

# 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: Community Affairs Committee

BILL: SB 104

INTRODUCER: Senator Aronberg

SUBJECT: Florida Retirement System/Military Service

DATE: November 10, 2005 REVISED: 12/5/05

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Vickers	Yeatman	CA	<b>Fav/1 amendment</b>
2.		GO	
3.		WM	
4.			
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 would allow qualifying members of the Florida Retirement System (FRS) to purchase credit for their prior military wartime service under more favorable conditions. Specifically, the bill would enable members with wartime military service during a period as specified under s. 121.111, F.S., and whose initial date of FRS employment is on or after January 1, 1987, to purchase such military service at a greatly reduced cost compared to the cost if it were purchased under the out-of-state service provision of s. 121.1115, F.S. The change makes this benefit available to all FRS members, not just those whose initial enrollment date was before January 1, 1987, as required under current law. The bill would have a significant fiscal impact to the Florida Retirement System Trust Fund.

This bill substantially amends section 121.111 of the Florida Statutes.

### II. Present Situation:

Under the FRS members are authorized to purchase credit for certain other types of service to increase their retirement benefits. The cost for additional credit depends on the type service claimed. Section 121.111, F.S., establishes general requirements governing the purchase of credit for military service. Currently, there are three primary methods by which military service may be claimed:

**Wartime Military Service** – If an FRS member was first employed in a covered position before January 1, 1987, the member may purchase credit for up to 4 years of active duty wartime service with the United States Armed Forces or allied forces. The period of military service must fall within the definition of “wartime” period as established in s. 1.01(14), F.S.<sup>1</sup> If one or more days of any period of active military service occurred during the dates identified as “wartime,” the member may claim credit for the entire period (not to exceed 4 years). The formula for purchasing credit under this provision is 4 percent of the member’s first year’s salary under the FRS for each year of service, plus annual interest (4 percent prior to 1975, and 6.5 percent thereafter) from the first year of covered employment for each year of service credit.

**Military Leave of Absence** – A military leave of absence occurs when a member leaves covered employment to serve in the military. To receive service credit under this provision the member must be honorably discharged and entitled to return to work under the provisions of the Uniformed Services Employment and Reemployment Act. After the member returns to covered employment, he or she may receive credit for up to 5 years of active military service. If the military leave of absence occurs on or after December 3, 1974, the employer is responsible for payment of all employer contributions required during the period of absence.

**Out-of-State Public/Federal Service** - Under s. 121.1115, F.S., FRS members may elect to purchase credit for up to 5 years of out-of-state public employment. The service claimed must have been for periods of public employment in another state or for the federal government (including military service not otherwise creditable under the FRS). The formula for purchasing credit under this provision is 20 percent of the member’s first year’s salary under the FRS (a minimum of \$12,000), plus annual interest (6.5 percent) from the first year of covered employment for each year of service credit.

The 1985 Legislature amended ch. 121, F.S., to provide that any member whose initial employment under FRS was on or after January 1, 1987, could no longer purchase active military service as creditable service.<sup>2</sup> According to the Division of Retirement, the rationale underlying this action was that the formula that determined the cost of purchasing this service did not fund the cost of the increased retirement benefit provided by including military service. Pursuant to Article X, Section 14 of the Florida Constitution, and ch. 112, F.S., retirement benefit improvements must be funded on an actuarially sound basis. Another consideration in the Legislature’s decision to discontinue this repurchase option was a series of federal court rulings which increased the likelihood that the FRS would be required to subsidize both wartime and peacetime military service if either category was awarded.<sup>3</sup>

In 1997, the Legislature revisited this issue and amended s. 121.1115, F.S., to allow FRS members to purchase their military service as out-of-state public service. The out-of-state cost formula is such that the purchase price covers the actuarial impact to the FRS of any service

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<sup>1</sup> This section provides that in order to receive benefits as a “wartime veteran” a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or a veteran must have served during one of the following conflicts: Spanish-American War, Mexican Border Period, World War I, World War II, Korean Conflict, Vietnam Era, or Persian Gulf War.

<sup>2</sup> Chapter 85-220, Laws of Florida.

