

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: SB 1130

INTRODUCER: Senator Ring

SUBJECT: Florida Retirement System

DATE: February 10, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Naf	Roberts	GO	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill makes the following changes to the Florida Retirement System (FRS):

- Closes the defined benefit plan to members enrolled on or after July 1, 2011, and requires members enrolling on or after that date to enter the defined contribution plan.
- Changes vesting for members enrolled in the defined contribution plan on or after July 1, 2011. They will vest in graded increments over a five-year period.
- Changes the FRS from a noncontributory system to a contributory system and requires each active member of the FRS to contribute a percentage of gross salary to fund retirement benefits, effective July 1, 2011.
- Amends the definitions of “compensation” and “average final compensation” to exclude overtime and accumulated annual leave for all members, effective July 1, 2011.
- Creates an additional death benefit for members of the defined contribution plan who are killed in the line of duty.

The bill also:

- Establishes the required employer payroll contribution rates for each membership class and subclass of the FRS retirement plan for the fiscal year beginning July 1, 2011.
- Requires each active member of the Senior Management Service Optional Annuity Program, the State University System Optional Retirement Program, and the Community College Optional Retirement Program to contribute the same percentage of gross salary to fund retirement benefits as those contributed by FRS employees, effective July 1, 2011.
- Creates conforming and implementing provisions related to the substantive changes.

This bill substantially amends the following sections of the Florida Statutes:

110.123, 112.0801, 112.363, 112.65, 121.011, 121.021, 121.051, 121.0515, 121.052, 121.053, 121.055, 121.071, 121.081, 121.091, 121.121, 121.125, 121.35, 121.4501, 121.4502, 121.4503, 121.571, 121.591, 121.5911, 121.70, 121.71, 121.72, 121.73, 121.74, 121.77, 121.78, and 1012.875.

II. Present Situation:

Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to the 572,000 active and 319,000 retired members and beneficiaries of its more than 900 state and local government public employers. Originally established in 1970 as the successor to the Teachers' Retirement System and the State, and County Officers' and Employees' Retirement System, the FRS is today a combination of five previously separate pension plans. Benefit payments are administered by the Department of Management Services through its Division of Retirement while investment management is undertaken by the Board of Administration. Established as a Section 401(a) government plan under the Internal Revenue Code, its benefits are exempt from federal taxation until received by the employee.

As a defined benefit plan, the FRS "Pension Plan" provides retirement income expressed as a percent of final pay. Participants accrue retirement credits based upon their eligibility in one of several membership classes. Years of creditable service multiplied by average final salary multiplied by the accrual rate for the membership class, plus up to 500 hours of annual leave, yield a monthly annuity benefit at normal retirement. The accrual rates range from 1.60 percent for the Regular Class to 3.33 percent for Justices and Judges. For most membership classes normal retirement occurs at the earlier attainment of 30 years' service or age 62. For public safety employees in the Special Risk Retirement and Special Risk Administrative Support Classes, normal retirement is the earlier attainment of age 55 or 25 years' service. Members seeking early retirement dates receive a five percent reduction in the benefit for each year below their normal age threshold.

All membership classes in the Pension Plan permit enrollment in a Deferred Retirement Option Program (DROP) under which a participant may extend employment for an additional five years - eight years for instructional personnel in district school boards - and receive a lump sum benefit at a fixed rate of interest, currently 6.5 percent, for that additional service. Enrollment in DROP requires the participant to serve the employer with a deferred resignation from employment at the end of the period. The defined benefit plan includes a fixed, annual cost-of-living adjustment of 3 percent.

The 2000 Legislature enacted sweeping changes to the FRS by creating the Public Employees Optional Retirement Program (Part II of ch. 121, F.S.), an alternative defined contribution or "Investment Plan" for its members. While a defined benefit plan provides an annuitized monthly benefit expressed as a percent of final pay, a defined contribution plan gives members an equity interest in their employer's payroll contributions and their earnings, although it does not assure a guaranteed result. DROP enrollment is unavailable in the Investment Plan due to the incompatibility of plan designs.

