



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** – The bill increases the membership of the State Retirement Commission. The Governor's membership appointments will increase from three to five.

### B. EFFECT OF PROPOSED CHANGES:

#### **Proof of Disability**

##### Background

Current law provides that a Florida Retirement System (FRS) employer, before approving payment of any disability retirement benefit, must require proof that the FRS employee is totally and permanently disabled. The proof must include the certification of the employee's total and permanent disability by two licensed physicians in this state and such other evidence of disability as the employer may require. It must be documented that the:

- Employee's medical condition occurred or became symptomatic during the time the member was employed.
- Employee was totally and permanently disabled at the time he or she terminated covered employment.
- Employee has not been employed after such termination.

In addition, it must be documented that the disability was caused by a job-related illness or accident which occurred while the employee was an FRS employee.<sup>1</sup>

##### Effect of Bill

The bill authorizes letters of proof of disability from two licensed physicians outside of Florida for those state employees working in another state.

#### **State Retirement Commission**

##### Background

The State Retirement Commission (commission) is created within the Department of Management Services (DMS).<sup>2</sup> The commission is composed of three members appointed by the Governor and confirmed by the Senate:

- One member who is retired under a state-supported retirement system;
- One member who is an active member of a state-supported retirement system; and
- One member who is not a retiree, beneficiary, or member of a state-supported retirement system administered by DMS.

Each member is required to have a different occupational background, and is required to have been a Florida citizen for at least three years prior to appointment. The members serve four year terms<sup>3</sup> and receive a stipend<sup>4</sup> in addition to per diem and travel expenses.<sup>5</sup>

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

<sup>2</sup> Section 121.22(1), F.S.

<sup>3</sup> Section 20.052(4)(c), F.S., provides that members must be appointed for four year staggered terms unless expressly provided otherwise in the State Constitution.

The commission may meet in panels of no less than three members for the purpose of hearing appeals on the merits of applications for disability retirement, reexamination of retired members receiving disability benefits, applications for special risk membership, and reexamination of special risk members in the Florida Retirement System.<sup>6</sup> For all other purposes, a quorum consists of four members.<sup>7</sup> Because the commission only consists of three members, a quorum of four is impossible to attain.

### Effect of Bill

The bill increases the membership of the commission from three to five members. Two members must be retired under a state-supported retirement system administered by DMS, two members must be active members of a state-supported retirement system, and one member must not be a retiree, beneficiary, or member of a state-supported retirement system administered by DMS.

The bill requires a quorum of two members for three-member panel meetings for purposes of hearing appeals. For all other purposes, three members constitute a quorum. It also corrects a cross-reference.

## **State University System Optional Retirement Program**

### Background

In order to participate in the State University System Optional Retirement Program (SUSORP), a person must:

- Otherwise be eligible for membership in the FRS;
- Be employed or appointed for no less than one academic year; and
- Be employed as instructional or research faculty, an administrative and professional which are exempt from career services, or a Chancellor and or university president.<sup>8</sup>

### Effect of Bill

The bill removes the requirement that a state university system employee be employed for no less than one academic year prior to entering the SUSORP.

#### C. SECTION DIRECTORY:

Section 1 amends s. 121.091, F.S., changing the disability certification requirements for out-of-state employees.

Section 2 amends s. 121.22, F.S., increasing the membership of the State Retirement Commission.

Section 3 amends s. 121.24, F.S., amending the commission quorum requirement.

Section 4 amends s. 121.35, F.S., relating to the state university system optional retirement program.

Section 5 provides an effective date of July 1, 2005.

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<sup>4</sup> Members are paid a stipend of \$100 for each day spent on the work of the commission. Section 121.24(6), F.S.

<sup>5</sup> Section 121.24(6), F.S., provides that members are paid per diem and travel expenses as provided in s. 112.061, F.S.

<sup>6</sup> Sections 121.23 and 121.24(1)(a), F.S.

<sup>7</sup> Section 121.24(1)(a), F.S.

<sup>8</sup> Section 121.35(2)(a), F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None. This bill does not create, modify, or eliminate a state revenue source.

#### 2. Expenditures:

Each commission member is paid a \$100 stipend for each full day of commission work, in addition to per diem and travel expenses as provided in s. 112.061, F.S. The commission meetings take place in different parts of the state and are held approximately 10 times per year. The average cost is \$500 per commissioner per meeting. Therefore, the estimated annual cost to the Florida Retirement System Trust Fund is \$10,000 annually for two additional commissioners.<sup>9</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None. This bill does not create, modify, or eliminate a local revenue source.

#### 2. Expenditures:

None. This bill does not create, modify, amend, or eliminate a local expenditure.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. This bill does not regulate the conduct of persons in the private sector.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not affect municipal or county government.

#### 2. Other:

The bill could be in violation of Art. III, s. 6 of the State Constitution, which provides that every law must embrace but one subject and matter properly connected therewith. The bill relates to the state retirement system and amends several provisions, in current law, regarding such; however, the various retirement provisions do not appear to relate to one subject. The bill amends provisions relating to proof of disability by an employee, the State Retirement Commission, and the State University System optional retirement program.

### B. RULE-MAKING AUTHORITY:

None.

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<sup>9</sup> Email from DMS, February 15, 2005.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill provides an effective date of July 1, 2005. Given the current conflict in statute and the difficulties it poses for the commission to meet, the commission would benefit by changing the effective date to "upon becoming a law," while providing a July 1, 2005 effective date for sections one and four of the bill.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On March 9, 2005, the Governmental Operations Committee adopted a strike-all amendment and reported the bill favorably with committee substitute (CS). The bill as filed remedied the inconsistencies between the State Retirement Commission membership and quorum requirements. The bill with CS not only addresses those inconsistencies but also:

- Authorizes letters of proof of disability from two licensed physicians outside of Florida for those state employees working in another state;
- Removes the requirement that a state university system employee be employed for no less than one academic year prior to entering the State University Optional Retirement Program; and
- Corrects a cross-reference.