

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SPB 7036

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: Florida Retirement System

DATE: February 10, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Wilson		Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill amends various portions of statutes affecting the benefit eligibility for member employers and participants in the Florida Retirement System. It amends definitions, clarifies eligibility conditions for employee and non-employee members, specifies the conditions under which DROP benefits can be paid; recognizes conditions under which credit for service with other employers may be credited; deletes or repeals provisions relating to re-employment by designated instructional employers; permits local governments not compulsory members of the FRS to enroll their elected members officers; and, provides a declaration of important state interest.

The bill takes effect July 1, 2009.

This bill substantially amends ss. 121.021, 121.031, 121.051, 121.071, 121.081, 121.1115, 121.1122, 121.136, 121.23, 121.24, and 1012.33 of the Florida Statutes.

The bill repeals ss. 121.093, 121.094, 121.1905, and 121.45, Florida Statutes.

II. Present Situation:

The Florida Retirement System (FRS) offers a defined benefit and defined contribution pension plan choice to its nearly 1,000 state, county, municipal, school board, and higher education public employer members throughout the State of Florida. It is a compulsory membership plan for constitutional and higher education entities and is voluntary for statutory units of local government. Enrollment is universal and participants qualify, or vest, with benefit eligibility upon the completion of six years' service for the defined benefit Pension Plan and one year

service in the defined contribution Investment Plan. Participants may exchange plan choices once in a lifetime. Participants in the Pension Plan may elect to participate in a deferred retirement option program, or DROP, in which they defer termination of employment for up to five years and receive an equity distribution for equivalent pension service.

There are six membership classes with annual accrual rates ranging from 1.6 percent to 3.33 percent of salary depending upon employment classification. Normal service for unreduced benefits is set at the earlier attainment of thirty years or age 62, twenty-five years' service or age fifty-five for designated public safety professions.

Created in 1970, the FRS is the successor to the former Teachers' Retirement System, State and County Officers' and Employees' Retirement System, the Judicial Retirement System, the Highway Patrol Pension Plan, and in 2007, for the purposes of the assumption of assets and liabilities, the Supplemental Pension Plan of the Institute of Food and Agricultural Sciences at the University of Florida.

Units of local government not otherwise compulsory members of the FRS may enroll some or all of their officers and employees in any of the several membership classes of the FRS. Such officers will be governed by the same vesting and service requirement as other members and may purchase prior service from other public employers after qualifying for benefits.

III. Effect of Proposed Changes:

The key provisions of the bill:

- Amend definitions in the chapter to provide that the participating employer-members of the FRS are solely responsible if they provide erroneous retirement information to the employees; excludes from the definition of employer those state employees that are leased; to provide that the purchase of past service is conditioned upon employment by a former governmental employer from which a benefit is not received; to set the first day of the month at the beginning period for the receipt of retirement benefits; and, to make grammatical changes to the provision that defines a regularly established position;
- Requires written approval prior to the dissemination of material that purports to represent or promote information on the FRS;
- Corrects references to the former Board of Regents; provides that employees' past service cost may be paid by an employer, except if leased, but that it is only employers that have membership status in the FRS;
- Provides in law, which is implemented in practice, that purchase of service credits may be affected by a trustee-to-trustee transfer from the proceeds of another qualified retirement account;
- Clarifies the conditions under which a participant in a retirement plan merged into the FRS may receive benefits and excludes service in a co-employment relationship, that is, one in which dual pension credit is calculated for simultaneous public and private purposes;
- FRS participants re-employed between two and twelve months retirement must notify the succeeding FRS employer. Extends the re-employment without suspension of benefits provision for instructional personnel to the School for the Deaf and Blind, the university

- developmental research schools, and charter schools. Restrictions on re-employment after retirement are clarified to apply to DROP participants and to others, irrespective of the fund category from which paid;
- Eliminates redundancy in the multiple references to the extended, ninety-six month participation in DROP by instructional personnel in favor of a single, equivalent reference. Provides that a person's receipt of the first DROP payment nullifies any subsequent cancellation of participation. DROP benefits will be suspended for any person who violates the re-employment provisions. Benefits received during such violation will be recouped either in arrears or prospectively;
 - Provides alternative references for the division of retirement assets to satisfy an income deduction order entered pursuant to ch. 61, F.S.
 - Provides that a person who claims out-of-state service for credit to a state benefit must satisfy a one-year participation in the FRS for it to take effect. Corrective language is included to exclude the crediting of such service if the participant can or does claim service credit in another jurisdiction;
 - Makes grammatical changes to the quorum requirements for a meeting of the State Retirement Commission;
 - Eliminates a restriction on re-employment of an FRS retiree by a district school board contained in ch. 1012, F.S., that was more strict than similar provisions in state retirement statutes;
 - Repeals four sections in ch. 121, F.S., relating to re-employment after retirement for personnel formerly employed by the School for the Deaf and Blind, university developmental research schools, and charter schools;
 - Permits units of local government to enroll their elected officers in the FRS;
 - Provides a declaration of important state interest to effect compliance with s.18, Art.VII, State Constitution; and,
 - The bill takes effect July 1, 2009.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Any decision by a local government to enroll its elected officers in the FRS is a discretionary act.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There are five employees previously employed by the Department of Management Services and the former Department of Commerce who participate in a leasing arrangement with their current, non-state agency employer. Similar co-employment arrangements will no longer be permitted under this bill and future employees will not be permitted to enroll in the FRS. The Division of Retirement indicates it will enforce this provision prospectively to new leasing arrangements only and the five current employees will not be adversely affected.

The Division of Retirement reports that it occasionally receives inquiries from local governments who merge plans and join the FRS about the status of contract vendors working for the local government employer. The division indicates it denies such requests as the vendor employees retain their non-governmental status even after the transfer or merger unless the local government employer terminates the contractual relationship and moves the affected vendors to public employee status. About sixty employers per year make such requests with affected employees ranging from five to fifty. The requests are most frequently made by charter schools that lease their administrative, non-instructional staff.

Statutory units of local government, independent special districts and municipalities, are voluntary members of the FRS. Florida law does not compel any of such units to have a pension plan, although only a few do not. The cost of enrollment will be borne by the government itself as the FRS does not require employee contributions. The units of government seeking such an enrollment may have pension plans that are more or less expensive than the FRS in terms of contribution rates and more or less comprehensive in their benefit coverage. But the decision to join will not result in any additional expenses to the FRS and requires no new actuarial study as new employers may not transfer any accrued liabilities to this plan from their existing one.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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