

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 1334

INTRODUCER: Senator Oelrich

SUBJECT: Florida Retirement System

DATE: February 15, 2012

REVISED: _____

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

I. Summary:

This bill makes changes to the Florida Retirement System. It changes normal retirement age for Special Risk Class members to age 55 and vested; or age 48 with 25 years of special risk service; or age 52 with 25 years of service, including special risk service and up to 4 years of military service.

The bill changes vesting in the pension plan from 8 to 10 years.

The bill changes the early retirement reduction applied to benefits for members of the Regular Class, Senior Management Service Class, or Elected Officers' Class initially enrolled on or after July 1, 2012. Benefits will be reduced by 5 percent for each year a member is under age 62. The bill also changes the early retirement reduction applied to benefits for members of the Special Risk Class initially enrolled on or after July 1, 2012. Benefits will be reduced by 5 percent for each year a member is under age 55, or 48 if the member has completed 25 years of creditable special risk service.

The bill also specifies that new members of the Florida Retirement System initially enrolled on or after July 1, 2012, will be members of the Investment Plan, with a one-year window after the month of hire to elect to participate in the Pension Plan. Members forfeit the option to participate in the Pension Plan if they do not elect to do so within the first year.

This bill amends sections 121.021, 121.091, and 121.4501 of the Florida Statutes.

II. Present Situation:

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the pension plan and, in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹

The Florida Retirement System Act² governs the FRS, which is a multi-employer, contributory plan that provides retirement income benefits to 643,746 active members, 319,689 retired members and beneficiaries, and 45,092 members of the Deferred Retirement Option Program.³ It 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 185 cities and 243 independent special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- Regular Class⁵ has 551,896 active members;
- Special Risk Class⁶ has 72,675 active members;
- Special Risk Administrative Support Class⁷ has 63 active members;
- Elected Officers' Class⁸ has 2,014 active members; and
- Senior Management Service Class⁹ has 7,310 active members.¹⁰

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two plan options available for participation:

- The pension plan, which is a defined benefit plan; and
- The investment plan, which is a defined contribution plan.

Pension Plan

¹ The Florida Retirement System Annual Report, July 1, 2009 – June 30, 2010, at 60.

² See Chapter 121, F.S.

³ The Florida Retirement System Annual Report, July 1, 2010 – June 30, 2011, at 22.

⁴ *Id.*, at 38.

⁵ Regular Class members are those members who do not qualify for membership in the other classes within the FRS. See s. 121.021(12), F.S.

⁶ Members include law enforcement officers, firefighters, correctional officers, correctional probation officers, paramedics, emergency medical technicians, certain professional health care workers within the Department of Corrections and the Department of Children and Family Services, and certain forensic employees. See s. 121.0515, F.S.

⁷ Members are former members of the special risk class who are transferred or reassigned to an administrative support position in certain circumstances. See s. 121.0515(8), F.S.

⁸ Membership is comprised of those participants who hold specified elective offices in either state or local government. See s. 121.052, F.S.

⁹ Members generally are high level executive and legal staff or as specifically provided in law. See s. 121.055, F.S.

¹⁰ The Florida Retirement System Annual Report, July 1, 2010 – June 30, 2011, at 55.

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.¹¹ Investment management is handled by the State Board of Administration (SBA).

The pension plan provides retirement income expressed as a percent of final pay. The member receives a monthly benefit which begins to accrue on the first day of the month of retirement and is payable on the last day of the month for the member's lifetime.¹² 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 the monthly annuity benefit at normal retirement.¹³

Current law provides that a member employed before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁴ A member employed on or after July 1, 2011, vests in the pension plan after completing eight years of service.¹⁵ Benefits payable under the pension plan are calculated based on years of service X accrual rate X average final compensation. For members of the pension plan enrolled before July 1, 2011, normal retirement occurs at the earlier attainment of 30 years of service or age 62.¹⁶ For members enrolled on or after July 1, 2011, normal retirement occurs at the earlier attainment of 33 years of service or age 65.¹⁷ For members of the Special Risk or Special Risk Administrative Support Class enrolled before July 1, 2011, normal retirement occurs at the earlier attainment of 25 years of service or age 55.¹⁸ For members of the Special Risk or Special Risk Administrative Support Class enrolled on or after July 1, 2011, the normal retirement is the attainment of eight or more years of creditable service and 60 years of age, or attainment of 30 years of creditable service.¹⁹

Investment Plan

The SBA is primarily responsible for administering the investment plan.²⁰ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.²¹

Benefits under the investment plan accrue in individual member accounts funded by employer and employee contributions and earnings.²² Benefits are provided through employee-directed investments offered by approved investment providers.

