

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases the accrual rate at which Special Risk Class members may upgrade certain past service and expands the qualifying past service.

Empower families – The bill allows affected members and their families to receive increased retirement benefits.

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 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,¹¹ may need to retire at an earlier age with less service than other types

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 Svc, HB 91 (2007) Substantive Bill Analysis (Jan. 26, 2007) (on file with dept. and the Committee on State Affairs) at 2. [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)

of employees.¹² As such, members of the Special Risk Class can retire at age 55 or with 25 years of 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

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

Retirement Credit for Past Service

Section 121.0515, F.S., sets forth the criteria and procedures for designating members of the Special Risk Class. This section also permits special risk members to purchase retirement credit in the Special Risk Class based upon specified past service:

¹² *Id.*

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.

- This past service was with a city or special district which elected to join the FRS while the member was employed at the time it began participating in the FRS; or with a participating agency to which a member's governmental unit was transferred, merged, or consolidated.²³
- This past service qualifies for special risk membership as a law enforcement officer, firefighter, or correctional officer.²⁴

Special Risk Class members may upgrade retirement credit for this specified past service, up to two percent of the member's average monthly compensation.²⁵ The contributions for upgrading this additional special risk credit may be purchased by the member or by the employer on behalf of the member, but must be equal to the difference in the contributions paid and the special risk percentage rate of gross salary in effect at the time of purchase for the period being claimed, plus interest at a rate of 6.5 percent a year until the date of payment.²⁶ As such, the benefit of being able to purchase this past service is offset because the full retirement benefit must be purchased even though the retirement benefit received is one percent lower (2 percent) than the normal retirement benefit for the Special Risk Class (3 percent).

Proposed Changes

This bill increases, from two percent to three percent, the accrual rate at which Special Risk Class members may upgrade specified past service. This rate is the same as the normal retirement benefit for members of the Special Risk Class.

The bill also expands the qualifying past service which may be purchased to include special risk membership as an emergency medical technician or paramedic whose employer was a licensed Advanced Life Support or Basic Life Support provider.

C. SECTION DIRECTORY:

Section 1 amends s. 121.0515, F.S., to increase the accrual rate for past service and to permit work for certain employers as an emergency medical technician or paramedic to qualify as past service.

Section 2 requires the contribution rate for the Special Risk Class to increase by 0.07 percentage points, effective July 1, 2007.

Section 3 provides a statement of 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:

None.

2. Expenditures:

The bill is expected to have a fiscal impact on state government expenditures:²⁷

- Fiscal Year 2007-2008: \$737,000
- Fiscal Year 2008-2009: \$767,000
- Fiscal Year 2009-2010: \$797,000

²³ Section 121.0515(5)(a), F.S.

²⁴ *Id.*

²⁵ Section 121.0515, F.S.

²⁶ Section 121.0515(5)(b), F.S.

²⁷ DMS Analysis at 5; Actuarial Special Study 2005-L, performed by Milliman, Inc., (April 22, 2005).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill is expected to have a fiscal impact on local government expenditures:²⁸

- Fiscal Year 2007-2008: \$1,932,000
- Fiscal Year 2008-2009: \$2,010,000
- Fiscal Year 2009-2010: \$2,090,000

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 fiscal note from the enrolled actuary regarding this bill:

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 this kind of benefit enhancement. Any costs not covered by this pricing structure would be shifted to the system and would result in increased contributions rates for all employers with Special Risk Class members. There is an additional cost beyond the estimated cost if members delay purchasing their service credit. HB 91 provides for a 0.07% increase in the Special Risk Class employer contribution rate effective July 1, 2007.²⁹

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 \$450,000 in Fiscal Year 2007-08, \$468,000 in Fiscal Year 2008-09, and \$486,000 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 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.

²⁸ *Id.*

²⁹ *Id.* at 5-6.

2. Other:

Constitutional Requirements for Retirement or Pension System Increases

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 unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.³⁰ According to the Department of Management Services, the actuarial study determined that the fiscal impact to the Florida Retirement System was a 0.07 percent increase in the Special Risk Class contribution rate to fund this benefit.³¹ Because the bill requires the contribution rate that applies to the Special Risk Class to be increased by 0.07 percentage points, it appears to satisfy this constitutional requirement.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.

³⁰ 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 which is funded in whole or in part by public funds.

³¹ DMS Analysis at 4.