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: Governmental Oversight and Productivity Committee

BILL: SB 2328

INTRODUCER: Senator Atwater and others

SUBJECT: Special Risk Class of the Florida Retirement System

DATE: April 23, 2006 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Wilson	GO	**Favorable**
2.			CA	
3.			WM	
4.				
5.				
6.				

I. Summary:

The bill provides for the purchase of upgraded service credit in the Florida Retirement System by designated employees in the Special Risk Class.

This bill substantially amends s. 121.0515, F.S., directly and s.121.71, F.S., by reference.

II. Present Situation:

Profile of the Florida Retirement System (FRS) and the Special Risk Class[1]

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 648,000 active employees, over 238,000 annuitants (retirees and their surviving beneficiaries), and more than 31,000 participants of the Deferred Retirement Option Program (DROP). As of June 30, 2004, state employees (including university employees) represent 22 percent of the FRS membership. Remaining members are employed by local agencies, including all counties (23 percent), district school boards (49 percent), and community colleges (3 percent), as well as cities and special districts (4 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'

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

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.[2]

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2004-05 (2006-07) plan year under the FRS, the retirement portion of the employer contribution rate for the Special Risk Class is 17.37 (19.76) percent — nearly three times the 6.67 (8.69) percent retirement contribution rate for the Regular Class. Thus, when a membership group moves from the Regular Class to the Special Risk Class, the net monthly employer contributions more than double for affected employers.

Membership criteria.—Under current law, FRS members must meet specified eligibility requirements to qualify for membership in the Special Risk Class. These requirements limit

[2] FRS members may choose to receive benefits from the Pension Plan in one of four ways. Option 1 provides the greatest amount, but is unaccompanied by survivor benefits.

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 ch. 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:

Senate Bill 2328 amends paragraph (a) of s. 121.0515(5), F.S., to:

- Allows emergency medical technicians or paramedics to purchase special risk class membership credit under the same terms and conditions as that provided other public safety employee occupations.
- Provide that the upgraded service would earn Special Risk value for the purposes of calculating retirement benefits.
- Provide that the cost would be the difference between the Regular Class and the Special Risk Class employer contributions due during the period of service being claimed, plus interest.
- Provide that the employer may pay the amount due for the upgraded service.

The Department of Management Services (DMS) states:

A special actuarial study of the law enforcement officer and correctional officer training service upgrade was completed and provided to the Division of Retirement.[3] On March 23, 2006, the 2005 study was updated and revalidated by the division's consulting actuary. The actuary responsible for the study concluded there will be net additional unfunded liabilities as a result of this proposal. (See "Government Sector Impact" section of this analysis.) A tabular display of the analysis is as follows:

Fiscal Impact of SB 2328 on Participating FRS Employers

Employer	FY 2007	FY 2008	FY 2009
State Agencies	$ 672,000	$ 699,000	$ 727,000
Local Governments	$ 1,746,000	$ 1,816,000	$ 1,888,000
TOTAL	$ 2,418,000	$ 2,515,000	$ 2,615,000

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[3] Letter/study from Robert S. Dazube, Consulting Actuary, Milliman, Inc, to Sarabeth Snuggs, State Retirement Director, dated April 5, 2005.

D. Other Constitutional Issues:

To comply with the requirements of Article X, Section 14, of the Florida Constitution, the bill includes a statement of an important state interest and provide for required funding.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides a seven basis point increase (.07 percent, or .0007) in the employer payroll costs to the FRS to fund the benefit change.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There are several methods of funding the fiscal impact of retirement legislation, any one of which is actuarially sound and complies with the constitutional mandate. The most common are the imposition of an additional percentage amount to fund the benefit over its expected thirty-year actuarial term or the recognition of a single lump sum from excess actuarial assets amount to fully fund the benefit. In its present form SB 2328 chooses the former. Employees still bear a cost share based upon the statutory formula.

VIII. Summary of Amendments:

None.