

**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: SB 414

INTRODUCER: Senators Wise and Rich

SUBJECT: The Florida Retirement System

DATE: March 23, 2007      REVISED: \_\_\_\_\_

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

**I. Summary:**

This bill authorizes district school superintendents to approve designated administrative personnel participation in the Deferred Retirement Option Program (DROP) for an extension of up to 36 months beyond the 60 month maximum currently available. Specified administrative personnel would then be authorized to participate in DROP for up to 96 months. For district-based administrators, approval must be tied to school-board designated critical administrative shortage.

This bill substantially amends section 121.091 of the Florida Statutes.

**II. Present Situation:**

**Florida Retirement System (FRS) and the Deferred Retirement Option Program (DROP)**

Chapter 121, F.S., provides the Florida System Retirement Act for designated public employees.<sup>1</sup> A normal retirement date is attained where a Regular Class or a Senior Management Service Class member completes at least six years of creditable service and reaches 62 years of age, or completes 30 years of creditable service, regardless of age.<sup>2</sup> An eligible employee may elect participation in the Deferred Retirement Option Program (DROP), by deferring receipt of retirement benefits while continuing employment with an FRS employer.<sup>3</sup> The benefit of DROP is that deferred monthly benefits accrue in the System Trust Fund, in addition to compounded

<sup>1</sup> Section 121.011(1), F.S.

<sup>2</sup> Section 121.021(29), F.S.

<sup>3</sup> Section 121.091(13), F.S.

interest, for the full period of DROP participation. Upon termination of employment, the participant receives the total DROP amount, and also begins to receive original normal retirement benefits.

All state employees, including school district employees, who are eligible to retire, have the option of participating in DROP.<sup>4</sup> The standard DROP period is for a maximum of 60 calendar months. An extension to up to 96 months is authorized for the following classes:

- Instructional personnel of the Florida School for the Deaf and the Blind who are authorized by the Board of Trustees; and
- Employees of K-12 schools who are instructional personnel, employed as classroom teachers; student personnel service staff; librarians/media specialists; or other instructional staff.<sup>5</sup>

### **Administrative Personnel**

Administrative personnel are defined as:

Personnel 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.<sup>6</sup>

Generally tasked with high-level oversight, administrative personnel includes district school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, and career center directors. Classes of administrative personnel are designated as district-based instructional administrators; district-based non-instructional administrators; and school administrators.<sup>7</sup>

### **III. Effect of Proposed Changes:**

The authority currently provided to qualifying instructional personnel to extend DROP participation, is expanded to include the category of administrative personnel. As is the case with instructional personnel, any extension requires district school superintendent approval. Authority to extend DROP for the classes of district-based instructional or non-instructional administrators must be tied to school-board-designated areas of critical administrative shortage. The class of school-based administrators is not subject to the critical shortage requirement.

This bill includes a statement that an important state interest is served, and that these provisions comply with s. 14, art. X of the State Constitution.<sup>8</sup>

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<sup>4</sup> Section 121.091(13)(a), F.S.

<sup>5</sup> Section 1012.01(2)(d), F.S., defines other instructional staff to include primary specialists, learning resource specialists, instructional trainers, and certified adjunct educators.

<sup>6</sup> Section 1012.01(3), F.S.

<sup>7</sup> Section 1012.01(3)(a), (b), and (c), F.S.

<sup>8</sup> Article X, Section 14, of the State Constitution provides: "A governmental unit responsible for any retirement or pension system supported...by public funds shall not...provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis."

This bill takes effect upon becoming a law.

According to the Department of Management Services, the original purpose of providing extended DROP authority to instructional personnel was to alleviate the critical shortage of teachers in grades K-12, which was amplified by the number of teachers who would terminate because they had reached their maximum DROP participation in June 2003. It is expected that as this option is offered to new groups, increasing pressure develops for parity to be the motivating factor, rather than the original goal of providing immediate temporary relief in an emergency situation. Therefore, the effect of liberalizing the extension provision may set precedent in terms of additional groups requesting an opt-in to the extension.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

###### **Provision on Unfunded State Mandates**

Article VII, s. 18 of the State Constitution, provides that no county or municipality is bound by a general law that requires the county or municipality to spend funds unless the Legislature both determines that the law fulfills an important state interest and that:

- i. Funds have been appropriated sufficient to fund the expenditure;
- ii. The Legislature authorizes a new funding source to generate sufficient funds;
- iii. Two-thirds of each house of the Legislature approves the proposed legislation;
- iv. The expenditure is required to comply with a law applying to all similarly situated persons; or
- v. Federal mandates require the law.

The Department of Management Services indicates that the actuarial impact is properly funded as long as current employers pay the required contribution rate. If more groups are approved to opt-in, however, such as administrative personnel employed by lab schools, charter schools, and the Florida School for the Deaf and the Blind, any impact needs to be reassessed. Additionally, a cumulative effect may accrue, with the expansion to other groups of administrative personnel.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

D. Other Constitutional Issues:

**Sound Actuarial Basis Requirement**

Article X, s. 14 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.

The Department of Management Services estimates several potential cost impacts as follows:

- Salary Differentials: A new hire may be paid a much different salary than an existing employee extending DROP participation.
- Contribution Rate: Contribution rates may differ between the DROP contribution rate and the contribution rate for the FRS membership class.

Still, the Milliman actuarial study concludes that the bill complies with the requirements of Article X, s. 14, of the State Constitution.<sup>9</sup> Expansion of members eligible for extended DROP participation is expected to have a nominal fiscal impact, though this estimation is partly contingent upon how liberally the superintendents approve the extension.

V. **Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Administrators may benefit from the ability to potentially extend DROP up to an additional 36 months.

C. Government Sector Impact:

**Data on DROP Participants**

Based on the most current data available, in 2002, 472 administrators entered DROP, and in 2003, 413 administrators entered DROP. For the 6-year period between 1998 and 2003, a total of 2,988 administrators entered DROP.<sup>10</sup> Of those administrators who chose the full time authorized in DROP, it is unclear how many would elect to extend beyond the 60 month maximum, as it is not currently an option.

<sup>9</sup> *Actuarial Statement of Fiscal Soundness*, Milliman Consultants and Actuaries (January 29, 2007).

<sup>10</sup> *The Effect of the Deferred Retirement Option Program (DROP) On Teacher and Administrator Retirements*, Division of Accountability, Research and Measurement, Florida Department of Education (February 2004).

Information is available, however, for certain instructional personnel who applied for extensions beyond the 60-month maximum. By way of comparison, as of mid-December, 2003, of the 304 teachers who applied for extensions:

- i. 62 teachers requested six months or less;
- ii. 44 requested seven to 11 months;
- iii. 181 requested one year; and
- iv. 17 requested more than one year.<sup>11</sup>

Many of these extensions were intended to make the final leave date of the participant coincide with the end of a calendar or school year. Administrative personnel receive, as a group, higher compensation than do instructional personnel; however, any impact of the salary difference is indeterminate.

Regarding data on current administrators collected from 2006-2007, there are currently 11,218 employed administrators in the state. Of these, 2,535 are ages 55 through 59 and 1,134 are ages 60 or older. It is difficult to extrapolate how many are likely to enter DROP, and, from this group, how many will request and be approved for extension.<sup>12</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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<sup>11</sup> *Id.* at 5.

<sup>12</sup> *Public Schools Data Base, Administrators By Age*, Florida Department of Education (January 31, 2007).



## **VIII. Summary of Amendments:**

None.

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