Reenrollment in the FRS is prohibited for retirees who are initially reemployed on or after July 1, 2010.

Management employees and instructional employees in higher educational units are also permitted to enroll in one of three other separate optional retirement programs that exist outside of FRS authority.

Employer Contribution Rates

FRS employers are responsible for contributing a set percentage of their employee's monthly compensation to the Division of Retirement to be distributed into the Florida Retirement System Contributions Clearing Trust Fund. The employer is required to make these contributions no later than the fifth working day of the month following the end of the payroll period.¹

The employer contribution rate is a "blended contribution rate" set by statute, which is the same percentage regardless of which plan their employee participates in. The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.² The current employer contribution rate for each membership class is:

¹ Section 121.78, F.S.

² Section 112.63, F.S.

Membership Class	Effective July 1, 2009	Effective July 1, 2010
Regular Class	8.69 %	9.63 %
Special Risk Class	19.76 %	22.11 %
Special Risk Administrative Support Class	11.39 %	12.10 %
Elected Officer's Class <ul style="list-style-type: none"> • Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders • Justices and Judges • County Officers 	13.32 % 18.40 % 15.37 %	15.20 % 20.65 % 17.50 %
Senior Management Class	11.96 %	13.43 %

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After employer contributions are placed into the FRS Contributions Clearing Trust Fund, benefits under the Investment Plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas benefits under the Pension Plan are placed into the FRS Trust Fund.⁴

Calculation of Pension Plan Benefits

Benefits payable to a pension plan retiree are calculated using formulas that include the average final compensation. "Average final compensation" means the average of the 5 highest fiscal years of compensation for creditable service prior to retirement, termination, or death. The average final compensation includes accumulated annual leave payments, not to exceed 500 hours, and all payments defined as compensation in s. 121.021(22). The average final compensation does not include compensation paid to professional persons for special or particular services; payments for accumulated sick leave made due to retirement or termination; payments for accumulated annual leave in excess of 500 hours; bonuses as defined in s. 121.021(47); third party payments made on or after July 1, 1990; or fringe benefits such as automobile or housing allowances.⁵

"Compensation" means the monthly salary paid a member by his or her employer for work performed arising from that employment. Compensation includes overtime payments paid from a salary fund; accumulated annual leave payments; payments in addition to the employee's base rate of pay if specified conditions apply; amounts withheld for tax sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Internal Revenue Code.⁶

³ Section 121.71, F.S.

⁴ See ss. 121.4503 and 121.72, F.S.

⁵ Section 121.021(24), F.S.

⁶ Section 121.021(22), F.S.

Investment Plan Death Benefit

In the event of the death of a participant in the investment plan, vested benefits will be paid to the participant's designated beneficiary or beneficiaries.⁷

Optional Retirement Programs

Eligible employees may elect to participate in one of three optional retirement programs in lieu of participation in the FRS.

Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program.⁸ Employees in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program.⁹ Eligible employees of a community college may elect to enroll in the Community College Optional Retirement Program.¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., to make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.

Section 2 amends 112.0801, F.S., to make technical drafting changes.

Section 3 amends s. 112.363, F.S., to make technical drafting changes and to make conforming changes to the name change to the FRS defined contribution program.

Section 4 amends 112.65, F.S., to make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.

Section 5 amends s. 121.011, F.S., to require employee contributions effective July 1, 2011.

Section 6 amends s. 121.021, F.S., to:

- Amend the definition of "compensation" for purposes of the FRS defined benefit program to exclude overtime payments paid from a salary fund and accumulated annual leave payments.
- Amend the definition of "average final compensation" for purposes of the FRS defined benefit program to exclude accumulated annual leave payments and overtime payments paid from a salary fund.
- Make technical drafting changes; make a conforming change to the name change to the FRS defined contribution program; and make conforming changes to the implementation of employee contributions.

Section 7 amends s. 121.051, F.S., to:

⁷ Section 121.591(3), F.S.

⁸ Section 121.055(6), F.S.

⁹ Section 121.35, F.S.

