, 2004.

Section 4 provides an effective date of “upon becoming a law.”

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Special Risk Class and Special Risk Administrative Support Class employer contribution rates for FRS-covered employers will increase by 0.02% and 0.14%, respectively.

2. Expenditures:

The Special Risk Class and Special Risk Administrative Support Class employer contribution rates for FRS-covered employers will increase by 0.02% and 0.14%, respectively. The Division of Retirement estimates that this increase will cost the state \$180,000 in FY 04-05, and \$189,000 in FY 05-06.

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not create, modify, or eliminate a local revenue source.

2. Expenditures:

The Special Risk Class and Special Risk Administrative Support Class employer contribution rates for FRS-covered employers will increase by 0.02% and 0.14%, respectively. The Division of Retirement estimates that this increase will cost local governments \$406,000 in FY 04-05, and \$426,000 in FY 05-06.

See FISCAL COMMENTS.

³ Effective July 1, 2004, the employer contribution rate for Special Risk Class members will increase to 22.15%. Section 121.71(3), F.S.

⁴ Effective July 1, 2004, the employer contribution rate for Special Risk Administrative Support Class members will increase to 12.58%. Section 121.71(3), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not regulate the conduct of persons in the private sector.

D. FISCAL COMMENTS:

Liberalizing the definition of "total and permanent in-line-of-duty disability" for this group of Special Risk Class members will result in a rate increase. This bill provides contribution rate increases consistent with a 2001 study performed for DMS. The rates for the Special Risk Class and the Special Risk Administrative Support Class are increased by 0.02% and 0.14%, respectively based upon special study 2001(j) performed by Milliman USA, Inc., Consulting Actuaries.

However, the funding provided by this bill is insufficient to fund this benefit improvement based upon an updated actuarial special study performed by Milliman, USA, dated March 3, 2004. The March 2004 study required rate increase is 0.03% for the Special Risk Class and 0.20% for the Special Risk Administrative Support Class. The following costs are based upon the updated rate increases as required by the new study:

STATE:

Year 1	Year 2	Year 3
<u>FY 04/05</u>	<u>FY 05/06</u>	<u>FY 06/07</u>
\$265,000	\$278,000	\$292,000

LOCAL GOVERNMENT:

Year 1	Year 2	Year 3
<u>FY 04/05</u>	<u>FY 05/06</u>	<u>FY 06/07</u>
\$622,000	\$653,000	\$685,000

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill requires counties and municipalities to expend funds to implement its provisions. It is, however, exempt from the mandates restriction because the estimate of annual fiscal impact is less than \$1.73 million.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

An amendment is needed to update the contribution rate increases in the bill. The required rate increases necessary to fund the enhanced benefits are 0.03% for the Special Risk Class and 0.20% for the Special Risk Administrative Support Class.

An amendment is needed to correct the reference for adjusting the contribution rates in statute from s. 121.071, Florida Statutes, to 121.71, Florida Statutes. The uniform rate structure for the FRS contribution rates is included in s. 121.71, Florida Statutes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 22, 2004, the Committee on State Administration adopted two amendments to HB 191 and reported the bill favorably with CS. In the bill as filed, the definition of “catastrophically injured” references a statutory site that no longer exists. Amendment one removed that reference and replaced it with a more narrow definition found in s. 766.118(1)(a), F.S. The second amendment was a conforming amendment that removed the word “police officer” and replaced it with “law enforcement officer”.