

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases the number of Special Risk Class members who may upgrade previous service to Special Risk Class service.

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 - 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

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 Florida Dept. of Mgmt. Svcs, HB 635 (2007) Substantive Bill Analysis (Feb. 22, 2007) at 3. (on file with dept. and the Committee on State Affairs) [hereafter referred to as DMS Analysis]

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.*

creditable service.¹³ Members of the Special Risk Class also earn a higher normal retirement benefit of 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 started 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

Special Risk Class – Upgraded service

Another legislative trend has followed the expansion of the Special Risk Class: allowing members who have previous service in another class of the FRS, usually the Regular Class, to purchase additional retirement credit to upgrade that previous service to Special Risk Class service. In 2001, the Legislature permitted emergency medical technicians and paramedics to purchase credit for such upgraded service.²² In 2002, the Legislature allowed members whose responsibilities included fire prevention or fire fighting training to purchase credit for upgraded service.²³

Proposed Changes

This bill permits medical examiners and certain forensic employees who were added to the Special Risk Class in 2005 to purchase additional retirement credit to upgrade prior service in the FRS to

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.

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 Ch. 2001-235, L.O.F., s. 6.

²³ Ch. 2002-273, L.O.F., s. 16.

Special Risk Class service. The bill requires the contributions for upgrading previous service to Special Risk Class service to be equal to the difference in the contributions paid into the previous class and the contribution rate in effect for the Special Risk Class for the period being claimed, plus interest at a rate of 6.5 percent a year, compounded annually until the date of payment. Since most such service before October 2005²⁴ would have been in the Regular Class, the retirement credit accrual rate (and the resulting benefits) would nearly double for the affected period – from the Regular Class accrual rate of 1.6 percent to the Special Risk Class accrual rate of 3.0 percent per year of service. The bill permits an employer to purchase upgraded credit on behalf of a member.

The bill requires an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class to fund its benefit

The bill provides legislative findings and declares that it fulfills an important state interest.

C. SECTION DIRECTORY:

Section 1 amends s. 121.0515, F.S., to permit medical examiners and certain forensic employees to purchase upgraded service in the Special Risk Class.

Section 2 provides an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class.

Section 3 provides legislative findings and declares that the bill fulfills an important state interest.

Section 4 provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Due to the increased employer contribution rates required by the bill, the FRS will receive increased contributions for members of the Special Risk Class.

2. Expenditures:

Based on the results of the actuarial special study, the required employer contribution rate increase would result in additional contributions of:

- Fiscal Year 2007-2008: \$105,000
- Fiscal Year 2008-2009: \$110,000
- Fiscal Year 2009-2010: \$114,000²⁵

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to create, modify, amend or eliminate a local government revenue source.

2. Expenditures:

Based on the results of the actuarial special study, the required employer contribution rate increase would result in additional contributions of:

- Fiscal Year 2007-2008: \$276,000
- Fiscal Year 2008-2009: \$287,000

²⁴ The effective date of Ch. 2005-167, L.O.F. (upgraded employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline to the Special Risk Class).

²⁵ DMS Analysis at 7.

- Fiscal Year 2009-2010: \$299,000²⁶

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:

The Department of Management Services offered the following fiscal impact comment:

The member price for the prior service credit upgrade as provided by HB 635 does not account for the entire fiscal impact of this substantial retroactive increase in accrual values. HB 635 does provide for a 0.01 percent 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.²⁷

The actuarial study explains that this fiscal impact is, in part, a result of differences in benefit accrual rates and contribution rates for certain periods: benefits now accrue at a rate of 3.0 percent per year for all periods after 1974; yet, contributions between 1978 and 1992 were only funded with contribution rates of 2.0 to 2.8 percent. Thus, to the extent upgraded service includes this 1978 to 1992 period, there is a shortfall between the price paid by the upgrading members and the true estimated costs to the FRS,²⁸ which is made up by the 0.01 percent increase in Special Risk Class employer contribution rates.

The state cost has an estimated funding split of 61 percent from the General Revenue Fund and 39 percent from various applicable trust funds statewide. This results in a General Revenue cost of \$64,000 in Fiscal Year 2007-08, \$67,000 in Fiscal Year 2008-09, and \$70,000 in Fiscal Year 2009-10.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

This bill is expected, however, to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Because the bill provides that it fulfills an important state interest and the expenditures required by the bill appear to apply to all persons similarly situated, including the state and local governments, the bill appears to satisfy the requirements of section 18, article VII of the Florida Constitution.

2. Other:

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent

²⁶ *Id.* at 6.

²⁷ *Id.* at 2.

²⁸ *Id.*

provisions for funding the increase in benefits are made on a sound actuarial basis.²⁹ Because the bill requires the contribution rate that applies to the Special Risk Class to be increased by 0.01 percentage points to fund this benefits increase, it appears to satisfy this constitutional requirement.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.

²⁹ Part VII of chapter 112, 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 retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees that is funded in whole or in part by public funds.