

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1165 CS

Florida Retirement System

SPONSOR(S): Barreiro

TIED BILLS:

IDEN./SIM. BILLS: SB 2182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Governmental Operations Committee</u>	<u>6 Y, 0 N, w/CS</u>	<u>Mitchell</u>	<u>Williamson</u>
2) <u>Local Government Council</u>	<u>8 Y, 0 N</u>	<u>DiVagno</u>	<u>Hamby</u>
3) <u>Fiscal Council</u>	<u>18 Y, 3 N, w/CS</u>	<u>Dobbs</u>	<u>Kelly</u>
4) <u>State Administration Council</u>	<u></u>	<u>Mitchell</u>	<u>Bussey</u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Medical examiners and certain forensic employees were added to the Special Risk Class in 2005. This bill permits these medical examiners and forensic employees to purchase additional retirement credit to upgrade their previous service in the Florida Retirement System to Special Risk Class service. The bill requires the contributions for upgrading previous service to be equal to the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest. The bill permits an employer to purchase upgraded credit on behalf of a member. The bill provides legislative findings and declares that it fulfills an important state interest.

This bill does not appear to create, modify, or eliminate rulemaking authority.

This bill does not appear to have a fiscal impact on the revenues of the state or local governments. Yet, this bill does appear to have a fiscal impact on the expenditures of the state and local governments through additional liability to the Florida Retirement System of \$87,000 for the state and \$249,000 for local governments in Fiscal Year 2007. The bill funds this liability in two ways: (1) beginning July 1, 2006, the bill provides an overall 0.01 percent increase to the employer contribution rate for the Special Risk Class; and (2) beginning with the 2006-2007 fiscal year, the bill provides \$100,000 in recurring General Revenue funding for state agencies to pay for the increased employer contribution rate. *Since there is a potential delay between the effective date of the benefit and the funding of the benefit, this bill may not satisfy the constitutional requirement for concurrent funding.*

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases the members of the Special Risk Class who may upgrade previous service to Special Risk Class service.

B. EFFECT OF PROPOSED CHANGES:

Background on the Florida Retirement System

Chapter 121, Florida Statutes, is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.¹

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, and community colleges and universities.² The FRS also has participating employees of 151 cities and 186 independent special districts who have elected to join the system.³

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for nearly 600,000 active members and over 270,000 retirees, surviving beneficiaries, and Deferred Retirement Option Program participants.⁴ Members of the FRS defined benefit plan belong to one of five membership classes:

Regular Class ⁵	570,888 members	88.00%
Special Risk Class ⁶	68,466 members	10.59%
Special Risk Administrative Support Class ⁷	80 members	0.01%
Senior Management Service Class ⁸	6,823 members	1.10%
Elected Officers Class ⁹	2,122 members	0.30%

Each class is separately funded through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, Florida Statutes.¹⁰

Expansion of the Special Risk Class and Upgraded Service

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,¹¹ may need to retire at an earlier age with less service than other types of employees.¹² The only employees originally in the Special Risk Class were law enforcement

¹ Fla. Stat. § 121.025 (2005).

² Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

³ Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

⁴ Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at <http://www.frs.state.fl.us/> (last visited Jan. 11, 2006).

⁵ Fla. Stat. § 121.021(12) (2005).

⁶ Fla. Stat. § 121.0515 (2005).

⁷ Fla. Stat. § 121.0515(7) (2005).

⁸ Fla. Stat. § 121.055 (2005).

⁹ Fla. Stat. § 121.052 (2005).

¹⁰ See, e.g., Fla. Stat. 121.055(3)(a)1. (2005).

¹¹ Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

¹² Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

officers, correctional officers, and firefighters.¹³ Starting in 1999, however, the Legislature began expanding the Special Risk Class:

1999	Emergency Medical Technicians and Paramedics ¹⁴
2000	Community-Based Correctional Probation Officers ¹⁵ Twenty-four types of employees of correctional or forensic facilities or institutions ¹⁶
2001	Youth Custody Officers ¹⁷
2005	Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline ¹⁸

Another legislative trend that has followed the expansion of the Special Risk Class is allowing members who have previous service in another class of the Florida Retirement System, usually the Regular Class, to purchase additional retirement credit to upgrade the previous service to Special Risk Class service. In 2001, the Legislature permitted emergency medical technicians and paramedics to purchase credit for upgraded service.¹⁹ In 2002, the Legislature allowed members whose responsibilities included fire prevention or fire fighting training to purchase credit for upgraded service.²⁰

Effect of Bill on Upgraded Service for Medical Examiners and Certain Forensic Employees

This bill permits medical examiners and certain forensic employees who were added to the Special Risk Class in 2005 to purchase additional retirement credit to upgrade previous service in the Florida Retirement System to Special Risk Class service.²¹ The bill requires the contributions for upgrading previous service to Special Risk Class service to be equal to the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest at a rate of 6.5 percent a year, compounded annually until the date of payment. The bill permits an employer to purchase upgraded credit on behalf of a member. The bill provides legislative findings and declares that it fulfills an important state interest.

Constitutional Requirements for Retirement or Pension System Increases

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after

¹³ Ch. 78-308, Laws of Fla.

¹⁴ Ch. 99-392, Laws of Fla., § 23.

¹⁵ Ch. 2000-169, Laws of Fla. § 29.

