

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill expands the Special Risk Class of the Florida Retirement System to include any person employed as a pilot or an aerial applicator authorized to provide mosquito control services.

B. EFFECT OF PROPOSED CHANGES:

Mosquito Control in Florida

Chapter 388, F.S., provides for the creation and operation of mosquito control districts. Municipalities and counties, or any portion thereof, are authorized to create special taxing districts for the control of arthropods,¹ to include mosquitoes.² The authority provided in s. 125.01, F.S., which sets forth the statutory powers of counties, is the preferred method for creating these mosquito control districts; yet districts which were established under the former petition process may continue to operate.³ Some mosquito control districts were established by special act of the Legislature.⁴

According to the Bureau of Entomology and Pest Control within the Department of Agriculture and Consumer Services, there are 57 mosquito control districts.⁵

Employees of county-operated mosquito control districts are members of the Florida Retirement System (FRS). Additionally, 13 of the 15 independent special districts providing mosquito control services participate in the FRS.⁶ Twenty-one of these mosquito control districts utilize aircraft for mosquito control, although four of the counties contract for these pilot services. The Department of Management Services estimates there are 35 pilots employed in full-time positions by the various mosquito control districts affected by this bill.⁷

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.⁸

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.⁹

¹ Section 388.011(1), F.S. (defines “arthropods” as those insects of public health or nuisance importance, including all mosquitoes, midges, sand flies, dog flies, yellow flies and house flies).

² Section 388.021(1), F.S.

³ Section 388.021(2), F.S.

⁴ See, e.g., ch.99-449, L.O.F. (Anastasia Mosquito Control District; St. Johns Co.).

⁵ Florida Department of Agriculture and Consumer Services, Division of Agriculture Environmental Services, Bureau of Entomology and Pest Control, *Mosquito Control Directory*:

<http://www.flaes.org/aes-ent/mosquito/mosqcontroldirectory.html> (visited: 2/9/07)

⁶ Department of Management Services, HB 69 (2007) Substantive Bill Analysis (Jan. 31, 2007) (on file with the dept. and the Committee on State Affairs) [hereafter referred to as “DMS Analysis”]

⁷ *Id.*

⁸ Section 121.025, F.S.

⁹ FL. Dept. of Mgmt. Svcs., *Florida Division of Retirement Main Page* (visited Feb. 12, 2007) <www.frs.state.fl.us>

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.¹⁰ Members of the FRS belong to one of five membership classes:

1. Regular Class ¹¹	583,213 members	87.73% of membership
2. Special Risk Class ¹²	72,078 members	10.84% of membership
3. Special Risk Administrative Support Class ¹³	74 members	0.01% of membership
4. Elected Officers' Class ¹⁴	2,195 members	0.33% of membership
5. Senior Management Service Class ¹⁵	7,259 members	1.09% of membership ¹⁶

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.¹⁷

The Special Risk Class and its expansion

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,¹⁸ may need to retire at an earlier age with less service than other types of employees.¹⁹ As such, members of the Special Risk Class can retire at age 55 or with 25 years of creditable service.²⁰ Members of the Special Risk Class also earn a higher normal retirement benefit of three percent of the member's average final compensation.²¹ 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, 2007.²²

The only employees originally in the Special Risk Class were law enforcement officers, correctional officers, and firefighters.²³ Starting in 1999, however, the Legislature began expanding the membership to include:

1999	Emergency medical technicians and paramedics ²⁴
2000	Community-based correctional probation officers ²⁵
2000	Twenty-four types of employees of correctional or forensic facilities or institutions ²⁶

¹⁰ *Id.*

¹¹ Section 121.021(12), F.S.

¹² Section 121.0515, F.S.

¹³ Section 121.0515(7), F.S.

¹⁴ Section 121.052, F.S.

¹⁵ Section 121.055, F.S.

¹⁶ DMS Analysis at 3.

¹⁷ *See, e.g.*, s. 121.055(3)(a)1., F.S.