¹⁰ Section 1012.875, F.S.

- Make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.
- Provide that the governing body of a charter school joining the FRS prior to July 1, 2011, may elect to provide or not provide benefits based on the past service of officers and employees as described in s. 121.081(1).
- Require employees eligible to elect to join the FRS who choose to do so on or after July 1, 2011, to enter the defined contribution program. Such employees may not use the second election opportunity specified in s. 121.4501(4)(e).
- Clarify that the employer-paid employee contributions specified in s. 121.71(2) are subject to taxes imposed under the Federal Insurance Contributions Act.

Section 8 amends s. 121.0515, F.S., to make technical drafting changes and to make a conforming change to the implementation of employee contributions.

Section 9 amends s. 121.052, F.S., to:

- Specify that effective July 1, 2011, members of the Elected Officers' Class hired on or after that date will begin paying contributions. If a member ceases to fill the office for 3 consecutive months for any reason other than retirement and has not been employed in any capacity with any participating employer for 3 calendar months, the member is eligible for a refund of the employee contributions; however, by taking such refund the member waives all rights to the service credit under the FRS represented by the refunded contributions, except the right to purchase prior service credit in accordance with s. 121.081(2). A member may not receive a refund if a qualified domestic relations order is filed against the member's retirement account. Partial refunds are not permitted.
- Make technical drafting changes.

Section 10 amends s. 121.053, F.S., to:

- Specify that members and employers of members in the Elected Officers' Class who are enrolled in DROP must pay unfunded actuarial liability and health insurance subsidy contributions required by ss. 121.75(5) and 121.76.
- Make a conforming change to the implementation of employee contributions.

Section 11 amends s. 121.055, F.S., to:

- Specify that members of the Senior Management Service Class will begin paying contributions July 1, 2011. If a member ceases to fill the office for 3 consecutive months for any reason other than retirement, the member is eligible for a refund of the employee contributions; however, by taking such refund the member waives all rights to the service credit under the FRS represented by the refunded contributions, except the right to purchase prior service credit in accordance with s. 121.081(2). A member may not receive a refund if a qualified domestic relations order is filed against the member's retirement account. Partial refunds are not permitted.
- Specify that members of the Senior Management Service class who are participating in the Senior Management Service Class optional annuity program will begin paying contributions July 1, 2011. The member will pay the amount of the employee contribution required in s. 121.71(3). The member's employer will pay the difference between 12.49 percent of the member's gross monthly compensation and the amount of the member's contribution.

- Make technical drafting changes and conforming changes to the implementation of employee contributions.

Section 12 amends s. 121.071, F.S., to:

- Specify that employees and employers will pay retirement contributions as specified in s. 121.71 on July 1, 2011.
- Specify that three months after termination, a member is entitled to a refund of contributions he or she made before or after participating in the FRS. Partial refunds are not permitted. Employer contributions made on behalf of the member are not refundable. The refund may not include interest earnings on contributions for a member of the defined benefit program. A member may not receive a refund if a qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the FRS and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit.
- Specify that if a member or former member of the defined benefit program receives an invalid refund from the FRS Trust Fund, such person must repay the full amount of the refund, plus interest at 6.5 percent compounded annually on each June 30 from the date of refund until full repayment is made. The invalid refund must be repaid before the member retires or, if applicable, transfers to the defined contribution plan.
- Make technical drafting changes and conforming changes to the implementation of employee contributions.

Section 13 amends s. 121.081, F.S., to:

- Make a conforming change due to the closure of the defined benefit plan to specify that no past service can be purchased in the defined contribution plan.
- Make technical drafting changes and a conforming change to the implementation of employee contributions.
- Specify that for prior service performed on or after July 1, 2011, for which the member had credit under the Florida Retirement System and received a refund of contributions 3 months after termination of employment, the member shall contribute at the rate that was required during the period of service being claimed, plus 6.5 percent interest, compounded annually on each June 30 from date of refund until the full payment is made to the Florida Retirement System Trust Fund, and shall receive credit in the membership class in which the member participated during the period claimed.

