

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: Community Affairs Committee

BILL: SB 838

INTRODUCER: Senator Aronberg

SUBJECT: FRS/Firefighters/Paramedics/EMTs

DATE: March 26, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Favorable
2.	_____	_____	GO	_____
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill modifies the definition of “compensation” within the Florida Retirement System (FRS) to allow salary supplements paid to firefighters, paramedics, or emergency medical technicians for the successful completion of employer-approved educational training or for additional job-related duties and responsibilities to be treated as compensation for retirement purposes.

This bill substantially amends s. 121.021, F.S., and provides that the provisions of the act fulfill an important state interest.

II. Present Situation:

Florida Retirement System (FRS)¹

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 664,819 active employees, 252,060 annuitants, and 31,688 participants of the Deferred Retirement Option Program (DROP).

All state and county employees are compulsory members of the FRS, and as of June 30, 2006, about 158 Florida cities were covering firefighters, police, and or general employees under the FRS. On that date, there were also 192 independent special districts with members in the FRS. As of June 30, 2006, state employees (including university employees) represent 22 percent of

¹ Information relating to the profile of the FRS provided by the Division of Retirement in the Department of Management Services in the Substantive Bill Analysis for SB 838, dated March, 2007.

the FRS membership. Remaining members are employed by local agencies, 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 consists of 583,213 members (87.3 percent of membership); the Special Risk Class includes 72,078 members (10.84 percent); the Special Risk Administrative Support Class has 74 members (0.01 percent), the Elected Officers Class has 2,195 members (0.33 percent), and the Senior Management Service Class has 7,259 members (1.09 percent). Each class is separately funded based upon the costs attributable to the members of that class.

Contributions—Members of the FRS are not required to make employee contributions to establish service credit for work performed in a regularly established position; employers pay all required contributions. Members receive 1 month of service credit for each month in which any salary is reported for work performed. Members may also purchase additional credit to increase their retirement benefits under the FRS. As of July 1, 2001, members vest in the FRS after 6 years of creditable service.

Funding Issues—Benefit improvements are normally funded through contributions that are collected and invested over the course of a member's career and, together with investment earnings, grow over time to fund promised benefits. Where bonus and supplemental payments are made in addition to the employee's base rate of pay, proper funding for retirement purposes can be achieved if the payments start early in the member's career and are made with reasonable regularity throughout the employee's career under a policy that applies to all eligible employees equally. Under current law, nonrecurring payments that do not increase the base rate of pay for an employee are treated as "bonus" payments² and are not creditable for retirement purposes. Inadequately funded benefit improvements can increase the normal cost and unfunded actuarial liability contributions for the FRS Special Risk Class, and result in a general rate increase affecting all FRS Special Risk Class employers.

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 as law enforcement officers, firefighters, certain paramedics or emergency medical technicians, and others who meet the 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, special risk employees made up nearly 11 percent of the active FRS membership.

² At one time, bonus payments were included in the definitions of "compensation" and "average final compensation" under the FRS. In 1984, the Legislature excluded bonus payments from the "average final compensation" definition at the recommendation of the Auditor General and the consulting actuary, to keep retirement benefits from being artificially inflated and underfunded, and to prevent unanticipated contribution rate increases. The definition of "compensation" was amended in 1989 to exclude bonus payments to make reported compensation consistent with compensation eligible for use when calculating the average final compensation. (See ch. 84-246 and ch. 89-126, Laws of Florida.)

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.³

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2007-2008 plan year under the FRS, the retirement portion of 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.⁴

III. Effect of Proposed Changes:

This bill amends s. 121.021, F.S., to provide that notwithstanding the statutory criteria established to meet the definition of “compensation” for payments in addition to an FRS employee’s base rate of pay, salary supplements made to firefighters, paramedics, or emergency medical technicians who successfully complete employer-approved educational training or who perform additional job-related duties and responsibilities can be included as compensation for retirement purposes.

If enacted by the Legislature, the bill takes effect 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, included the state and local governments.

The bill may have an insignificant fiscal impact on local governments, but the amount of the fiscal impact can not be determined. Any local government that offers covered employees salary supplements not currently reported as “compensation” for retirement

³ 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.

⁴ 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.

benefits will be affected depending upon the total amount of supplemental payments that will meet the definition of “compensation” if the bill is enacted.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Since 1976, the Florida Constitution has required that benefit improvements under public pension plans 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 benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for funding of the increase in benefits on a sound actuarial basis.

Under the bill, if benefits are artificially inflated in the calculation of retirement benefits, the total amount could be a source of actuarial losses leading to an increase in normal costs and unfunded actuarial liabilities, possibly resulting in higher contribution rates to be paid by all employers of Special Risk Class members.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Division of Retirement, Department of Management Services:

Based on the July 2006 payroll, the Division identified 128 employers with a minimum of 10,950 employees who could be eligible for the benefit provided in the bill. Under current law, the salary supplements affected by the bill are not reported to the Division of Retirement, so the employer contribution portion of the cost impact cannot be directly determined. Employers are not required to create new programs to pay for the increased

benefit but each impacted employer may have to contribute an additional 20.92 percent⁵ over and above the supplemental payment as the required employer contribution for retirement benefits.

The nature and amount of the fiscal impact of the bill is not expected to be sufficient to require a specific increase in the Special Risk Class employer contribution rates. However, future actuarial experience studies and valuations of the FRS will reveal the impact, if any, of covering salary supplements as compensation for retirement purposes and that impact may be reflected in a contribution rate increase recommended by future valuations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

⁵ Includes the 2006-2007 contribution rate of 19.76 percent for Special Risk Class members, the 0.05 percent contribution for the Public Employees Option Retirement Plan administrative fee, and the 1.11 percent health insurance subsidy contribution.

VIII. Summary of Amendments:

None.

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