

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 689 Florida Retirement System
SPONSOR(S): Culp and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 414

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Government Efficiency & Accountability Council</u>	<u>13 Y, 0 N</u>	<u>Cámara</u>	<u>Cooper</u>
2) <u>Policy & Budget Council</u>	<u></u>	<u>Leznoff</u>	<u>Hansen</u>
3) <u></u>	<u></u>	<u></u>	<u></u>
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SUMMARY ANALYSIS

In 1997, the Florida Legislature created a retirement option for members of the FRS: the Deferred Retirement Option Program or "DROP." The DROP allows a member of the Florida Retirement System (FRS), who has reached normal retirement date, to defer the receipt of retirement benefits while continuing employment with his or her FRS-participating employer. Participation in DROP is authorized for up to 60 months.

There have been several changes to the DROP benefiting educational personnel, particularly K-12 instructional personnel. Instructional personnel who have received authorization by the district superintendent may participate in DROP up to 96 months.

This bill continues to expand the timeframe of the DROP for educational personnel. The bill increases, from 60 months to 96 months, the period of time that certain administrative personnel in grades K-12 may participate in the DROP.

According to the Department of Management Services, expansion of the members eligible for extended DROP participation would have a nominal fiscal impact and depend upon how liberally the district school boards permit this to happen. This impact would be determined in future valuations and incorporated into the rates recommended at that time.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases from 60 to 96 months, the period of time that school administrators in grades K-12 may participate in the Deferred Retirement Option Program.

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

Deferred Retirement Option Program

In 1997, the Florida Legislature created another retirement option for members of the FRS: the Deferred Retirement Option Program or "DROP."¹¹ The DROP allows a member of the FRS, who has reached normal retirement date, to defer the receipt of retirement benefits while continuing employment with his or her FRS-participating employer.¹² The deferred monthly benefits accrue on behalf of the member, plus interest compounded monthly, for the period of DROP participation. After completing the

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 FL Dept. of Mgmt Svcs., HB 225 (2007) Substantive Bill Analysis at 3. (Feb. 1, 2007) (on file with the department and the Government Efficiency & Accountability Council) [hereafter referred to as DMS Analysis]

¹⁰ *See, e.g.*, s. 121.055(3)(a)1., F.S.

¹¹ Ch. 97-180, L.O.F., s. 8.

¹² Section 121.091(13), F.S. (For most members of the FRS, the election to participate in DROP must be made within 12 months immediately following the date on which the member first reaches normal retirement date.)

DROP period and terminating employment, the member not only receives the total of the DROP benefits, but also the previously determined normal retirement benefits.¹³

Changes in DROP for Educational Personnel

There have been several changes to the DROP benefiting educational personnel, particularly K-12 “instructional personnel” who provide direct instructional services to students or direct support in the learning process of students.¹⁴ Classroom teachers,¹⁵ student personnel services,¹⁶ librarians/media specialists,¹⁷ and other instructional staff¹⁸ are specifically included as instructional personnel.¹⁹

Instructional personnel may elect to participate in DROP at any time following the date on which they reach their normal retirement date. Such personnel who have received authorization by the district superintendent may participate in DROP up to 96 months, more than the 60 months normally allowed. Those employed by a development research school and authorized by the school’s director or principal also may participate in the DROP up to 96 months. Instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind may participate in the DROP up to 96 months.

Proposed Changes

This bill continues to change the DROP for the benefit of educational personnel by allowing administrative personnel for grades K-12 to participate in the DROP beyond 60 months, up to the 96-month maximum participation period. As is the case with instructional personnel, any extension requires district school superintendent approval.

Administrative personnel 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. They are generally high-level responsible personnel who have been assigned the responsibilities of system wide or school wide functions, such as district school superintendents, school principals, career center directors, and others who perform management activities.²⁰ Administrative personnel are classified as district-based instructional administrators,²¹ district-based non-instructional administrators,²² or school administrators.²³

The bill allows the district-based instructional and non-instructional administrator classes (including assistant, associate, or deputy superintendents and directors) to qualify for the enhanced benefit if they belong to a school board-designated area of critical administrative shortage; the school administrator class (including principals and assistant principals) is not subject to the critical shortage requirement.

¹³ *Id.*

¹⁴ Section 1012.01(2), F.S.

¹⁵ Section 1012.01(2)(a), F.S.

