

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: Criminal Justice Committee

BILL: SB 398

INTRODUCER: Senator Margolis

SUBJECT: FRS/Upgrade Prior Service/Special Risk

DATE: February 16, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.	_____	_____	GO	_____
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends s. 121.0515(9), F.S., to allow a Special Risk Class member who has earned creditable service in another Florida Retirement System (FRS) membership class while employed by a medical examiner office in a position with duties in a recognized forensic discipline, employed as a Medical Examiner, or as an employee of a law enforcement agency in a forensic discipline as described in s. 121.0515(2)(h), F.S., to upgrade this prior creditable service within the purview of the class to the Special Risk Class accrual value.

The member's cost to purchase this upgrade of service credit would be the difference in the employer contribution rates for those two classes in effect for the period being claimed, plus interest. The employer may pay for some or all of the upgrade cost on behalf of the employee.

The bill also provides for an employer contribution rate increase of 0.01 percent for the Special Risk Class effective July 1, 2007, to fund the projected unfunded actuarial liabilities that would not be covered by the member cost to upgrade prior service as proposed in this bill.

This bill would take effect July 1, 2007.

This bill substantially amends section 121.0515 of the Florida Statutes.

II. Present Situation:

The active membership of the Florida Retirement System (FRS) Pension Plan is divided into five membership classes: The Regular Class consists of 583,213 members (87.73 percent of the membership); the Special Risk Class includes 72,078 members (10.84 percent), the Special Risk

Administrative Support Class has 74 members (0.01 percent), the Elected Officers' Class has 2,195 members (0.33 percent), and the Senior Management Service Class has 7,259 members (1.09 percent). The count of members by class is as of June 30, 2006, and 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, 2006, with 72,078 active members in the Special Risk Class and 74 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 may 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. The comparison of equivalent benefits was determined when 25 years at a 2 percent Special Risk Class accrual value resulted in 50 percent of the average final compensation compared to 48 percent of average final compensation for a Regular Class member with 30 years of service at a 1.60 percent per year accrual value.

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.

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2006-07 plan year under the FRS, the retirement portion of the employer contribution rate under the uniform rate structure for the Special Risk Class is 19.76 percent—significantly higher than the 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 monthly employer contributions required for that group increases by over 2.25 times for affected employees.

Membership Criteria

Under current law, FRS members must meet specified eligibility requirements to qualify for membership in the Special Risk Class. These requirements limit membership to employees who meet the criteria for Special Risk membership as set forth in applicable s. 121.0515, F.S., and who are employed by an FRS employer in one of the following positions:

- law enforcement officer
- firefighter
- correctional officer
- correctional probation officer
- emergency medical technician
- paramedic
- youth custody officer
- forensic positions with a law enforcement agency or medical examiner's office in disciplines recognized by the International Association for Identification (IAI)
- Specified professional health care and forensic positions who spend at least 75 percent of their time performing duties involving inmate or patient contact in the Departments of Corrections and Children and Families.

III. Effect of Proposed Changes:

FRS members who are employed by a law enforcement agency or a medical examiner's office in a forensic discipline recognized by the International Association for Identification (IAI) and who qualify for membership in the IAI, became eligible for Special Risk Class membership on or after October 1, 2005. The bill would allow any member of the Special Risk Class who has previous service under another class of membership within the forensic eligibility purview of the Special Risk Class to upgrade this service to Special Risk Class value.

The cost proposed for the employer and employee conforms to a 2006 actuarial special study performed by Milliman Inc., Consulting Actuaries.

The member cost would be the difference in contributions paid for the two membership classes for the affected period, plus interest. Since most such service before October 1, 2005, would have been in the FRS Regular Class, the retirement credit accrual rate (and the resulting benefits) would nearly double for the affected period – from 1.6 percent to 3.0 percent per year of service. The special study was based upon the number of forensic positions being reported at the time of the study and identified by employers responding to a Department of Management Services/Milliman, Inc. survey. The number of Special Risk Class members who are not currently in a forensic position that might be affected with prior service in the positions described is unknown.

According to the Department of Management Services (DMS) analysis of this bill, the member price for the prior service credit upgrade as provided by the bill does not account for the entire fiscal impact of this substantial retroactive increase in accrual values. The bill does provide for a 0.01 percent increase in the Special Risk Class contribution rate identified in a 2006 actuarial study performed by Milliman Inc., Consulting Actuaries, as the rate increase necessary to offset

the remaining projected unfunded liabilities not offset by the member cost to purchase the upgraded service. Any costs not covered by this individual pricing structure and the 0.01 percent increase in the Special Risk Class employer contribution rate would be shifted to the system and could result in increased contribution rates for all employers with Special Risk Class members in future valuations.

