

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: CS/SB 812

SPONSOR: Criminal Justice Committee and Senators Argenziano and Fasano

SUBJECT: Correctional Probation Officers/FRS

DATE: April 27, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cannon	CJ	Fav/CS
2.			GO	
3.			WM	
4.				
5.				
6.				

I. Summary:

The Committee Substitute for Senate Bill 812 amends s. 121.0515(9), F.S., to allow members of the Special Risk Class to upgrade their prior creditable service as a community-based correctional probation officer earned while in another membership class. The cost to purchase the upgrade of this service credit would be the difference in the employer contribution rates for those two classes at the time of the period being claimed, plus interest. The employer may pay for this upgrade. However, the price charged for the upgrade is not sufficient to fund the cost of the upgrade.

This bill increases the employer contribution rates for the Special Risk Class by 0.04 percent.

This bill substantially amends section 121.0515, Florida Statutes.

II. Present Situation:

Profile of the Florida Retirement System (FRS) and the Special Risk Class¹

The FRS was created in December 1970 to consolidate then-existing state-administered retirement systems for state and county officers and employees, teachers, judges, and Highway Patrol officers. Today, the FRS is the fourth largest public retirement system in the United States, covering over 633,000 active employees, over 226,000 annuitants (retirees and their surviving beneficiaries), and more than 28,000 participants of the Deferred Retirement Option Program (DROP). As of June 30, 2004, state employees (including university employees) represent 21.83 percent of the FRS membership. Remaining members are employed by local agencies, including

¹ Information in the "Present Situation" section of this analysis is from the Department of Management Services' analysis of the bill.

all counties (23.46 percent), district school boards (48.3 percent), and community colleges (2.84 percent), as well as cities and special districts (3.57 percent) that have opted to join the FRS.

The active membership of the FRS is divided into five membership classes: the Regular Class, the Special Risk Class, the Special Risk Administrative Support Class, the Elected Officers' Class, and the Senior Management Service Class. Each class is separately funded based upon the costs attributable to the members of that class.

Special Risk Class.—The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S. As of June 30, 2004, with over 66,800 active members in the Special Risk Class and 92 members in the Special Risk Administrative Support Class, special risk employees made up nearly 11 percent of the active FRS membership.

In creating the Special Risk Class of membership within the FRS, the Legislature recognized that persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions must, as an essential function of their positions, perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity. The Legislature further found that as persons in such positions age, they might not be able to continue performing their duties without posing a risk to the health and safety of themselves, the public, and their coworkers. In response, the Legislature established a special class to permit these employees to retire at an earlier age and with less service without suffering economic deprivation compared to other members with normal retirement after 30 years of service or age 62 and vested.

Special Risk Class membership differs from Regular Class membership in the following ways:

- A Special Risk Class member earns retirement credit at the rate of 3 percent of average final compensation (AFC) for each year of service, as opposed to the 1.60 percent to 1.68 percent credit per year of service earned by a Regular Class member.
- A Special Risk Class member qualifies for normal retirement at an earlier age (age 55 vs. age 62) or with fewer years of service (25 years vs. 30 years) than a Regular Class member.
- A Special Risk Class member who is totally and permanently disabled in the line of duty qualifies for a 65 percent minimum option 1 benefit payment compared to a Regular Class member similarly disabled who qualifies for a 42 percent minimum option 1 benefit payment.

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2004-05 plan year under the FRS, the retirement portion of the employer contribution rate for the Special Risk Class is 17.34 percent — nearly three times the 6.20 percent retirement contribution rate for the Regular Class. Thus when a membership group moves from the Regular Class to the Special Risk Class, the monthly employer contributions triple for affected employees.

Membership criteria.—Under current law, FRS members must meet specified eligibility requirements to qualify for membership in the Special Risk Class. These requirements limit membership to persons who are employed as law enforcement officers, firefighters, correctional officers, correctional probation officers, emergency medical technicians or paramedics, specified forensic and health care workers, and youth custody officers, and who meet the criteria set forth in applicable s. 121.0515, F.S. At the state level, specified professional health care and forensic positions in the Department of Corrections and the Department of Children and Families were included in the Special Risk Class effective January 1, 2001. To qualify for special risk membership, the members filling these state positions must spend at least 75 percent of their time performing duties involving inmate or patient contact.

Article X, Section 14, of the 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, Section 14, of the Florida Constitution is implemented by statute under part VII of ch. 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.”

Section 121.19(10), F.S., provides that “it is the intent of the Legislature that future benefit increases enacted into law in this chapter shall be financed concurrently by increased contributions or other adequate funding, and such funding shall be based on sound actuarial data as developed by the actuary or state retirement actuary, as provided in ss. 121.021(6) and 121.192.”

Local Government Mandates Provision

Article VII, Section 18, of the Florida Constitution effectively invalidates any law that would require counties or municipalities to spend funds or limit their ability to raise revenue or receive state tax revenue, unless certain conditions are met. First, the Legislature must have determined that the law fulfills an important state interest. The law must also meet one or more additional criteria including that the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.

III. Effect of Proposed Changes:

Special Risk Class members who received credit in another class of the FRS while employed as community-based correctional probation officers, or their employers, would be allowed to purchase an upgrade of their Regular Class credit to Special Risk Class credit. The cost to the member or employer would be the difference in contributions paid and the Special Risk contribution that would have been paid during the period being claimed, plus interest at 6.5 percent compounded annually until the date the payment is made.

The employer contribution rate for Special Risk Class employees will be increased by 0.04 percent to pay for the balance of the cost of the upgrade in service.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The mandate provision appears to apply to this bill because increasing benefits for employees of FRS employers will likely require counties and certain municipalities to expend funds through higher employer contributions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Actuaries performed a study regarding compliance with Article X, section 14 of the Florida Constitution and Part VII of ch. 112, F.S. This study indicates that Special Risk Class employer contributions rates would need to increase by 0.04 percent of gross compensation to fund this benefit in an actuarially sound manner.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Affected members would be required to pay the additional costs to upgrade their service.

C. Government Sector Impact:

As discussed above, the actuarial study indicates that the employer contributions rates would need to increase by 0.04 percent of gross compensation to fund this benefit in an actuarially sound manner.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