Section 14 amends s. 121.091, F.S., to:

- Specify that effective July 1, 2011, upon termination from all participating employers for 3 calendar months for any reason other than retirement, a member may receive a refund of all contributions he or she made to the defined benefit program. Partial refunds are not permitted. The refund may not include any interest earnings on the contributions for a member of the defined benefit program. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the FRS and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit.

- Make technical drafting changes.

Section 15 amends s. 121.091, F.S., to:

- Make technical drafting changes.
- Raise the age by which a member must enroll in DROP.

Section 16 amends s. 121.121, F.S., to:

- Specify that effective July 1, 2011, any leave of absence purchased pursuant to the section shall be at the employee and employer contribution rates specified in s. 121.71 in effect during the leave for the class of membership from which the leave of absence was granted.
- Make technical drafting changes.

Section 17 amends s. 121.125, F.S., to make technical drafting changes and to make a conforming change to the implementation of employee contributions.

Section 18 amends s. 121.35, F.S., to:

- Make technical drafting changes and conforming changes to the implementation of employee contributions.
- Specify that members of the State University System Optional Retirement Program will begin paying contributions July 1, 2011. The member will pay the amount of the employee contribution required in s. 121.71(3). The member's employer will pay the difference between 10.43 percent of the member's gross monthly compensation and the amount of the member's contribution.

Section 19 amends s. 121.4501, F.S., to:

- Change the name of the "Public Employee Optional Retirement Program" to the "Florida Retirement System Investment Plan."
- Specify that enrollment in the defined contribution plan is compulsory for members enrolled on or after July 1, 2011.
- Make technical drafting changes; changes to conform to the program name change; changes to conform to the implementation of employee contributions; and changes to conform to the closure of the defined benefit program.
- Create definitions for "district school board employer," "investment plan," "local employer," and "state employer."
- Specify that if contribution adjustments are made as a result of employer errors or corrections, including plan corrections, following recomputation of the amount transferred, the participant is entitled to the additional contributions or is responsible for returning any excess contributions resulting from the correction if the return of such contributions by the plan is made within 1 year after the making of the erroneous contributions or such other period allowed by applicable Internal Revenue Service guidance. The present value of the member's accumulated benefit obligation may not be recalculated.
- Clarify that the state board shall establish transfer procedures by rule.
- Delete obsolete language regarding old choices.
- Specify that on or after July 1, 2011, a member of the defined benefit program who obtains a refund of employee contributions retains his or her prior plan choice upon return to employment in a regularly established position with a participating employer.

- Specify that a member of the defined contribution plan who takes a distribution of any contributions from his investment plan account is considered a retiree.
- Specify that a refund of any employee contributions or additional employee payments which exceed the employee contributions that would have accrued had an employee enrolled before July 1, 2011 not elected to change plans is not permitted.
- Specify that participant contributions shall be paid on a pretax basis, as provided in s. 401 of the Internal Revenue Code. Such contributions may not exceed federal limitations. A participant is responsible for monitoring his or her individual contributions to ensure that he or she does not exceed the maximum deferral amounts permitted under the Internal Revenue Code. A participant's total contribution equals the sum all amounts deducted from the participant's salary by his or her employer in accordance with s. 121.71(2) and credited to his or her individual account in the investment plan, plus any earnings on such amounts and any specified contributions.
- Specify that a participant is fully and immediately vested in all participant contributions paid to the investment plan, plus interest and earnings thereon and less investment fees and administrative charges.
- Create a new vesting schedule for employees enrolled in the FRS investment plan on or after July 1, 2011. Such employees vest at 40% upon completion of three years of service, 80% upon 4 years of service, and 100% upon 5 years of service.
- Specify that if the participant elects to receive any of his or her vested employer or participant contributions upon termination of employment as defined in s. 121.021, except for a mandatory distribution of a de minimis account authorized by the state board or a minimum required distribution provided by s. 401(a)(9) of the Internal Revenue Code, the participant shall forfeit all nonvested employer contributions and accompanying service credit paid on behalf of the participant to the investment plan.

