HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/HB 7079 (CS/CS/SB 2024)	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	State Affairs Committee; Government Operations Subcommittee; Patronis (Government Oversight and Accountability)	108 **Y's**	8 **N's**
COMPANION BILLS:	CS/CS/SB 2024	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/HB 7079 passed the House on February 23, 2012, and subsequently passed the Senate on March 8, 2012. The bill includes portions of CS/CS/HB 525.

The bill corrects drafting errors and makes other conforming and clarifying changes that are necessary as a result of the passage of SB 2100 during the 2011 Legislative Session.

SB 2100 made several changes to the Florida Retirement System (FRS), including the Senior Management Service Optional Annuity Program (SMSOAP), the State University System Optional Retirement Program (SUSORP), and the State Community College System Optional Retirement Program (SCCSORP).

The bill corrects drafting errors and makes other conforming and clarifying changes that are necessary as a result of the passage of SB 2100. The bill:

- Clarifies that the provisions of part I of the Florida Retirement System Act, are applicable to parts II and III of the act, provided the provisions are not duplicative or inconsistent.
- Revises the definition of "vesting" and "normal retirement date" to make clarifying changes.
- Conforms the deferral age for participants of the Deferred Retirement Option Program initially enrolled in the FRS on or after July 1, 2011, to changes made in SB 2100.
- Makes it clear a retiree of the investment plan, SMSOAP, SUSORP, or SCCSORP, who is reemployed on or after July 1, 2010, is prohibited from being reenrolled as a renewed member of a state-administered retirement system.
- Allows members of the SMSOAP, SUSORP, and SCCSORP to receive a benefit distribution of up to 10 percent of their account balance one month after termination.
- Clarifies that the current prohibition on hardship loans, for purposes of the SMSOAP, SUSORP, and SCCSORP, does not apply in certain circumstances.
- Clarifies that members of the SUSORP may receive payment of benefits from either annuity contracts or investment contracts.
- Provides that the term "benefit" for purposes of the SUSORP means a distribution taken by the member, or surviving beneficiary, funded in part or in whole by employer and employee contributions. A rollover distribution to another qualified plan qualifies as a distribution.
- Provides that members of the SUSORP may not receive benefits funded by voluntary personal contributions until after termination from employment for three calendar months.

The bill does not appear to have a fiscal impact on state or local governments.

The bill was approved by the Governor on May 4, 2012, ch. 2012-222, Laws of Florida. The effective date of the bill is July 1, 2012.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

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 Act[2] governs the FRS, which is a multi-employer, contributory plan that provides retirement income benefits to 643,746 active members,[3] 319,689 retired members and beneficiaries,[4] and 45,092 members of the Deferred Retirement Option Program.[5] 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 182 cities and 231 independent special districts that have elected to join the system.[6]

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

- Regular Class[7] has 561,192 members;
- Special Risk Class[8] has 72,675 members;
- Special Risk Administrative Support Class[9] has 63 members;
- Elected Officers' Class[10] has 2,218 members; and
- Senior Management Service Class[11] has 7,598 members.[12]

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.

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[1] The Florida Retirement System Annual Report, July 1, 2009 – June 30, 2010, at 60 (on file with the Government Operations Subcommittee).

[2] *See* Chapter 121, F.S.

[3] As of June 30, 2011, the pension plan, which is a defined benefit plan, had 540,701 members, and the investment plan, which is a defined contribution plan, had 103,045 members. Information provided by telephone on December 16, 2011, by Mr. Garry Green, Operations & Management Consultant Manager, Division of Retirement, Research and Education Section, Department of Management Services.

[4] Information provided by telephone on December 16, 2011, by Mr. Garry Green, Operations & Management Consultant Manager, Division of Retirement, Research and Education Section, Department of Management Services.

[5] *Id.*

[6] *Id.*

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

[8] 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.

[9] 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.

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

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

[12] Information provided by telephone on December 16, 2011, by Mr. Garry Green, Operations & Management Consultant Manager, Division of Retirement, Research and Education Section, Department of Management Services.

