

The Florida Senate
PROFESSIONAL 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 Operations Committee

BILL: CS/SB 2744

INTRODUCER: Education Pre-K - 12 Committee and Senator Alexander

SUBJECT: Instructional Personnel

DATE: April 13, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Matthews</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill authorizes charter school instructional personnel employed in grades prekindergarten through 12 to participate in the Deferred Retirement Option Program (DROP) extension if they are funded through the Florida Education Finance Program (FEFP), and provided that the governing board of the charter school approves the extension.

This bill provides a DROP extension for prekindergarten instructional personnel in the public school system funded through the FEFP.

This bill substantially amends section 121.091 of the Florida Statutes.

II. Present Situation:

Florida Retirement System and the Deferred Retirement Option Program

Chapter 121, F.S., contains the Florida Retirement System Act for specified public employees.¹ A member of the Florida Retirement System (FRS) is not eligible to receive benefits until terminating employment or starting participation in the Deferred Retirement Option Program (DROP).² Eligibility for participation in DROP includes certain active:

- Florida Retirement System members in regularly established positions;
- Teacher's Retirement System members; or

¹ Section 121.011(1), F.S.

² Section 121.091, F.S.

- State and County Officers' and Employees' Retirement System members.³

The DROP program authorizes eligible members of the FRS to elect to defer retirement benefits to continue employment with an FRS employer. The benefit of DROP is that deferred monthly benefits accrue in the System Trust Fund on behalf of the participant, plus compounded interest, for the fixed period of DROP participation. Upon termination, the participant receives total DROP benefits in addition to beginning to receive original normal retirement benefits. Members entering DROP are permitted to pre-select their DROP end date, or final retirement date. All state employees, including school district employees, who are eligible to retire, have the option of participating in DROP. A 60-month period is the maximum authorized, unless the eligible member qualifies as instructional personnel, as defined in s. 1012.01(2)(a) through (d), F.S., and is approved by the district school superintendent or Board of Trustees of the Florida School for the Deaf and the Blind, as applicable, to serve up to 96 months.⁴

Instructional Personnel

Instructional personnel are defined to include any K-12 staff member whose functions provide direct support in the learning process of students.⁵

Instructional personnel include:

- Classroom teachers;
- Student personnel services;
- Librarians/media specialists;
- Other instructional staff, such as primary specialists, learning resource specialists, instructional trainers, and adjunct educators; and
- Education Paraprofessionals, including classroom paraprofessionals in regular instruction, exceptional education paraprofessionals, career education paraprofessionals, adult education paraprofessionals, library paraprofessionals, and physical education and playground paraprofessionals, where they work under the direct supervision of an instructional staff member.

Section 1012.01, F.S., distinguishes instructional personnel from school officers and administrative personnel.

III. Effect of Proposed Changes:

This bill provides for the extension of DROP beyond 60 months to up to 96 calendar months for certain charter school instructional personnel in grades prekindergarten through 12. Eligibility for participation in extended DROP requires authorization from the governing board of the charter school. Instructional personnel that are eligible for this extension are classroom teachers, student personnel services, librarians/media specialists, and other instructional staff. Education paraprofessionals at charter schools would be included as qualifying for DROP extension in this bill. Charter school instructional personnel, as defined in s. 1012.01(2)(a) through (d), F.S., are

³ Section 121.091(13)(a), F.S.

⁴ Section 121.091(13), F.S.

⁵ Section 1012.01(2), F.S.

already eligible for the DROP extension but require district school superintendent approval. This bill shifts approval to the charter school board.

This bill also expands current DROP extension for instructional personnel to include those employed in prekindergarten in the public school system and clarify that the current DROP extension for instructional personnel is for those in the public school system who are funded through the Florida Education Finance Program (FEFP).

IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Sound Actuarial Basis Requirement

Section 14 of Article X of the State Constitution requires that any changes made to a publicly funded retirement or pension system resulting in an increase in member or beneficiary benefits must also include provision for the funding of the increase in benefits on a sound actuarial basis.

Section 18(a) of Article VII of the State Constitution provides, in part:

No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest....

This provision additionally requires certain criteria to be met.

According to the Department of Management Services, and the enrolled actuary, expanding existing DROP extension provisions to include prekindergarten through grade 12 instructional personnel in charter schools will not adversely impact the FRS.⁶ Therefore, it appears that this bill complies with the requirements of Section 14 of Article X, and Section 18(a) of Article VII of the State Constitution. Therefore, an actuarial study is not required.

⁶ Robert Dezube, Enrolled Actuary, *Fiscal Note*, April 2, 2007.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill would provide greater financial earning flexibility to instructional personnel with students funded through the FEFP at charter schools, and to prekindergarten teachers at public schools that are funded through the FEFP.

C. Government Sector Impact:

The Department of Management Services indicates the extended DROP participation proposed by this bill would have a nominal fiscal impact on the FRS.

For prekindergarten through 12 instructional personnel who participate in DROP for up to 36 months beyond their initial 60 month participation period, the actuarial impact of extended DROP participation is properly funded as long as employers pay the required contribution rate. However, other employer budget costs may result, including salary differentials and FRS contribution rates. Any fiscal impact to the FRS from these impacts would be determined in future valuations. The payment obligation for accumulated leave would only be postponed with extended DROP participation and if this payout amount would be based on a higher hourly wage, there could be higher costs to these employers.

According to the enrolled actuary, expanding existing DROP extension provisions to include prekindergarten through grade 12 instructional personnel in charter schools will not adversely impact the FRS.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Management Services indicates the following:

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

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁷ Robert Dezube, Enrolled Actuary, *Fiscal Note*, April 2, 2007.

VIII. Summary of Amendments:

None.

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