¹⁶ Section 1012.01(2)(b), F.S. (Includes guidance counselors, social workers, career specialists, and school psychologists who advise students, provide placement services, perform educational evaluations, and other similar functions).

¹⁷ Section 1012.01(2)(c), F.S.

¹⁸ Section 1012.01(2)(d), F.S. (Includes primary specialists, learning resource specialists, instructional trainers, adjunct educators, and similar positions).

¹⁹ Section 1012.01(2)(e), F.S. (Education paraprofessionals also are included in the definition of instructional personnel, but educational paraprofessionals have not been provided additional participation in the DROP).

²⁰ Section 1012.01(3), F.S.

²¹ Section 1012.01(3)(a), F.S. (Persons with district-level administrative or policymaking duties, including assistant, associate, or deputy superintendents and directors who have broad authority for management policies and general school district operations related to instructional areas and programs such as curriculum, federal programs, and specialized instructional program areas).

²² Section 1012.01(3)(b), F.S. (Persons with district-level administrative or policymaking duties, including assistant, associate, or deputy superintendents and directors who have broad authority for management policies and general school district operations related to non-instructional areas such as personnel, construction, facilities, transportation, data processing and finance).

²³ Section 1012.01(3)(c), F.S. (Includes school principals or school directors who serve as the administrative head of a school, and assistant principals who are staff members assisting the administrative head of a school).

C. SECTION DIRECTORY:

Section 1 amends s. 121.091, F.S., to increase the period of time in which members of the FRS employed as certain administrative personnel in grades K-12 may participate in the DROP.

Section 2 provides a declaration of important state interest.

Section 3 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

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 provided the following:

Potential cost impacts to the employer of extended DROP participation include salary differentials and FRS contribution rates. There could be a difference in the salary paid to a newly hired employee compared to the existing employee extending DROP participation. Also there could be a cost impact from the difference between the DROP contribution rate and the contribution rate for the FRS membership class. Any fiscal impact to the FRS will be determined in future valuations. The payment obligation for accumulated leave would only be postponed with extended DROP participation and the payout could be higher if based upon the salary at termination if these employees continue to receive pay increases during their DROP participation.²⁴

In addition, the following fiscal note was provided by the enrolled actuary:

Expansion of the members eligible for extended DROP participation would have a nominal fiscal impact and depend upon how liberally the district school boards permit this to happen. This

²⁴ Department of Management Services HB 689 Substantive Bill Analysis at 5 (Feb. 22, 2007) (On file with the department and the Government Efficiency & Accountability Council) [hereafter referred to as DMS Analysis].

impact would be determined in future valuations and incorporated into the rates recommended at that time.²⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. 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 revenues.

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 provisions for funding the increase in benefits are made on a sound actuarial basis.²⁶ According to the Department of Management Services, the actuarial impact of extending the DROP is properly funded as long as employers pay the required contribution rate.²⁷ As such, this bill 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:

The Department of Management Services offered the following items for consideration:

- The original purpose of creating extended DROP participation was part of the short-term solution to alleviate the critical shortage of instructional personnel in grades K-12 exacerbated by the number of teachers who would terminate because they had reached their maximum DROP participation in June 2003.²⁸
- As the groups covered by DROP extension provisions become liberalized, there is increasing pressure for parity driving the liberalization of this benefit 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.²⁹
- The change by this bill would not cover administrative personnel in non-school board K-12 employers such as the Florida School for the Deaf and Blind, charter schools, or developmental research (lab) schools. Passage of this bill could lead to pressure to provide extended DROP participation for other K-12 employers.³⁰

²⁵ *Id.* at 6.

²⁶ Part VII of Ch. 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 which is funded in whole or in part by public funds.

²⁷ DMS Analysis at 5.

²⁸ *Id.* at 2.

²⁹ *Id.* at 3.

³⁰ *Id.*

- Under this bill, district-based administrators could include positions otherwise covered by the Senior Management Service Class (SMSC) and the Elected Officers' Class (EOC). Any SMSC or EOC positions for extended DROP participation would be the only persons in those classes eligible for extended DROP participation. As the disparity of benefits for members of the same membership class continues to be expanded, it could be viewed as discriminatory treatment and, if challenged, could possibly jeopardize the qualified status of the Florida Retirement System.³¹

D. STATEMENT OF THE SPONSOR

This bill will help so many people in the public school system across the state.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.

³¹ *Id.*