Section 20 amends s. 121.4501, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 21 amends s. 121.4503, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 22 amends s. 121.571, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 23 amends s. 121. 591, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.
- Specify that benefits are not payable under the investment plan before termination of employment as provided in s. 121.021(39)(a) for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal

residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence, or for any other reason.

- Codify and clarify current policy regarding retirement.
- Create an additional death benefit for members of the defined contribution plan who are killed in the line of duty. The surviving spouse of a participant killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the participant at the time of death for the rest of the surviving spouse's lifetime. If the surviving spouse of a participant killed in the line of duty dies, the monthly payments that would have been payable to the surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such participant's children under 18 years of age and unmarried until the 18th birthday of the participant's youngest child. If a participant killed in the line of duty leaves no surviving spouse but is survived by children under 18 years of age, the benefits provided shall be paid for the use and benefit of the participant's child or children under 18 years of age and unmarried until the 18th birthday of the participant's youngest child.

Section 24 amends s. 121.5911, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 25 amends s. 121.70, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 26 amends s. 121.71, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the program name change of the FRS defined contribution plan.
- Specify administrative and tax provisions regarding employee contributions.
- Create a statutory column for employee contribution rates.
- Provide that if a member is reported under an incorrect membership class and the amount of contributions reported and remitted are less than the amount required, the employer shall owe the difference, plus the delinquent fee, of 1 percent for each calendar month or part thereof that the contributions should have been paid.
- Set out the employee rates, the employer rates and the rates to fund any unfunded actuarial liabilities payable by the employers. The employers are permitted to deduct the employee contributions from the employee's monthly gross salary on a pretax basis. Employee contributions are set at an undefined percentage of gross salary beginning July 1, 2011. The employer contributions are set to meet the blended normal costs of the FRS (the defined benefit and defined contribution plans combined). The contribution rates for the unfunded actuarial liability are set at 0% for FY 2011-2012 and at the blended UAL rate beginning July 1, 2012. Under current law, the UAL rates will also be imposed upon the optional retirement programs offered for the state university system, the community colleges and the Senior Management Service.

Section 27 amends s. 121.72, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 28 amends s. 121.73, F.S., to:

- Make technical drafting changes and conforming changes to the program name change of the FRS defined contribution plan.
- Specify that effective July 1, 2011, allocations from the FRS Contribution Clearing Fund to provide disability coverage for participants in the investment plan and to offset the costs of administering such coverage shall be the actuarially indicated amount necessary to fund the statutorily authorized benefit for the plan year as determined by the department's actuary.

Section 29 amends s. 121.74, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 30 amends s. 121.77, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 31 amends s. 121.78, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.
- Specify that retirement contributions paid for a prior period shall be charged a delinquent fee of 1 percent for each calendar month or part thereof that the contributions should have been paid. This includes prior period contributions due to incorrect wages, contributions from an earlier report or wages, and contributions that should have been reported but were not. The delinquent assessments may not be waived.
- Specify that if employee contributions reported by an employer on behalf of participants are reduced as a result of employer errors or corrections and the participant has terminated employment and taken a refund or distribution, the employer shall be billed and is responsible for recovering from the participant any excess contributions erroneously provided by the employer.
- Specify that if the employer submits excess employer or employee contributions, the employer shall receive a credit to be applied against future contributions owed. The employer is responsible for reimbursing the employee for any excess contributions submitted if any return of such an erroneous excess pretax contribution by the program is made within 1 year after making erroneous contributions or such other period as allowed under applicable Internal Revenue guidance.

Section 32 amends s. 1012.875, F.S., to:

- Make technical drafting changes and changes to conform to the implementation of employee contributions.
- Specify that effective July 1, 2011, each participant in the State Community College System Optional Retirement Program shall contribute an amount equal to the employee contribution required under s. 121.71(3). Effective July 1, 2011, each employer shall contribute on behalf of each program participant an amount equal to the difference between 10.43 percent of the participant's gross monthly compensation and the employee's required contribution based on the employee's gross monthly compensation.

