

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 191 Retirement/Disability/Special Risk  
**SPONSOR(S):** Brummer  
**TIED BILLS:** None **IDEN./SIM. BILLS:** HB 207, SB 1598, SB 2256

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Administration		Williamson	Everhart
2) Appropriations			
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

The current employer contribution rates to the Florida Retirement System Trust Fund are: Regular Class – 6.18%; Special Risk Class – 17.32%; and Special Risk Administrative Support Class – 8.71%. This bill increases the FRS contribution rates for the Special Risk Class from 17.32% to 17.34% (+0.02%), and for the Special Risk Administrative Support Class from 8.71% to 8.85% (+0.14%).

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. This bill also shifts the burden of proof from the employee to the administrator.

This bill funds the benefit increase by an employer-paid increase to the FRS Trust Fund and provides a declaration of important state interest. Such increase is applicable to the Special Risk and Special Risk Administrative Classes. The estimated negative fiscal impact to the state is \$180,000 in FY 04-05, and \$189,000 FY 05-06. The estimated negative 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:** h0191.sa.doc  
**DATE:** January 15, 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 a part of the FRS. All state and county employees 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 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 (which category includes police officers, firefighters, emergency medical technicians, and paramedics) is at least 65% of the AFC.<sup>1</sup>

#### 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. 440.02, F.S., 2002,<sup>2</sup> in the line of duty, is considered totally and permanently

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<sup>1</sup> Section 121.091(4), F.S.

<sup>2</sup> The bill references the definition of catastrophic injury found in the worker’s compensation law at s. 440.02(38), F.S., which means a permanent impairment caused by: a) Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk; b) Amputation of an arm, a hand, a foot, or a leg involving the effective loss of use of that appendage; c) Severe brain or closed-head injury; d) 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; e) Total or industrial blindness; or f) Any other injury of a nature and severity that would qualify an employee to receive disability income benefits under Title II or supplemental security income benefits under Title XVI of the federal Social Security Act as the Social Security Act existed on July 1, 1992, without regard to any time limitations provided under that act.

disabled, unless proven otherwise by the administrator. Such employee who has suffered a 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%<sup>3</sup> to 17.34% (+0.02%), and for the Special Risk Administrative Support Class from 8.71%<sup>4</sup> 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.

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.

#### 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

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Catastrophic injury is not directly related to the determination of total and permanent disability under the FRS and the chapter 175 and 185 plans. The other local plans that provide coverage to firefighters and police officers may, or may not, already incorporate this definition of catastrophic injury in their eligibility for total and permanent in-line-of-duty disability retirement.

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

<sup>4</sup> Effective July 1, 2004, the employer contribution rate for Special Risk Administrative Support Class members will increase to 22.15%. Section 121.71(3), F.S.

Retirement estimates that this increase will cost local governments \$406,000 in FY 04-05, and \$426,000 in FY 05-06.

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 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. It is possible that in line of duty disability retirement experience will increase for the affected group, thereby producing actuarial losses that would slowly emerge. Such costs would be funded through contribution rate increases as recommended in future valuations of the FRS.<sup>5</sup>

### 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:

The Division of Retirement notes that under current law, it is likely that an FRS member who is catastrophically injured as defined in s. 440.02(38), F.S. 2002, already qualifies for in line of duty disability retirement. This bill introduces a standard for total and permanent in line of duty disability designed for workers' compensation coverage/funding, not for funding assumptions of the FRS.<sup>6</sup>

Additionally, the statutory reference for the definition of "catastrophically injured" does not exist in current statute. The definition was deleted in s. 1, 2003-412, L.O.F. In order to make location of the definition easier, it is recommended that a definition be created within the section of law being amended.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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<sup>5</sup> Department of Management Services 2004 Substantive Analysis, HB 191, December 18, 2003.

<sup>6</sup> *Id.*