A member is immediately vested in all employee contributions paid to the investment plan.²³ With respect to the employer contributions, the member vests upon the completion of one year of work.²⁴ Vested benefits are payable upon termination or death as a lump-sum distribution, direct

¹¹ Section 121.025, F.S.

¹² Section 121.091(1), F.S.

¹³ See s. 121.091, F.S.

¹⁴ Section 121.021(45)(a), F.S.

¹⁵ Section 121.021(45)(b), F.S.

¹⁶ Section 121.021(29)(a)1.a. and b., F.S.

¹⁷ Section 121.021(29)(a), F.S.

¹⁸ Section 121.021(29)(b)1.a. and b., F.S.

¹⁹ Section 121.021(29)(b)2.a. and b., F.S.

²⁰ See s. 121.4501(8), F.S.

²¹ Established by Article IV, s. 4(e) of the State Constitution.

²² Section 121.4501(7), F.S.

²³ Section 121.4501(6)(a), F.S.

²⁴ Section 121.4501(6)(b), F.S.

rollover distribution, or periodic distribution.²⁵ In addition to normal benefits and death benefits, the investment plan also provides disability coverage.²⁶

Plan Selection

Florida law provides that a new FRS enrollee automatically defaults into the pension plan if, by the last business day of the fifth month following the month of hire, the enrollee does not make an active election of a retirement plan between the pension plan or the investment plan.²⁷ If the member does not actively select a retirement plan they are defaulted to the pension plan.²⁸

Second Election Option

Once a member completes his or her initial plan choice period, the member has a one-time second election option to switch retirement plans (pension plan to investment plan or investment plan to pension plan).²⁹ This change must be made while the member is actively working for an FRS employer. A member switching to the pension plan from the investment plan must buy-in to the pension plan using the member's account balance in the investment plan and any outside monies necessary to make the pension plan whole.³⁰

Optional Retirement Plans

State University System Optional Retirement Program

The optional retirement program for the State University System (SUSORP) is a retirement plan that is provided as an alternative to FRS membership for eligible State University System faculty, administrators, administrative professionals, and executive service personnel.^{31,32} As of June 30, 2011, there were 16,999 SUSORP participants.³³

Through this program, participants elect coverage as an alternative to membership in the traditional FRS and direct their own investments (retirement and death benefits).³⁴ Members of the SUSORP who have executed a contract may make voluntary contributions by salary reduction or deduction in an amount not to exceed the percentage amount contributed by the employer.³⁵ Current law provides that members may receive a payout of benefits funded by the member's voluntary contributions at any time within the limits of the contract between the member and the provider company.³⁶

State Community College System Optional Retirement Program

²⁵ See s. 121.591, F.S.

²⁶ See s. 121.4501, F.S.

²⁷ Section 121.4501(4)(a)1.a., F.S.

²⁸ Section 121.4501(4)(a)1.b., F.S.

²⁹ Section 121.4501(4)(g), F.S.

³⁰ Section 121.4501(4)(g)2., F.S.

³¹ Section 121.35(2)(a), F.S., provides that SUSORP is available to certain instructional and research faculty, administrative and professional personnel, and the Chancellor and university presidents. Section 121.051(1)(a)2., F.S., requires faculty members at a college with faculty practice plans to participate in the optional retirement program.

³² See s. 121.35, F.S.

³³ The Florida Retirement System Annual Report, July 1, 2010 – June 30, 2011, at 74.

³⁴ Section 121.35(1), F.S.

³⁵ Section 121.35(4)(e), F.S.

³⁶ Section 121.35(5)(g), F.S.

