

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the retirement contribution rates for the Special Risk and Special Risk Administrative Support classes.

Promote personal responsibility – The 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.

Empower families – The bill provides for improved disability retirement benefits for certain public safety workers at the state and local levels who are injured under certain conditions, enabling them to continue to provide for themselves and their families.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Retirement System (FRS) provides retirement and disability benefits for state and county employees and for employees of those cities and special districts that choose to participate in the FRS. The current employer contribution rates to the FRS Trust Fund are for the Regular Class, 6.73%; Special Risk Class (the members of which include but are not limited to police officers, firefighters, emergency medical technicians, and paramedics), 17.34%; and Special Risk Administrative Support Class, 8.81%.

Limited disability benefits are payable to FRS-covered employees for illnesses or injuries causing the individual to be totally and permanently disabled. To receive disability benefits, the individual must prove that he or she is prevented by reason of a medically determinable physical or mental impairment from rendering useful and efficient service in any regularly-established position with the employer. For injuries not occurring in the line of duty, an employee must have five to 10 years of creditable service before the disability to be eligible for this benefit. However, if the injury occurs in the line of duty, the employee qualifies for an increased disability benefit regardless of his or her years of service. The general disability benefit is 42% of the employee's average final compensation (AFC). The in line of duty benefit for special risk employees is at least 65% of the AFC.¹

Effect of Bill

The 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. 121.091(4), F.S., in the line of duty, is considered totally and permanently disabled, unless proven otherwise by the administrator. That 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." Thus, an easier standard is created 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. In addition, s. 121.091(4), F.S., does not provide a definition of "catastrophically injured" as referenced in the bill.

¹ Section 121.091(4), F.S.

The bill increases the FRS contribution rates for the Special Risk Class from 17.34%² to 17.37% (+0.03%), and for the Special Risk Administrative Support Class from 8.81%³ to 9.00% (+0.20%). 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, F.S., relating to 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:

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

2. Expenditures:

Indeterminate. An actuarial study is being performed for this bill, but the study has not been completed. The projected completion date is April 13, 2005.⁴ As such, the projected costs are unknown. The bill increases employer contribution rates for all Special Risk Class employers by 0.03% and for all Special Risk Administrative employers by 0.20%; however, it is unknown whether these increases will be sufficient to fund the bill's benefits.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

Indeterminate. An actuarial study is being performed for this bill, but the study has not been completed. The projected completion date is April 13, 2005.⁵ As such, the projected costs are unknown. The bill increases employer contribution rates for all Special Risk Class employers by 0.03% and for all Special Risk Administrative employers by 0.20%; however, it is unknown whether these increases will be sufficient to fund the bill's benefits.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

² Effective July 1, 2005, the employer contribution rate for Special Risk Class members will increase to 22.16%. Section 121.71(3), F.S.

³ Effective July 1, 2005, the employer contribution rate for Special Risk Administrative Support Class members will increase to 12.55%. *Id.*

⁴ Telephone conversation with the Division of Retirement, April 1, 2005.

⁵ *Id.*

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill increases the in line of duty disability for certain officers, firefighters, emergency medical technicians, and paramedics, resulting in local government FRS participants being required to expend funds; however, the following exceptions apply:

- The bill contains a statement of important state interest; and
- Similarly situated persons are all required to comply.

2. Other:

The bill does not appear to comply with the requirements of s. 14, Art. X of the State Constitution. A study is currently being performed in order to make the necessary changes to the bill that will ensure compliance.

Article X, s. 14, Florida Constitution

Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Part VII of chapter 112, F.S.

Article X, s. 14 of the Florida Constitution is implemented by statute under part VII of chapter 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to "prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers."

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

An amendment is needed to update the rate increases found in the bill; however, the needed rate increase will not be available until April 13, 2005.⁶

⁶ *Id.*

The bill provides that an employee is totally and permanently disabled if catastrophically injured as defined in s. 121.091(4), F.S.; however, that section does not provide a definition of "catastrophically injured." It is recommended that a definition of "catastrophically injured" be created within the section.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.