

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: Education Committee

BILL: SB 102

INTRODUCER: Senator Wise

SUBJECT: Public School Employment

DATE: December 1, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Fav/1 amendment
2.			GO	
3.			WM	
4.			RC	
5.				
6.				

Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill authorizes district school boards to reemploy retired employees as administrative personnel.

Under this bill, district school boards are permitted to contract with retired members for reemployment after a one month calendar period of retirement has passed, subject to annual renewal.

This bill substantially amends section 121.091, Florida Statutes.

The effective date of the bill is upon becoming a law.

II. Present Situation:

Florida Retirement System and the Deferred Retirement Option Program

Chapter 121 contains the Florida Retirement System Act for specified public employees.¹ A member of the Florida Retirement System ("FRS") is not eligible to receive benefits until

¹ s. 121.011(1), F.S.

terminating employment or starting participation in the Deferred Retirement Option Program (“DROP”).² Eligibility for participation in DROP includes certain active:

- Florida Retirement System members in regularly established positions;
- Teacher’s Retirement System members; or
- State and County Officers’ and Employees’ Retirement System members.³

The DROP program authorizes eligible members of the FRS to elect to defer retirement benefits to continue employment with an FRS employer. The benefit of DROP is that deferred monthly benefits accrue in the System Trust Fund on behalf of the participant plus compounded interest, for the fixed period of DROP participation. Upon termination, the participant receives total DROP benefits in addition to beginning to receive original normal retirement benefits. A 60-month period is the maximum authorized, unless the eligible member is instructional personnel and is approved by the district school superintendent or Board of Trustees of the Florida School for the Deaf and the Blind, as applicable, to serve up to 96 months.⁴

Employment After Retirement

In contrast to DROP, which is considered to be a form of continuous employment, reemployment authorizes a person to simultaneously receive retirement benefits and draw a salary. Except for disability retirement, any person who is retired through the FRS may be reemployed by any private or public employer and receive retirement benefits and compensation without limitation, except that a person is precluded from drawing both a salary and retirement benefits for 12 months immediately after the date of retirement.⁵

An exception to the 12 month requirement is provided to district school boards to reemploy retired members, after just one calendar month of retirement has passed. Local school boards are authorized to reemploy retired members for the following positions on a noncontractual basis:

- Substitute or hourly teachers;
- Education paraprofessionals;
- Transportation assistants;
- Bus drivers; or
- Food service workers.⁶

District school boards are authorized to reemploy retired members as instructional personnel exclusively on an annual contractual basis.⁷

Administrative Personnel

² s. 121.091, F.S.

³ s. 121.091(13)(a), F.S.

⁴ s. 121.091(13), F.S.

⁵ s. 121.091(9), F.S.

⁶ s. 121.091(9)(b)3., F.S.

⁷ *Id.*

Administrative personnel are defined as:

Personnel who perform management activities such as developing broad policies for the school district and executing those policies through the direction of personnel at all levels within the district.⁸

Classes of administrative personnel include district school superintendents and assistant superintendents, school principals and assistant principals, career center directors, and others who perform management tasks.⁹

III. **Effect of Proposed Changes:**

This bill extends the authority of local district school boards to rehire retired members of the Florida Retirement System as instructional personnel, to additionally reemploy members as administrative personnel.

The same conditions required for reemployment of instructional personnel apply to administrative personnel, so that reemployment is only authorized by contract and is subject to annual renewal. Additionally, to be eligible, the member must have been retired for one calendar month.

Administrative Employees

According to the Department of Education the administrative employees defined in s.1012.01 (3), F.S., include: assistant, associate, or deputy superintendents and directors of major instructional areas and specialized instructional programs such as exceptional student education, career education, and similar areas. Also included are assistant, associate, or deputy superintendents and directors of major noninstructional areas, such as personnel, construction, facilities, transportation, data processing, and finance. School level administrators would include principals and assistant principals.