¹⁶ Ch. 2000-169, Laws of Fla. § 29. (The following employees must spend at least 75 percent of their time performing duties which involve contact with patients or inmates to qualify for the Special Risk Class: dietitian; public health nutrition consultant; psychological specialist; psychologist; senior psychologist; regional mental health consultant; psychological services director-DCF; pharmacist; senior pharmacist (class codes 5248 and 5249); dentist; senior dentist; registered nurse; senior registered nurse; registered nurse specialist; clinical associate; advanced registered nurse practitioner; advanced registered nurse practitioner specialist; registered nurse supervisor; senior registered nurse supervisor; registered nursing consultant; quality management program supervisor; executive nursing director; speech and hearing therapist; and pharmacy manager.).

¹⁷ Ch. 2001-125, Laws of Fla., § 43.

¹⁸ Ch. 2005-167, Laws of Fla. § 1; codified as Fla. Stat. § 121.0515(2)(h) (2005) (The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility; the forensic discipline must be recognized by the International Association for Identification and the member must qualify for active membership in the International Association for Identification). See also Int'l Ass'n for Identification at <http://www.theiai.org/> (last visited Mar. 27, 2006).

¹⁹ Ch. 2001-235, Laws of Fla., § 6.

²⁰ Ch. 2002-273, Laws of Fla., § 16.

²¹ Fla. HB 1165 (2006) (to the extent of the percentages of the member's average final compensation provided in section 121.091(1)(a)2, Florida Statutes).

January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.²²

A recent actuarial study estimated the costs to upgrade previous service of medical examiners and qualifying forensic employees:

The projected increase in actuarial liabilities is \$26.4 million offset by the projected cost the members would pay for the eligible service under this proposal of \$22.1 million, which results in the net additional unfunded liabilities of \$4.3 million.²³

The actuarial study further notes that this change will require an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class.²⁴

The actuarial study explains that this fiscal impact is, in part, a result of differences in benefit accrual rates and contribution rates for certain periods: Benefits now accrue at a rate of 3.0 percent per year for all periods after 1974; yet, contributions between 1978 and 1992 were only funded with contribution rates of 2.0 percent to 2.8 percent.²⁵ Thus, to the extent upgraded service includes this 1978 to 1992 period, there is a shortfall between the price paid by the upgrading members and the true estimated costs to the Florida Retirement System.

Effective July 1, 2006, the bill provides funding for the unfunded liability identified in the actuarial study. The bill provides an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class. The bill also provides \$100,000 from the General Revenue Fund on a recurring basis to fund the associated state costs.

C. SECTION DIRECTORY:

- Section 1: Amends section 121.0515, Florida Statutes, to permit medical examiners and certain forensic employees to purchase upgraded service in the Special Risk Class.
- Section 2: Effective July 1, 2006, provides an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class.
- Section 3: Effective July 1, 2006, provides \$100,000 in recurring General Revenue funding for state agencies.
- Section 4: Provides legislative findings and declares that the bill fulfills an important state interest.
- Section 5: Provides that this bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill *does not* appear to have a fiscal impact on state government revenues.

²² Part VII of chapter 112, Florida Statutes, the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of article X, section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

²³ Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

²⁴ *Id.*

²⁵ *Id.*

2. Expenditures:

This bill appears to have a fiscal impact on state government expenditures. The unfunded liability to the Florida Retirement System from this bill is estimated to cost the state \$87,000 in Fiscal Year 2007.²⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill *does not* appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill appears to have a fiscal impact on local government expenditures. The unfunded liability to the Florida Retirement System from this bill is estimated to cost local governments \$249,000 in Fiscal Year 2007.²⁷

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill *does not* appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The bill increases the Special Risk Class employer contribution rate by 0.01 percent to address the unfunded liability. The bill provides \$100,000 in recurring General Revenue funding to pay the estimated annual cost to the state for the increased employer contributions. The estimated first year cost of the increased employer contributions to local governments is \$249,000.²⁸

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that counties or municipalities have to raise revenue.

This bill is expected, however, to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Because the bill provides that it fulfills an important state interest and the expenditures required by the bill appear to apply to all persons similarly situated, including the state and local governments, the bill appears to satisfy the requirements of section 18 of article VII of the Florida Constitution.²⁹

²⁶ Fla. Dep't of Mgmt. Serv., HB 1165 (2006) Substantive Bill Analysis (Mar. 20, 2006) (on file with dep't).

²⁷ Fla. Dep't of Mgmt. Serv., HB 1165 (2006) Substantive Bill Analysis (Rev. Apr. 7, 2006) (on file with dep't).

²⁸ *Id.*

²⁹ Section 18 of article VII of the Florida Constitution provides that counties and municipalities may not be bound by a general law requiring a county or municipality to spend funds or take an action requiring the expenditure of funds unless it fulfills an important state interest and one of five criteria is met: (1) funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; (2) the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; (3) the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; (4) the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or (5) the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

2. Other:

Article X, Section 14

As previously discussed, benefit increases to public retirement or pension systems may not be made unless funding is concurrently provided for the increase. Since there is a potential delay between the effective date of the benefit (upon becoming law) and the funding (July 1, 2006), this bill does not concurrently provide for the increase and may not satisfy this constitutional requirement.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue: Effective Date

The current effective date of the bill creates a small, but potentially unconstitutional, gap between when the retirement benefit becomes effective and when it is funded.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2006, the Governmental Operations Committee adopted an amendment which provided legislative findings and declared that the bill fulfilled an important state interest. The bill was reported favorably with committee substitute.

On April 11, 2006, the Fiscal Council adopted an amendment to increase the employer contribution rate on July 1, 2006, for the Special Risk Class to address the unfunded liability identified in the actuarial study.³⁰ The amendment also provided beginning with the 2006-2007 fiscal year \$100,000 in recurring General Revenue funding for state agency employers to pay for the increased costs. The bill was reported favorably with committee substitute.

³⁰ Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.