The optional retirement program for the State Community College System (SCCSORP) is a retirement plan that is provided as an alternative to FRS membership for eligible State Community College employees.³⁷ Employees of public community colleges and charter technical career centers sponsored by public community colleges³⁸ who are members of the Regular Class of the FRS may, in lieu of participating in the FRS, elect to withdraw from the system and participate in the SCCSORP.³⁹

Senior Management Service Optional Annuity Program

The Senior Management Service Optional Annuity Program (SMSOAP) is a retirement plan that is provided as an alternative to FRS membership for members of the Senior Management Service Class.⁴⁰ Under this optional annuity plan, eligible members may purchase retirement, death, and disability benefits.⁴¹ As of June 30, 2011, there were 38 members of the SMSOAP.⁴²

Changes to the FRS in 2011

During the 2011 Session, the Legislature passed Senate Bill 2100. Senate Bill 2100 made several changes to the FRS, including the following changes:

- Required a 3 percent employee contribution for members of a state-administered retirement plan.⁴³
- Increased the years of service required for vesting from six to eight years of creditable service for employees initially enrolled in the pension plan on or after July 1, 2011.⁴⁴
- Revised the definition of "average final compensation" for members who initially enroll in the pension plan on or after July 1, 2011, to mean the average of the eight highest fiscal years of compensation for creditable service prior to retirement, for purposes of calculating retirement benefits.⁴⁵
- Reduced the interest accrual rate from 6.5 percent to 1.3 percent for members who enter the Deferred Retirement Option Program on or after July 1, 2011.⁴⁶
- Increased the retirement age and years of service for members of the FRS who initially enroll on or after July 1, 2011.⁴⁷

III. Effect of Proposed Changes:

Section 1 amends s. 121.021, F.S., to change the normal retirement date for Special Risk Class members initially enrolled after July 1, 2012 to:

- Age 55 and vested;

³⁷ Section 1012.875, F.S.

³⁸ See s. 1000.21(3)(a)-(bb), F.S., for a list of public community colleges and charter technical careers that are sponsored by public community colleges.

³⁹ Section 121.051(2)(c)

⁴⁰ Section 121.055(6)(a), F.S.

⁴¹ *Id.*

⁴² The Florida Retirement System Annual Report, July 1, 2010 – June 30, 2011, at 76.

⁴³ Codified in ss. 121.71, 121.055(6)(d)1.c., 121.35(4)(a)3., and 1012.875(4)(a)2., F.S.

⁴⁴ Codified in s. 121.021(45)(b), F.S.

⁴⁵ Codified in s. 121.021(24), F.S.

⁴⁶ Codified in s. 121.091(13)(c)1.b., F.S.

⁴⁷ Codified in ss. 121.021(29)(a) and (b)2.a. and b., F.S.

- Age 48 and 25 years of special risk service; or
- Age 52 and 25 years of service, to include special risk service and up to 4 years of military service.

The bill also increases the amount of time needed to vest in the pension plan to 10 years, for those initially enrolled in the FRS on or after July 1, 2012.

Section 2 amends s. 121.091, F.S., to change the early retirement reduction applied to benefits for members of the Regular Class, Senior Management Service Class, or Elected Officers' Class initially enrolled on or after July 1, 2012. Benefits will be reduced by 5 percent for each year a member is under age 62, instead of age 65.

The bill also changes the early retirement reduction applied to benefits for members of the Special Risk Class initially enrolled on or after July 1, 2012. Benefits will be reduced by 5 percent for each year a member is under age 55, or 48 if the member has completed 25 years of creditable special risk service, consistent with section 1 of the bill.

Section 3 amends s. 121.4501, F.S., to require new members initially enrolled on or after July 1, 2012, to default into the Investment Plan with a one-year window after the month of hire to elect Pension Plan participation. The default election takes effect the last business day of the twelfth month following the month of hire. If a member elects Pension Plan participation, the present value of his or her retirement contributions under the Investment Plan will be transferred to the Pension Plan. Members initially enrolled on or after July 1, 2012, forfeit the option to participate in the Pension Plan if they do not elect to do so within the first year.

Section 4 provides that the bill takes effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill would require a local government to expend funds to comply with its terms, the provisions of section 18(a) of article VII of the State Constitution may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest, and one of the following relevant exceptions must apply:

- Funds estimated at the time of enactment to be sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

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.⁴⁸ 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.”⁴⁹

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:

None.

C. Government Sector Impact:

Indeterminate. Actuarial studies may be needed to determine the fiscal impact of some provisions in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁸ Section 14, Art. X, Florida Constitution.

⁴⁹ Section 112.61, F.S.

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.