Assumptions and Analysis for Administrative Personnel Reemployment

According to the Milliman actuarial study, this proposal would reduce the average retirement age of administrative personnel.¹⁰ The current assumptions are based on historical data that most FRS participants have not elected to retire at the earliest age unreduced benefits are available (i.e., the earlier of age 62 and completion of six years of service or completion of 30 years of service). Under this proposal, even though eligible participants could continue to work after those ages without retiring and continue to accrue additional benefits, it was assumed that 50 percent of participants who are not already assumed to retire at first eligibility would not delay retirement after first becoming eligible. This is based on the premise that a participant would instead prefer to receive both their salary and the pension at the same time and possibly accrue a second pension if he or she is guaranteed reemployment. From the employer's contribution perspective, the contribution on behalf of the active individual accruing service credit is

⁸ s. 1012.01(3)(b)1., F.S.

⁹ *Id.*

¹⁰ Actuarial study of Senate Bill 788 (2005) by Milliman Consultants and Actuaries, April 19, 2005, p. 1.

not impacted since the contribution to FRS is the same whether the participant continues working or becomes a reemployed retiree.

Additionally, DROP has affected retirement patterns, inducing participants to retire earlier. It was assumed that 20 percent of administrative personnel who, absent this provision, would have elected DROP would instead elect the liberalized reemployment. To the extent that these participants who would have retired when first eligible and elect DROP, instead elect to become a reemployed retiree, the additional costs are, in reality, a shifting of costs from the DROP Class to the Regular Class. Thus, these participants are excluded from the additional cost.

To value this benefit, the retirement assumptions used in the June 30, 2004 valuation were modified. Based on information provided by the Department of Education, there are approximately 10,361 administrative personnel employed by school boards participating in the FRS. It was assumed that all participants would retire no later than the earliest age at which unreduced retirement benefits are payable. Starting with the 10,361 administrative personnel and applying the assumptions described above, the assumption was that approximately 3,275 administrative personnel (0.62 percent of the Regular Class) would benefit from this proposal.

The administrative personnel were assumed to be spread proportionately across the pool of Regular Class Employees. If instead, the administrative personnel are disproportionately higher paid, have longer service, or different average age at hire, the results would be different, and would be reflected in future valuations.

Because of this assumption change, there is an additional cost (\$28.6M) as noted previously, even if the total payroll remains constant. This is because participants will be retiring sooner than the current valuation assumes, meaning benefits will be paid for a longer period of time and they must be funded over each participant's shortened working career.¹¹

Effective Date

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ Op cit, p. 2.

D. Other Constitutional Issues:

According to the Department of Management Services (DMS), this bill does not provide the required funding to meet the actuarially sound funding requirements of Article X, Section 14 of the Florida Constitution and Part VII of chapter 112, F.S.

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

None.

B. Private Sector Impact:

This bill authorizes administrative personnel to be reemployed and draw retirement simultaneously. Such individuals would also be eligible to start a second retirement from the state.

C. Government Sector Impact:

The DMS indicates a negative fiscal impact in that this bill may encourage employees to retire earlier and become reemployed to earn a second-career benefit while, at the same time, drawing their first career retirement benefit and earning a salary. This could increase the number of FRS members retiring sooner, so that they would draw retirement benefits for a longer time period based upon a shorter working career and investment period, increasing costs to the retirement system.

The bill permits the reemployment or retention of administrative personnel under circumstances favorable to both the employee and employer. The impacts from these changes can be estimated more accurately in direction than in magnitude since so much of the effect rests on a voluntary action of the departing or returning employee to stay in the active workforce. According to the actuarial study, if reemployment is liberalized for administrative personnel as proposed in the bill, the projected increase in actuarial liabilities is \$28.6 million. This benefit change results in an increase in the Normal Cost rate of 0.01percent and an increase in the UAL rate of 0.01percent, and therefore, an overall increase in contribution levels of 0.02 percent, for the Regular Class.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

¹² Op cit, p. 3.

VIII. Summary of Amendments:

Barcode 494946 by Education:

Authorizes the Board of Trustees of the Florida School for the Deaf and Blind to reemploy retired members as administrative personnel after one calendar month of retirement. Requires reemployment to be subject to annual contract renewal.

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