



# 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 school administrators 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.<sup>1</sup>

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

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.<sup>4</sup> Members of the FRS belong to one of five membership classes:

Regular Class <sup>5</sup>	570,888 members	88.00%
Special Risk Class <sup>6</sup>	68,466 members	10.59%
Special Risk Administrative Support Class <sup>7</sup>	80 members	0.01%
Senior Management Service Class <sup>8</sup>	6,823 members	1.10%
Elected Officers Class <sup>9</sup>	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.<sup>10</sup>

To receive benefits under the FRS, a member must reach his or her “normal retirement date.”<sup>11</sup> 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).<sup>12</sup>

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<sup>1</sup> Fla. Stat. § 121.025 (2005).

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

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Fla. Stat. § 121.021(12) (2005).

<sup>6</sup> Fla. Stat. § 121.0515 (2005).

<sup>7</sup> Fla. Stat. § 121.0515(7) (2005).

<sup>8</sup> Fla. Stat. § 121.055 (2005).

<sup>9</sup> Fla. Stat. § 121.052 (2005).

<sup>10</sup> See, e.g., Fla. Stat. 121.055(3)(a)1. (2005).

<sup>11</sup> Fla. Stat. § 121.021(29) (2005).

<sup>12</sup> *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.”<sup>13</sup> 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.<sup>14</sup> The deferred monthly benefits accrue on behalf of the member, plus interest compounded monthly, for the period of the DROP participation.<sup>15</sup> 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.<sup>16</sup>

## 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.<sup>17</sup> Classroom teachers,<sup>18</sup> student personnel services,<sup>19</sup> librarians/media specialists,<sup>20</sup> and other instructional staff<sup>21</sup> are specifically included as instructional personnel.<sup>22</sup>

- 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,<sup>23</sup>
- Instructional personnel who have received authorization by the district superintendent may participate in the DROP up to 96 months,<sup>24</sup> more than the 60 months normally allowed,<sup>25</sup>
- 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;<sup>26</sup>
- 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.<sup>27</sup>

This bill continues to change the DROP for the benefit of educational personnel, in this case to allow school administrators in grades K-12 to participate in the DROP beyond 60 months, up to the 96-month maximum participation period. School administrators are those school principals or school directors

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<sup>13</sup> Ch. 97-180, Laws of Fla., § 8.

<sup>14</sup> 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.).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Fla. Stat. 1012.01(2) (2005).

<sup>18</sup> 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).

<sup>19</sup> 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.)

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

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

<sup>22</sup> *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).

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

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

<sup>25</sup> Fla. Stat. § 121.091(13)(b)1. (2005).

<sup>26</sup> Ch. 2004-355, Laws of Fla., § 3 (2005).

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

that serve as the administrative head of a school and who are responsible for the coordination and administrative direction of the instructional and non-instructional activities of the school.<sup>28</sup> Certain assistant principals<sup>29</sup> and career center directors are also school administrators.<sup>30</sup>

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 school administrators 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 school administrators 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.<sup>31</sup>

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 school administrators.<sup>32</sup> This bill 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.<sup>33</sup>

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:

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<sup>28</sup> Fla. Stat. § 1012.01(3)(c) (2005).

<sup>29</sup> *Id.* (assistant principals who are staff members assisting the administrative head of the school and assistant principals for curriculum and administration).

<sup>30</sup> *Id.*

<sup>31</sup> Fla. Dep't of Mgmt. Serv., HB 659 (2006) Substantive Bill Analysis (Feb. 3, 2006) (on file with dep't) at pg. 5.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

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.<sup>34</sup>

### 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.<sup>35</sup> 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.<sup>36</sup> 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:

##### Other Comments: Educational DROP Expansion

The Department of Management Services provided the following relevant background information regarding the expansion of the DROP for certain educational personnel and the ramifications of those changes:

The original purpose of creating extended DROP participation was part of the short-term solution to alleviate the critical shortage of instructional personnel in grades K-12 exacerbated by the number of teachers who would terminate because they had reached their maximum DROP participation in June 2003. Other long-term solutions to the shortage of classroom teachers were being formulated by the Legislature.

As the groups covered by DROP extension provisions become liberalized, there is increasing pressure for parity driving the liberalization of this benefit instead of the temporary solution to a critical shortage of employees. The ability to extend DROP participation will be sought by other

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<sup>34</sup> *Id.* at pg. 6.

<sup>35</sup> 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.

<sup>36</sup> Fla. Dep't of Mgmt. Serv., HB 659 (2006) Substantive Bill Analysis (Feb. 3, 2006) (on file with dep't) at pg. 5.

employee groups or other employers, which could result in this benefit becoming more broadly available, or pressure to create a longer initial participation period for DROP.<sup>37</sup>

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On April 5, 2006, the Governmental Operations Committee adopted a “strike-everything” amendment and reported the bill favorably with committee substitute. The amendment further defined school administrators as the only administrative personnel who may increase their participation in the DROP.

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<sup>37</sup> *Id.* at pg. 2.