<sup>3</sup> Department of Management Services, *2005 Substantive Bill Analysis for SB 1242*, March 16, 2005.

purchased under this provision, thereby transferring the cost from the retirement system to those members purchasing out-of-state service. However, the cost to purchase military service under the out-of-state provision is considerably higher than the cost to claim the service under the “wartime” provision.

### **III. Effect of Proposed Changes:**

The bill amends s. 121.111(2), F.S., to permit the purchase of wartime service as additional years of employment for members of the FRS employed after January 1, 1987. The bill effectively allows qualifying members to purchase up to 4 years of military service under the more favorable repurchase conditions of the “wartime” provision rather than the out-of-state provision. This would enable qualifying members to repurchase military service under the formula discontinued by the Legislature in 1987.

The intent of this bill is to allow affected members to purchase their military service under the less costly "wartime" provisions. For example, if this bill passes, a member first hired on July 1, 1987, with an initial annual salary of \$21,000 and 4 years of wartime military service would be able to purchase such service for \$11,668 under the provisions of this bill, versus \$58,340 under the out-of-state service provision. (These amounts include interest and would be the amount owed through June 30, 2005, if paid in full. Interest at the rate of 6.5% would be added to the unpaid balance each July 1.)<sup>4</sup>

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Inasmuch as this bill requires the state and local governments (including cities and counties) to incur expenses, i.e., pay additional retirement contributions into the Florida Retirement System Trust Fund, the bill falls within the purview of subsection (a) of Article VII, Section 18, Florida Constitution, which provides that cities and counties are not bound by general laws requiring them to spend funds or to take an action which requires the expenditure of funds unless certain specified exemptions or exceptions are met. None of the specified constitutional exemptions apply.

As for applicable specified constitutional exceptions, the bill requires similar expenditures by all similarly situated persons (i.e., all public employers with officers or employees who are members of the Florida Retirement System); therefore, the only additional requirement necessary to remove the bill from the purview of this constitutional provision is a finding by the Legislature that the bill fulfills an important state interest.

Absent a legislative determination that the bill fulfills an important state interest, cities and counties will not be bound by the provisions of this bill should it become law. The bill does not currently contain a legislative finding that its provisions fulfill an important state interest.

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<sup>4</sup> Department of Management Services, *2005 Substantive Bill Analysis for SB 1242*, March 16, 2005.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

Article X, s. 14 of the Florida Constitution requires benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis. This provision 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.”

This bill does not currently provide for the concurrent funding of this increased benefit and therefore does not comply with Article X, Section 14, of the Florida Constitution, requiring that any increase in benefits must be funded on a sound actuarial basis.

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

None.

**B. Private Sector Impact:**

The bill would enable eligible members of the FRS to purchase up to 4 years of prior military service under much more favorable conditions.

**C. Government Sector Impact:**

The bill does not provide adequate funding to cover the cost to the system that would result from this benefit improvement. The Division’s consulting actuaries completed an actuarial special study dated February 16, 2005, detailing the contribution rate increases associated with allowing the purchase of (1) military service for employees hired after December 31, 1986, and (2) service during periods of hostility as established by the United States Department of Veterans Affairs. This change would cause the contribution rates of all FRS membership classes to increase costing \$26.7 million (\$20.7 to local governments and \$6 million to the state) in the first year based on funding the full cost of this improvement over a 30-year amortization period in addition to employee contributions. The required employer contribution rate increase by class is shown below:

- Regular Class – 0.11 percent;
- Senior Management Service Class – 0.18 percent
- Special Risk Regular Class – 0.16 percent
- Special Risk Administrative Support Class – 0.21 percent
- Judicial Subclass – 0.20 percent
- Legislative/Attorney/Cabinet Subclass – 0.19 percent
- County Officers Subclass – 0.22 percent

It is likely that active FRS members who have purchased or are in the process of purchasing their active duty wartime military service under the out-of-state service provision due to the fact that they were initially employed on or after January 1, 1987, would want their military service recalculated under the new lower cost provision provided for in this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

### **Barcode 655256 by Community Affairs:**

This amendment revises the payroll contribution rates for the various FRS member classes to provide concurrent funding for the increased benefits contained in the bill. The amendment also includes a declaration of important state interest.

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