Section 33 requires an actuarial study of alternative DROP funding.

Section 34 provides a statement of legitimate state interest as required by Article VII, s. 18(a) of the State Constitution and requires that all benefits be funded on a sound actuarial basis as required by Article X, s.14 of the State Constitution, and Part VII of ch. 112, F.S.

Section 35 requests the Division of Statutory Revision to rename the title of part II of chapter 121, Florida Statutes, as “Florida Retirement System Investment Plan.”

Section 36 appropriates and authorizes the following for the Division of Retirement within the Department of Management Services for the purposes of implementing the act:

- \$414,109 of recurring funds and \$31,016 of nonrecurring funds from the FRS Operating Trust Fund, and
- Eight full-time equivalent positions and salary rate or \$265,621.

Section 37 specifies that effective upon the act becoming a law, the State Board of Administration and the Department of Management Services shall, as soon as practicable, request a determination letter and private letter ruling from the United States Internal Revenue Service. If the Internal Revenue Service refuses to act upon a request for a private letter ruling, the legal opinion from a qualified tax attorney or firm may be substituted for the private letter ruling. If the board or the department receives notification from the United States Internal Revenue Service that this act or any portion of this act will cause the Florida Retirement System, or a portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, then that portion does not apply. Upon such notice, the state board and the department shall notify the presiding officers of the Legislature.

Section 38 specifies that except as otherwise expressly provided in the act, the effective date is June 30, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (a) of s. 18, Art. VII of the Florida Constitution provides that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds ... unless the legislature has determined that such law fulfills an important state interest and unless: ... the expenditure is required to comply with a law that applies to all persons similarly situated”

This bill includes a legislative finding that the bill fulfills an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Florida Constitution provides that any retirement or pension system supported in whole or part by public funds shall not increase benefits to the members or beneficiaries of the system after January 1, 1977, unless the provision of the funding increase is made on a sound actuarial basis.¹¹ The “Florida Protection of Public Employee Retirement Benefits Act” prohibits “the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”¹²

Provisions in the bill that create additional benefits may require an actuarial study.

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

None.

B. Private Sector Impact:**Employee Contribution**

Each active employee of the FRS, the Senior Management Service Optional Annuity Plan, the State University System Optional Retirement Plan and the Community College Optional Retirement Plan will contribute a percentage of his/her gross salary on a pretax basis.

C. Government Sector Impact:**Closing Defined Benefit Plan**

Closing the defined benefit plan to new members will result in increased funding requirements for a period of approximately 25 years as liabilities in benefit payments continue but employer contributions for new members are not incoming.¹³ Closing the defined benefit plan to new members will also result in increased funding requirements for the disability program for the same reason.

Death Benefit for Defined Contribution Plan

Creating a monthly death benefit for survivors of a defined contribution plan participant killed in the line of duty will result in indeterminate increased funding requirements.

¹¹ Article X, Section 14, Florida Constitution.

¹² Section 112.61, F.S.

¹³ Actuarial study, “Study Reflecting the Impact of Closing the Florida Retirement System Pension Plan Including Projected Blended Rates for the next 30 Fiscal Years,” July 8, 2010, on file with the Committee on Governmental Oversight and Accountability.

Requiring Employee Contributions

Requiring employee contributions to the FRS will result in an indeterminate increase in cash flow.

Administrative Costs

The changes made in the bill may result in increased administrative costs incurred by the Division of Retirement within the Department of Management Services.

VI. Technical Deficiencies:

The Legislature may wish to clarify that the change in definitions of “compensation” and “average final compensation” in s. 121.021, F.S., are prospective for service earned.

The Legislature may wish to consider making terminology regarding the names of the two FRS plan options and the term used for participants consistent throughout the bill.

The date in line 2490 should be July 1, 2010.

The terms of the actuarial study required in Section 33 have already been completed.

VII. Related Issues:

Other economic factors and policy considerations could result in a change to the employer contribution rates listed in the bill.

The Division of Retirement within the Department of Management Services anticipates that it will require two additional full-time equivalent positions for the purpose of implementing this act.

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.