

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 225 Florida Retirement System
SPONSOR(S): Domino and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 622

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|---------|---------------|----------------|
| 1) <u>Government Efficiency & Accountability Council</u> | <u></u> | <u>Cámara</u> | <u>Cooper</u> |
| 2) <u>Policy & Budget Council</u> | <u></u> | <u></u> | <u></u> |
| 3) <u></u> | <u></u> | <u></u> | <u></u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

The Special Risk Class of the Florida Retirement System (FRS) was created to recognize that certain employees, because of the nature of the work they perform, may need to retire at an earlier age with less service than other types of employees. As such, members of the Special Risk Class can retire at age 55 or with 25 years of creditable service.

This bill expands the membership of the Special Risk Class by adding state and local government public safety dispatchers and 911 operators and their supervisors.

The bill creates an increase in expenditures by those local governments who have employees affected by the bill and who are compulsory members of the FRS; therefore, the bill appears to meet the criteria for a mandate under the provisions of section 18(a), article VII of the State Constitution. The bill applies to state and local governments and therefore appears to apply to all persons similarly situated; however, the bill does not contain the required statement regarding its fulfilling an important state interest. As such, *the bill would require a two-thirds vote for passage.*

FISCAL IMPACT

State and local FRS employers will pay an additional 11.07 percent retirement contribution rate for all eligible employees that must be transferred from the Regular Class, which is at a current rate of 8.69 percent, to the Special Risk Class, which is at a current rate of 19.76 percent. Conservative preliminary estimates of recurring costs include \$2.2 million for the state and \$13.6 million for local government employers.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill expands the Special Risk Class to include public safety dispatchers and 911 operators.

B. EFFECT OF PROPOSED CHANGES:

Florida Retirement System

Chapter 121, F.S., 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, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 158 cities and 192 independent special districts that have elected to join the system.²

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for over: 600,000 active members, 252,000 retirees and surviving beneficiaries, and 31,000 Deferred Retirement Option Program participants.³ Members of the FRS belong to one of five membership classes:

| | | |
|---|-----------------|----------------------------------|
| 1. Regular Class ⁴ | 583,213 members | 87.73% of membership |
| 2. Special Risk Class ⁵ | 72,078 members | 10.84% of membership |
| 3. Special Risk Administrative Support Class ⁶ | 74 members | 0.01% of membership |
| 4. Elected Officers' Class ⁷ | 2,195 members | 0.33% of membership |
| 5. Senior Management Service Class ⁸ | 7,259 members | 1.09% of membership ⁹ |

Each class is funded separately 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, F.S.¹⁰

The Special Risk Class and its expansion

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 As such, members of the Special Risk Class can retire at age 55 or with 25 years of creditable service.¹³ Members of the Special Risk Class also earn a higher normal retirement benefit of

¹ Section 121.025, F.S.

² FL Dept. of Mgmt. Svcs., *Florida Division of Retirement Main Page* (visited Feb. 12, 2007) <www.frs.state.fl.us>

³ *Id.*

⁴ Section 121.021(12), F.S.

⁵ Section 121.0515, F.S.

⁶ Section 121.0515(7), F.S.

⁷ Section 121.052, F.S.

⁸ Section 121.055, F.S.

⁹ FL Dept. of Mgmt Svcs., HB 225 (2007) Substantive Bill Analysis at 3 (Feb. 1, 2007) (on file with the department and the Government Efficiency & Accountability Council).

¹⁰ *See, e.g.*, s. 121.055(3)(a)1., F.S.

¹¹ Section 125.0515(1), F.S. (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

¹² *Id.*

¹³ Section 121.021(29), F.S., defines normal retirement date, which contrasts with members of the Regular Class who can retire at age 62 or with 30 years of creditable service.

three percent of the member's average final compensation.¹⁴ These increased benefits are funded through higher employer contribution rates: 19.76 percent of gross compensation, effective July 1, 2006, and 21.96 percent, effective July 1, 2007.¹⁵

The only employees originally in the Special Risk Class were law enforcement officers, correctional officers, and firefighters.¹⁶ Starting in 1999, however, the Legislature began expanding the membership to include:

| | |
|------|--|
| 1999 | Emergency medical technicians and paramedics ¹⁷ |
| 2000 | Community-based correctional probation officers ¹⁸ |
| 2000 | Twenty-four types of employees of correctional or forensic facilities or institutions ¹⁹ |
| 2001 | Youth custody officers ²⁰ |
| 2005 | Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline ²¹ |

Proposed Changes

Currently, public safety dispatchers or 911 operators and their supervisors are members of the Regular Class of the FRS where they earn retirement credit at the rate of 1.60 percent to 1.68 percent of their average final compensation²² (AFC) for each year of service. This bill continues the expansion of the Special Risk Class by adding state and local government public safety dispatchers or 911 operators whose duties and responsibilities include answering 911 calls; dispatching law enforcement, fire rescue services, emergency management services and other public safety services to the scene of an emergency; and providing real-time information from federal, state, and local crime databases. The bill also includes supervisors or command officers of the aforementioned employees, but does not include administrative support personnel, including those who perform accounting, purchasing, legal, and personnel duties.

As members of the Special Risk Class, the value for each year of service would almost double to three percent of AFC for each year of service. In addition, the vested member would be eligible for full benefits after 25 years of service or at age 55, instead of being required to meet the Regular Class normal retirement requirements.²³

¹⁴ Section 121.091(1)(a)2.h., F.S. (compared with 1.60 percent to 1.68 percent for Regular Class members).

¹⁵ Section 121.71(3), F.S. (compared with 8.69 percent, effective July 1, 2006, and 9.55 percent effective July 1, 2007, for Regular Class members).

