

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 659 Florida Retirement System
SPONSOR(S): Arza and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1064

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee		Mitchell	Williamson
2) Fiscal Council			
3) State Administration Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill continues to expand timeframes of the Deferred Retirement Option Program for educational personnel. The bill increases, from 60 months to 96 months, the period of time that administrative personnel in grades K-12 may participate in Deferred Retirement Option Program of the Florida Retirement System.

The bill makes legislative findings and declares an important state interest.

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

The most significant fiscal impact of this bill is to require K-12 district school boards and the Florida School for the Deaf and Blind to fund the contribution rate of any extended administrative personnel, along with any accompanying contribution rate differential or salary differential. This required contribution rate for extended administrative personnel *appears to satisfy the constitutional requirement to fund benefit increases to public retirement or pension systems.*

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases, from 60 to 96 months, the period of time that administrative personnel in grades K-12 may participate in the Deferred Retirement Option Program.

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 both an investment plan and a defined benefit plan which 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 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

To receive benefits under the FRS, a member must reach his or her “normal retirement date.”¹¹ The normal retirement date depends on the membership class of the member and is based on a minimum number of years of credible service and age (e.g., six or more years and age 62 for a Regular Class member) or specified amount of credible service regardless of age (e.g., 30 years for a Regular Class member).¹²

¹ Fla. Stat. § 121.025 (2005).

² Fla. Dep’t of Mgmt. Serv., *Fla. Div. of Ret. Main Page* (visited Jan. 11, 2006) < <http://www.frs.state.fl.us/>>.

³ *Id.*

⁴ *Id.*

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. § 121.021(29) (2005).

¹² *Id.*

Deferred Retirement Option Program

In 1997, the Florida Legislature created another retirement option for members of the Florida Retirement System: the Deferred Retirement Option Program or "DROP."¹³ The DROP allows a member of the Florida Retirement System, who has reached his or her normal retirement date, to defer the receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer.¹⁴ The deferred monthly benefits accrue on behalf of the member, plus interest compounded monthly, for the period of the DROP participation.¹⁵ After completing the DROP period and terminating employment, the member not only receives the total of the DROP benefits, but also the previously determined normal retirement benefits.¹⁶

Changes in DROP for Educational Personnel

There have been several changes to the DROP which benefit educational personnel, certain "instructional personnel" in particular. Instructional personnel are K-12 staff members who provide direct instructional services to students or direct support in the learning process of students.¹⁷ Classroom teachers,¹⁸ student personnel services,¹⁹ librarians/media specialists,²⁰ and other instructional staff²¹ are specifically included as instructional personnel.²²

- Instructional personnel may elect to participate in DROP at any time following the date on which the member reaches his or her normal retirement date,²³
- Instructional personnel who have received authorization by the district superintendent may participate in the DROP up to 96 months,²⁴ more than the 60 months normally allowed,²⁵
- Instructional personnel employed by a developmental research school and authorized by the school's director or principal may participate in the DROP up to 96 months;²⁶
- Instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind may participate in the DROP up to 96 months.²⁷

This bill continues to change the DROP for the benefit of educational personnel, in this case to allow administrative personnel in grades K-12 to participate in the DROP beyond 60 months, up to the 96-month maximum participation period. Administrative personnel are generally high-level, responsible

¹³ Ch. 97-180, Laws of Fla., § 8.

¹⁴ Fla. Stat. 121.091(13) (2005) (For most members of the Florida Retirement System, the election to participate in DROP must be made within 12 months immediately following the date on which the member first reaches his or her normal retirement date.).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Fla. Stat. 1012.01(2) (2005).

¹⁸ Fla. Stat. 1012.01(2)(a) (2005) (staff members who are assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career education, and adult education, including substitute teachers).

¹⁹ Fla. Stat. 1012.01(2)(b) (2005) (staff members, including guidance counselors, social workers, career specialists, and school psychologists, who are responsible for: advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments; providing placement services; performing educational evaluations; and similar functions.)