Effective July 1, 2000, the value of certain Special Risk Class service earned with an accrual value of less than 2 percent per year was increased substantially for all members retiring on or after that date, and the increase was given retroactive effect for all service credit originally earned in the Special Risk Class from October 1, 1978, through December 31, 1992. The \$689 million required to pay the unfunded actuarial liability for upgrading to 3 percent all Special Risk Class service credit earned for this period was paid from actuarial surplus assets of the FRS Trust Fund, in lump-sum payments over a 3-year period. Because the upgrade of service credit covered by this bill was covered by the Regular Class when it was originally performed, any upgraded service credit for work performed in a forensic position between October 1, 1978, and December 31, 1992, would not be covered by the upgrade of service originally earned in the Special Risk Class during this period.

The bill provides a declaration of important state interest, and becomes effective July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

DMS states: “Under the provisions of the bill, the service credit upgrade would be purchased by the member or by the employer, who is allowed (but not required) to pay for the upgrade. If the employer pays for the upgrade, the cost would eventually be passed along to the taxpayers. Once again, the number of affected employees who may take advantage of this opportunity to upgrade service is unknown, and the longer members delay before purchasing upgraded service, the greater the cost to the system. Any costs not covered by this pricing structure would be shifted to the system and could result in increased contribution rates for all employers with Special Risk Class members whether or not they have employees who are affected by the upgrade provision of this bill.

Because Special Risk Class contribution rates would be increased as a result of the enactment of Senate Bill 398, local agencies may find it necessary to reduce spending in other areas or be forced to increase taxes in order to fund the increase.

Based on the results of the actuarial special study, the required employer contribution rate increase (if effective July 1, 2007) would result in additional contributions of:	Year 1	Year 2	Year 3
	<u>FY</u>	<u>FY</u>	<u>FY</u>
	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>
	\$276,000	\$287,000	\$299,000

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill complies with the requirements of Article X, Section 14 of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The DMS analysis of this bill states:

“The price charged the member for the upgrade is the difference between the contribution rates actually paid and the rates that would have been charged if the member had been in the Special Risk Class during the affected period. This “price” does not cover the full cost of the benefit improvement.

We know that there is a hidden cost to the system to permit such class upgrades as proposed by this bill, because the established statutory cost formula for a member purchasing the upgraded service is insufficient to fund the true cost of the benefit. Any cost not covered by the member cost formula and the employer contribution rate increase becomes a system liability that must be addressed in periodic actuarial valuations and experience studies. The price insufficiency is exacerbated for service being upgraded to the Special Risk Class value implemented after July 1, 2000. This is because the upgrading members are only required to pay the contribution rates charged during the affected period of service – during which time a year of Special Risk Class service could have been valued at percentage levels ranging from 2% to 2.8% and funded accordingly – while benefits would be based on upgraded service valued at 3% per year.

A special actuarial study was performed by Milliman Inc., Consulting Actuaries, to determine the cost to the system to permit Special Risk Class members to upgrade service (usually Regular Class) to Special Risk Class value while they were employed as a medical examiner or in a specified forensic discipline in a law enforcement agency. The study used the 403 members who would have been eligible at the time of the 2005 FRS Valuation and projected that three times that number will actually be identified as eligible to upgrade the service.

As of July 1, 2007, based upon the results of this study, there is a projected net increase in unfunded actuarial liabilities to the system of \$4.704 million as a one-time payment. Otherwise, there is a required increase in the employer Special Risk contribution rate of 0.01% which must be paid by all Special Risk employers, regardless of whether they have the types of positions covered by this bill.

It should be noted that with over 660,000 active members, the fiscal and actuarial effect of this bill on the FRS is negligible. However, a global analysis should be considered in

whether the geometric expansion of special risk eligibility and benefit enhancement can continue in perpetuity.”

B. Private Sector Impact:

See the discussion above related to the DMS analysis of the bill, in which it is suggested that the costs of the bill may result in local agencies finding it necessary to reduce spending in other areas or be forced to increase taxes in order to fund the increase.

C. Government Sector Impact:

The DMS analysis has estimated cost to the state is as follows:

Based on the results of the actuarial special study, the required employer contribution rate increase (if effective July 1, 2007) would result in additional contributions of:	Year 1 <u>FY</u> <u>07/08</u>	Year 2 <u>FY</u> <u>08/09</u>	Year 3 <u>FY</u> <u>09/10</u>
	\$105,000	\$110,000	\$114,000

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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