¹⁸ Section 125.0515(1), F.S. (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity)

¹⁹ *Id.*

²⁰ 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.

²¹ Section 121.091(1)(a)2.h., F.S. (compared with 1.60 percent to 1.68 percent for Regular Class members).

²² 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).

²³ Ch. 78-308, L.O.F.; codified as s. 121.0515, F.S.

²⁴ Ch. 99-392, L.O.F., s. 23.

²⁵ Ch. 2000-169, L.O.F., s. 29.

²⁶ *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

2001	Youth custody officers ²⁷
2005	Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline ²⁸

Proposed Changes

This bill continues the expansion of the Special Risk Class by including, in the definition of "special risk member" and the criteria for special risk membership, any person who is employed as a pilot or aerial applicator by an authorized state agency or municipality, county, or special district, and who has the following qualifications:

- Licensed as a pilot by the Federal Aviation Administration;
- Licensed or certified as an arthropod control applicator as required by the Department of Agriculture and Consumer Services; and
- Has as his or her primary duties and responsibilities, piloting or co-piloting, often at low altitudes, a rotary-wing or fixed-wing aircraft for chemical application of pesticides for controlling mosquitoes or other arthropods.

C. SECTION DIRECTORY:

Section 1 amends s. 121.021, F.S., to expand the definition of special risk member.

Section 2 amends s. 121.0515, F.S., to include mosquito control pilots.

Section 3 provides a declaration of important state interest.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Currently, there is one affected pilot position in the Bureau of Entomology and Pest Control within the Department of Agriculture and Consumer Services. The increased employer contribution rate for Special Risk Class membership for this position is estimated to have a recurring cost of \$4,218²⁹ from the General Revenue Fund.

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).

²⁷ Ch. 2001-125, L.O.F., s. 43.

²⁸ 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).

²⁹ Dept. of Agriculture and Consumer Services HB 69 (2007) Agency Bill Analysis (on file with the dept. and the committee).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

This bill will result in recurring increased expenditures for local governments because those employers who participate in the FRS will have to pay the Special Risk Class contribution rate for the affected employees. The recurring cost is estimated to total \$261,382.

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 noted the following fiscal impact for the bill:

The cost to the employing agencies will be an extra 11.07% of pay for all members who become eligible for the Special Risk Class, based on the difference between Regular Class and Special Risk Class retirement contribution rates in effect on July 1, 2006. The number of mosquito control pilots holding positions within state and local government is unknown. However, according to a survey of mosquito control districts performed as of July 2004, at that time, there were 35 mosquito control pilots who were employed in full-time positions by the various mosquito control districts throughout Florida. Based on the salary information from the 2004 survey for mosquito control pilots who are members of the FRS, it appears that the annual salary for such pilots ranges from about \$41,500³⁰ to around \$95,600³¹ (averaging about \$68,550). While the actual cost to Florida public employers is unknown, if in fact there were just 35 such pilots working full-time who earn an average annual salary of \$68,550, the statewide cost to affected employers in increased retirement contributions for FY 2007/08 would be \$265,600.³²

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 apply to all persons similarly situated, including the state and local governments, the bill appears to satisfy the requirements of section 18 of article VII of the Florida Constitution.

2. Other:

For Special Risk Class membership, the employers of the new special risk members will pay an additional contribution rate of 11.07 percent of pay (the difference between the Regular and Special

³⁰ This figure has been increased by 4 percent for each intervening year (2005-2007) to reflect payroll growth as anticipated by the FRS.

³¹ *Id.*

³² DMS Analysis at 6.

Risk Class rates, for the period from July 1, 2006, through June 30, 2007) for each affected member. This increase in the required contribution rate appears to satisfy the requirements in Article X, section 14 of the State Constitution and ch. 112, part VII, F.S.,³³ to fund benefit increases to public retirement or pension systems.³⁴

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.

³³ Chapter 112, part VII, 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.

³⁴ DMS Analysis at 7.