²⁰ Fla. Stat. 1012.01(2)(c) (2005) (staff members who are responsible for providing school library media services).

²¹ Fla. Stat. 1012.01(2)(d) (2005) (other staff members including primary specialists, learning resource specialists, instructional trainers, adjunct educators, and similar positions).

²² *But see* Fla. Stat. 1012.01(2)(e) (2005) (Education paraprofessionals are also included in the definition of instructional personnel, but educational paraprofessionals have not been provided additional participation in the DROP).

²³ Ch. 2001-47, Laws of Fla., § 2; Fla. Stat. § 121.091(13)(a)6. (2005).

²⁴ Ch. 2003-260, Laws of Fla., §2; Fla. Stat. § 121.091(13)(a)2. (2005).

²⁵ Fla. Stat. § 121.091(13)(b)1. (2005).

²⁶ Ch. 2004-355, Laws of Fla., § 3 (2005).

²⁷ *See, e.g.,* Fla. Stat. § 121.091(13)(b)1. (2005).

personnel who have been assigned the responsibilities of systemwide or schoolwide functions and 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.²⁸ District school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, and career center directors are considered administrative personnel²⁹ in the three broad administrative personnel classifications: district-based instructional administrators,³⁰ district-based noninstructional administrators,³¹ and school administrators.³²

C. SECTION DIRECTORY:

Section 1: Amends paragraphs (a) and (b) of subsection (13) of section 121.091, Florida Statutes, to increase the period of time that administrative personnel in grades K-12 may participate in DROP.

Section 2: Declares an important state interest.

Section 3: Makes the bill effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Florida Retirement System will receive longer, and likely increased, DROP contributions for administrative personnel in grades K-12.

2. Expenditures:

This bill may have a fiscal impact on state government expenditures if this bill adversely affects future valuations of the Florida Retirement System.³³

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 will require the K-12 district school boards and the Florida School for the Deaf and Blind to fund the DROP contribution rate for any extended period for administrative personnel.³⁴ This bill

²⁸ Fla. Stat. § 1012.01(3) (2005).

²⁹ *Id.*

³⁰ Fla. Stat. § 1012.01(3)(a) (2005) ("This includes persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the instructional program.. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major instructional areas, such as curriculum, federal programs such as Title I, specialized instructional program areas such as exceptional student education, career education, and similar areas.").

³¹ Fla. Stat. § 1012.01(3)(b) (2005) ("This includes persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the noninstructional program. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major noninstructional areas, such as personnel, construction, facilities, transportation, data processing, and finance.").

³² Fla. Stat. § 1012.01(3)(c) (2005) ("This includes school principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors. This also includes assistant principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.").

³³ Fla. Dep't of Mgmt. Serv., HB 659 (2006) Substantive Bill Analysis (Feb. 3, 2006) (on file with dep't) at pg. 5.

also may have two additional fiscal impacts: differentials between the DROP contribution rates and the Florida Retirement System contribution rates and salary differentials between the DROP employees and the employees who could replace the DROP employee.³⁵

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 Department of Management Services provided the following fiscal note from the enrolled actuary regarding this bill:

Expansion of the members eligible for extended DROP participation would have a nominal fiscal impact and depend upon how liberally the district school boards permit this to happen. This impact would be determined in future valuations and incorporated into the rates recommended at that time.³⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. 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 municipalities have to raise revenue.

2. Other:

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 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.³⁷ According to the Department of Management Services, the actuarial impact of extending the DROP is properly funded as long as employers pay the required contribution rate.³⁸ As such, this bill appears to 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:

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at pg. 6.

³⁷ 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.

³⁸ Fla. Dep't of Mgmt. Serv., HB 659 (2006) Substantive Bill Analysis (Feb. 3, 2006) (on file with dep't) at pg. 5.

“In Grades K-12”

The reference to administrative personnel as defined in section 1012.01(3), Florida Statutes, “in grades K-12” may create ambiguity as it applies to the three broad administrative personnel classifications since it is not clear if the bill applies to all three or only school administrators. The sponsor may wish to revise this reference.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.