¹⁶ Ch. 78-308, L.O.F.; codified as s. 121.0515, F.S.

¹⁷ Ch. 99-392, L.O.F., s. 23.

¹⁸ Ch. 2000-169, L.O.F., s. 29.

¹⁹ *Id.* (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: dietician; public health nutrition consultant; psychological specialist; psychologist; senior psychologist; regional mental health consultant; psychological services director-DRC; pharmacist; certain senior pharmacists; 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).

²⁰ Ch. 2001-125, L.O.F., s. 43.

²¹ Ch. 2005-167, L.O.F., s. 1; codified as s. 121.0515(2)(h), F.S. (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).

²² Section 121.021(24), F.S. defines "average final compensation" as the average of the five highest fiscal years of compensation for creditable service prior to retirement, termination, or death.

²³ Section 121.121(29), F.S., defines normal retirement date (this contrasts with members of the Regular Class who can retire at age 62 or with 30 years of creditable service).

C. SECTION DIRECTORY:

Section 1 amends s.121.021, F.S., to amend the definition of special risk member.

Section 2 amends s. 121.0515, F.S., to provide membership in the Special Risk Class for public safety dispatchers and 911 operators and their supervisors.

Section 3 provides for an effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has a negative recurring cost to state expenditures:²⁴

| Year 1 | Year 2 | Year 3 |
|-----------------|-----------------|-----------------|
| <u>FY 07/08</u> | <u>FY 08/09</u> | <u>FY 09/10</u> |
| \$2,175,263 | \$2,262,274 | \$2,352,765 |

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill has a negative recurring cost to local government expenditures:²⁵

| Year 1 | Year 2 | Year 3 |
|-----------------|-----------------|-----------------|
| <u>FY 07/08</u> | <u>FY 08/09</u> | <u>FY 09/10</u> |
| \$13,642,678 | \$14,169,665 | \$14,736,451 |

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:

State and local FRS employers will pay an additional 11.07 percent retirement contribution rate for all eligible employees that must be transferred from the Regular Class, which is at a current rate of 8.69 percent, to the Special Risk Class, which is at a current rate of 19.76 percent.

Based on survey performed by the Legislative Committee on Intergovernmental Relations,²⁶ it is estimated there are approximately 565 public safety dispatchers or 911 operators and supervisors or

²⁴ FL Dept. of Mgmt Svcs., HB 225 - REVISED (2007) Substantive Bill Analysis at 7 (April 5, 2007) (on file with the department and the Government Efficiency & Accountability Council).

²⁵ *Id.*

²⁶ The survey included the boards of county commission and the sheriff for 66 counties that could be affected as well as five state agencies anticipated to have positions covered by this bill. State universities, state community colleges, school boards, municipalities, and special districts participating in the FRS were not included in the survey. Responses were received from one of the county offices in 53 counties and four of the state agencies. Based upon these responses, positions and salaries costs for the estimates were projected for the non-responding county and state agencies. *Id.*

command officers employed with state agencies, who would be affected by this bill. The survey estimated the annual wages for these employees to be \$18,894,301 during fiscal year 2006-2007.²⁷

In addition, it is estimated that there are approximately 2,914 public safety dispatchers or 911 operators and supervisors or command officers employed with Boards of County Commissioners and Sheriffs' Officers, who would be affected by the bill. The survey estimated the annual wages for these employees to be \$118,343,736 during fiscal year 2006-2007.²⁸

The following note was provided by the Department of Management Services' enrolled actuary:

Employers of the affected members will be required to pay the higher Special Risk Class rate instead of the Regular Class rate. If enacted, the fiscal impact of HB 225 would be primarily funded by higher contributions and investment returns on those contributions. Based on a survey of select local government and state agencies performed by the Legislative Committee on Intergovernmental Relations, it is estimated there are a minimum of 3,479 public safety dispatchers or 911 operators and supervisors or command officers of such employees employed with the Boards of County Commissioners, Sheriffs' Offices, and state agencies . . . Any fiscal impact resulting from a change in class demographics or actuarial experience due to the provisions of this bill would be reflected in rates recommended by future valuations of the FRS and paid by all FRS employers with Special Risk Class members.²⁹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill creates an increase in expenditures by those local governments who have employees affected by the bill and who are compulsory members of the Florida Retirement System; therefore, the bill appears to meet the criteria for a mandate under the provisions of section 18(a), article VII of the State Constitution. The bill applies to state and local governments and therefore appears to apply to all persons similarly situated, complying with one of the conditions of section 18(a), article VII of the State Constitution; *however, the bill does not contain the required statement regarding its fulfilling an important state interest. As such, the bill would require a two-thirds vote for passage.*³⁰

2. Other:

For Special Risk membership, the employers of the new special risk members will pay an additional 11.07 percent of pay (the difference between the Regular and Special Risk Class rates, for the period from July 1, 2006 through June 30, 2007)³¹ for each affected member. This increase in the required contribution rate appears to satisfy the requirements of section 14, article X of the State Constitution and ch. 112, part VII, F.S.,³² to fund benefit increases to public retirement or pension systems.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 8.

³⁰ Article VII, section 18 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 to take an action requiring the expenditure of funds unless it fulfills an important state interest and one of five criteria: (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.

³¹ Section 121.71(3), F.S.

³² Ch. 112, part VII, F.S., 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

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill appears to satisfy one of the requirements of article VII, section 18 of the Florida Constitution; however the bill does not include a declaration of important state interest. This bill may be amended to include a declaration of important state interest, otherwise *the bill may require approval by a two-thirds vote of the membership in each house of the Legislature for passage.*

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.