

**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 626

INTRODUCER: Governmental Operations Committee and Senator Atwater

SUBJECT: The Special Risk Class of the Florida Retirement System

DATE: April 18, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	<b>Favorable</b>
2.	Wilson	Wilson	GO	<b>Fav/CS</b>
3.			GA	
4.				
5.				
6.				

**I. Summary:**

This bill authorizes certain Special Risk Class members in the Florida Retirement System (FRS) to purchase additional retirement credit for past Special Risk service at a 3-percent accrual value. The category of Special Risk Class members authorized to purchase credits for past service is expanded to include emergency medical technicians and any paramedic whose employer was a licensed Advance Life Support or Basic Life Support provider.

The bill provides a one-time recognition of excess actuarial assets to fund the benefit change.

This bill substantially amends s. 121.0515, F.S., and contains a statement of important state interest.

**II. Present Situation:**

**Profile of the FRS and the Special Risk Class<sup>1</sup>**

The FRS was created in December 1970 to consolidate then-existing state-administered retirement systems for state and county officers and employees, teachers, judges, and Highway Patrol Officers. Today, the FRS is the fourth largest public retirement system in the United States, covering over 664,000 active employees, over 252,000 annuitants (retirees and their surviving beneficiaries), and more than 31,000 participants of the Deferred Retirement Option Program (DROP). As of June, 2006, state employees (including university employees) represent 22 percent of the FRS membership. Remaining members are employed by local agencies,

<sup>1</sup> Information in the "Present Situation" section of this bill analysis is from an analysis of the bill provided by the Department of Management Services, Division of Retirement, dated February 1, 2007.

including all counties, district school boards, and community colleges, as well as cities and special districts that have opted to join the FRS.

The active membership of the FRS is divided into five membership classes: the Regular Class, the Special Risk Class, the Special Risk Administrative Support Class, the Elected Officers' Class, and the Senior Management Service Class. 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 over 72,000 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 might 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.

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) for regular class.
- 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.<sup>2</sup>

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2007-2008 plan year<sup>3</sup> under the FRS, the retirement portion of

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<sup>2</sup> FRS members may choose to receive benefits from the Pension Plan in one of four ways. Option 1 provides the greatest amount, but is unaccompanied by survivor benefits.

<sup>3</sup> See s. 121.71, F.S., establishing the employer contribution rates for Regular Class and Special Risk Class members effective July 1, 2006 and effective July 1, 2007.

the employer contribution rate for the Special Risk Class will be 21.96 percent – more than twice the 9.55 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 more than double 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 persons who are employed as law enforcement officers, firefighters, correctional officers, correctional probation officers, emergency medical technicians or paramedics, specified forensic and health care workers, and youth custody officers, and who meet the criteria set forth in applicable s. 121.0515, F.S. At the state level, specified professional health care and forensic positions in the Department of Corrections and the Department of Children and Families were included in the Special Risk Class, effective January 1, 2001. To qualify for special risk membership, the members filling these state positions must spend at least 75 percent of their time performing duties involving inmate or patient contact. Public safety dispatchers and 911 operators are members of the Regular Class membership of the FRS.

#### **Article X, Section 14, of the Florida Constitution**

Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below.

SECTION 14. State retirement systems benefit changes.—A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members of 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.

#### **Part VII of ch. 112, F.S.**

Article X, Section 14, of the Florida Constitution is implemented by statute under part VII of ch. 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act,” which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to “prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”

#### **Part I of ch. 121, F.S.**

Section 121.091(10), F.S., provides that “it is the intent of the Legislature that future benefit increases enacted into law in this chapter shall be financed concurrently by increased contributions or other adequate funding, and such funding shall be based on sound actuarial data as developed by the actuary or state retirement actuary, as provided in ss. 121.021(6) and 121.192.”

#### **Local Government Mandates Provision**

Article VII, Section 18, of the Florida Constitution effectively invalidates any law that would require counties or municipalities to spend funds or limit their ability to raise revenue or receive

state tax revenue, unless certain conditions are met. First, the Legislature must have determined that the law fulfills an important state interest. The law must also meet one or more criteria, including that the “expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.”

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

This bill amends subsection (5) of s. 121.0515, F.S., to:

- Increase the Special Risk Class accrual value at which certain employees may purchase additional retirement credit for past service from 2 percent to 3 percent of the member’s average monthly compensation.
- Authorizes emergency medical technicians or paramedics to purchase special risk class membership credits under the same terms and conditions as those provided other public safety employee occupations.
- Effective July 1, 2007, provide for a recognition of excess actuarial assets to fund the benefit change.

The bill contains a declaration of important state interest and if enacted by the Legislature, will take effect on July 1, 2007.

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

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

This bill does require cities and counties to expend funds or take action requiring the expenditure of funds, and falls within the purview of Section 18(a), Article VII, Florida Constitution, which provides that cities and counties are not bound by certain general laws. However, the bill contains a declaration of important state interest and the expenditure is required to comply with a general law applicable to all persons similarly situated, including the state and local governments.

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

None.

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

None.

#### **D. Other Constitutional Issues:**

The bill complies with the requirements of Section 14, Art. X of the Florida Constitution because the cost to the FRS to increase the accrual rate applicable to past Special Risk service available for purchase or upgrade is based on Actuarial Special Study 2005-L, dated April 22, 2005, and performed by Milliman Inc. Consulting Actuaries.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Members of the FRS Special Risk Class who are eligible to purchase credit for past Special Risk service will incur the costs of the service credit upgrade. However, this cost does not cover the total actuarial impact of the benefit improvement.

C. Government Sector Impact:

The Division of Retirement in the Department of Management Services noted in its bill analysis that “the cost to be paid by the affected members or employers on behalf of their employees to upgrade the service is not sufficient to pay for the benefit enhancement. Any costs not covered by the pricing structure will be shifted to the system and will result in increased contribution rates for all employers with Special Risk Class members. There is an additional cost beyond the estimate of the special study if members delay purchasing service credit until just before retirement.”<sup>4</sup> The below amounts list the annual funding requires under the assumption that the benefit increase is accompanied by a .07 percent increase in employer payroll contribution rates.

**Fiscal Impact on Local Governments**

<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
\$1,932,000	\$2,010,000	\$2,090,000

**Fiscal Impact on State**

<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
\$737,000	\$767,000	\$797,000

The alternative financing used is a recognition of excess actuarial assets. That single lump sum amount is about \$37.5 million.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>4</sup> See the 2007 Substantive Bill Analysis for SB 626, dated February 26, 2007, and prepared by the Division of Retirement in the Department of Management Services.

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

None.

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