



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Ensure lower taxes** – The fiscal impact of this bill is unknown, therefore, it is unclear whether the increased retirement benefit proposed by this bill will create a need to increase taxes in order to fund the benefit.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to more than 630,000 active and 226,000 retired members and beneficiaries of its more than 800 government employers.<sup>1</sup> The active membership of the FRS is divided into five membership classes: Regular Class; Special Risk Class; Special Risk Administrative Support Class; Elected Officers' Class; and Senior Management Service Class. Each class is separately funded based upon the costs attributable to the members of that class.

##### Compensation

The term "compensation" means the monthly salary paid a member by his or her FRS employer for work performed arising from that employment.<sup>2</sup> Compensation includes:

- Overtime payments.
- Accumulated annual leave payments.
- Payments in addition to the member's base rate of pay, if certain requirements are met.
- Amounts withheld for tax sheltered annuities or deferred compensation programs.
- Payments made in lieu of a permanent increase in the base rate of pay.
- Salary supplements made as a result of receipt of a National Board for Professional Standards certificate (effective July 1, 2002).<sup>3</sup>

##### Average Final Compensation

The average final compensation (AFC) is calculated using the average of the five highest fiscal years of salary (salary earned from July 1-June 30).<sup>4</sup> A member's compensation is included when determining that member's AFC. A member's years of creditable service at retirement are multiplied by the accrual rate,<sup>5</sup> and it is then multiplied by the AFC to derive the Option 1 annual retirement benefit.

##### **Effect of Bill**

The bill amends the current definition of "compensation" to include:

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<sup>1</sup> Department of Management Services 2005 Substantive Bill Analysis, HB 215, January 27, 2005, at 4.

<sup>2</sup> Section 121.021(22), F.S.

<sup>3</sup> Section 121.021(22)(a), F.S.

<sup>4</sup> Section 121.021(24), F.S.

<sup>5</sup> The accrual rate is the percentage value awarded for each year of service as determined by the member's class of membership.

- Salary supplements made to firefighters, paramedics, or emergency medical technicians (EMTs) for the successful completion of employer-approved educational training (effective July 1, 2005).
- Salary supplements made to firefighters, paramedics, or EMTs for additional job-related duties and responsibilities (effective July 1, 2005).

It is unclear what “additional job-related duties” would include and why those duties would not be compensated as part of the member’s regular salary. In addition, the bill does not provide criteria for determining what is considered employer-approved educational training. It is unclear whether the training would relate directly to the member’s performance as a firefighter, paramedic, or EMT, or if it would also include educational training that is not job related.

The bill also provides that prior to July 1, 2005, employer-reported retirement contributions for those supplemental payments are considered compensation. The intent is to address those retirement contributions that have already been reported by employers, but, under current law, were not authorized as compensation.

The changes to the definition of compensation could also affect the AFC for firefighters, paramedics, and EMTs. The AFC for those employees could increase, thus providing an increase in their retirement benefit.

C. SECTION DIRECTORY:

Section 1 amends s. 121.021, F.S., relating to FRS definitions.

Section 2 provides a July 1, 2005, effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

Unknown. Current figures were not available.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

Unknown. Current figures were not available.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

The fiscal impact on the FRS Trust Fund could be significant since the designation of employer-reported retirement contributions as compensation is retroactive; however, current figures were not available.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

Because current figures were not available, it is unclear whether this bill complies with, or is in violation of, Art. X, s. 14 of the Florida Constitution.

#### **Article X, s. 14, Florida Constitution**

Since 1976, the Florida Constitution has required that retirement benefit increases 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:

The bill does not clarify what "additional job-related duties" would include and why those duties would not be included as part of the member's regular compensation. In addition, the bill does not provide criteria for determining what is considered employer-approved educational training.

The bill also provides that previous employer-reported retirement contributions for those supplemental payments are considered compensation. The intent is to address those retirement contributions that have already been reported by employers, but, under current law, were not authorized as compensation; however, the language is unclear as drafted and an amendment is suggested.

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

Not applicable.