

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 997 Florida Retirement System  
**SPONSOR(S):** Bilirakis  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1626

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Governmental Operations Committee</u>	<u>6 Y, 0 N</u>	<u>Williamson</u>	<u>Everhart</u>
2) <u>Criminal Justice Committee</u>	<u></u>	<u>Bond</u>	<u>Kramer</u>
3) <u>Fiscal Council</u>	<u></u>	<u></u>	<u></u>
4) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to Florida government employees. The active membership of the FRS is divided into five membership classes, one of which is the Senior Management Service Class. In 2000, the 3 Capital Collateral Regional Councils were added to the Senior Management Service Class.

The bill authorizes each of the capital collateral regional councils to designate an additional position in their office for membership in the Senior Management Service Class, provided certain criteria are met. The benefit authorized by the bill is retroactive to January 1, 1994.

The effect of this bill on the Northern District capital collateral regional council is unclear, as that office currently has no employees.

This bill does not appear to have a fiscal impact on local governments. The state would be required to increase the contribution related to the employees affected by this bill by 1.98%. The fiscal impact on the FRS Trust Fund could be significant since it appears that the membership in the Senior Management Service Class for the affected employees is retroactive.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

#### 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.

##### Senior Management Service Class

The Senior Management Service Class consists of members who serve in a managerial capacity, for example, community college presidents and school superintendents. Contribution rates for the Senior Management Service Class are 11.64 percent versus 9.98 percent for the Regular Class.

In 2000, Capital Collateral Regional Counsels were added to the Senior Management Service Class; however, they were not given the authority to designate additional positions in the regional offices for membership in the Senior Management Service Class.<sup>2</sup>

##### Capital Collateral Regional Counsels

There are three regional offices of capital collateral counsel that are located in the northern, middle, and southern regions of the state.<sup>3</sup> Each capital collateral regional counsel (counsel) is appointed for a term of three years.<sup>4</sup> The counsel represents each person convicted and sentenced to death in Florida. The purpose is to institute and prosecute collateral actions challenging the legality of the judgment and sentence imposed against each person.<sup>5</sup> The Northern District currently has no employees, the duties of the office are performed by attorneys in private practice.

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

The bill authorizes a capital collateral regional counsel to designate an additional position in the regional office for membership in the Senior Management Service Class. Notice of intent to designate the positions must be published once a week for two consecutive weeks in a newspaper of general

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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 19, chapter 2000-169, L.O.F.; s. 121.055(1)(h), F.S.

<sup>3</sup> Section 27.701(1), F.S.

<sup>4</sup> Section 27.701(2), F.S.

<sup>5</sup> Section 27.702(1), F.S.

circulation in the affected counties. One nonelective full-time position may be designated.<sup>6</sup> Each position designated by the counsel must be a managerial or policymaking position.

The effect of this bill as to the Northern District CCRC is unclear. There are no current employees of the office, and attorneys in private practice (who are not covered by the FRS) perform the duties of the office.

The benefit authorized by the bill is retroactive to January 1, 1994.

C. SECTION DIRECTORY:

Section 1 amends s. 121.055, F.S., relating to the Senior Management Service Class.

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

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

Unknown. Current figures were not available; however, FRS employers would pay an increased retirement contribution rate (currently an additional 1.98%) for their FRS employees who are affected by the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

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 it appears that membership in the Senior Management Service Class is retroactive; however, current figures were not available.<sup>7</sup>

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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<sup>6</sup> If the counsel's office has 200 or more regularly established positions, then additional designations can be made so long as the designations do not exceed 0.5 percent of the regularly established positions within the counsel's office. No CCRC office has close to 200 positions.

<sup>7</sup> As of March 30, 2005, current figures were not available.

The bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

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:

None.

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

None.