Investment Plan
The State Board of Administration (SBA) is primarily responsible for administering the investment plan.[13] The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.[14]

Benefits under the investment plan accrue in individual member accounts funded by employer and employee contributions and earnings.[15] 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.[16] With respect to the employer contributions, the member vests upon the completion of one year of work.[17] Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.[18] In addition to normal benefits and death benefits, the investment plan also provides disability coverage.[19]

Pension Plan
The pension plan is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement.[20] Investment management is handled by the 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.[21] 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.[22]

Deferred Retirement Option Program
The Deferred Retirement Option Program (DROP) allows a member of the pension plan to retire while continuing employment for up to 60 months.[23] Certain instructional personnel may participate in DROP up to an additional 36 months.[24] Current law provides that members who reach their normal retirement date based on service before they reach age 62, or age 55 for special risk members, may defer participation in DROP to the 12 months immediately following the attainment of age 57, or 52 for special risk members.[25]

<u>Optional Retirement Programs</u>

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,

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13 *See* s. 121.4501(8), F.S.
14 Established by Article IV, s. 4(e) of the State Constitution.
15 Section 121.4501(7), F.S.
16 Section 121.4501(6)(a), F.S.
17 Section 121.4501(6)(b), F.S.
18 *See* s. 121.591, F.S.
19 *See* s. 121.4501, F.S.
20 Section 121.025, F.S.
21 Section 121.091(1), F.S.
22 *See* s. 121.091, F.S.
23 Section 121.091(13), F.S.
24 Section 121.091(13)(b), F.S.
25 Section 121.091(13)(a)2., F.S.

administrators, and administrative professionals, and executive service personnel.[26,27] As of June 30, 2011, there were 16,999 SUSORP participants.[28]

Through this program, participants elect coverage as an alternative to membership in the traditional FRS and direct their own investments (retirement and death benefits).[29] 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.[30] 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.[31]

State Community College System Optional Retirement Program
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.[32] Employees of public community colleges and charter technical career centers sponsored by public community colleges[33] 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.[34] As of June 30, 2011, there were 1,569 SCCSORP participants.[35]

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.[36] Under this optional annuity plan, eligible members may purchase retirement, death, and disability benefits.[37] As of June 30, 2011, there were 38 members of the SMSOAP.[38]

<u>Renewed Membership</u>
Current law provides that a retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, is not eligible for renewed membership in a state-administered retirement system.[39]

<u>Senate Bill 2100 (2011)</u>
During the 2011 Session, the Legislature passed Senate Bill 2100. Senate Bill 2100 made several changes to the FRS, including the SUSORP, SCCSORP, and the SMSOAP. The bill made the following changes:

- Required a 3 percent employee contribution for members of a state-administered retirement plan.[40]

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[26] 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.
[27] *See* s. 121.35, F.S.
[28] Information provided by telephone on December 15, 2011, by Mr. Todd Gunderson, Senior Benefits Analyst, Department of Management Services.
[29] Section 121.35(1), F.S.
[30] Section 121.35(4)(e), F.S.
[31] Section 121.35(5)(g), F.S.
[32] Section 1012.875, F.S.
[33] *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.
[34] Section 121.051(2)(c), F.S.
[35] Information provided by telephone on January 20, 2012, by Mr. Garry Green, Operations & Management Consultant Manager, Division of Retirement, Research and Education Section, Department of Management Services.
[36] Section 121.055(6)(a), F.S.
[37] *Id.*
[38] Information provided by telephone on January 20, 2012, by Mr. Garry Green, Operations & Management Consultant Manager, Division of Retirement, Research and Education Section, Department of Management Services.
[39] Section 121.122(2), F.S.
[40] Codified in ss. 121.71, 121.055(6)(d)1.c., 121.35(4)(a)3., and 1012.875(4)(a)2., F.S.

- 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.[41]
- Revised the definition of "average final compensation" for members initially enrolled 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.[42]
- Reduced the interest accrual rate from 6.5 percent to 1.3 percent for members who enter DROP on or after July 1, 2011.[43]
- Increased the retirement age and years of service for members of the FRS who initially enroll on or after July 1, 2011.[44]

Effect of Proposed Changes

The bill corrects drafting errors and makes other conforming and clarifying changes that are necessary as a result of the passage of Senate Bill 2100.

The bill provides that the provisions of part I of Chapter 121, F.S., are applicable to parts II and III of the chapter, provided they are not duplicative or inconsistent. Part II of Chapter 121, F.S., pertains to the Public Employee Optional Retirement Program, which is the investment plan. Part III pertains to the Florida Retirement System Contribution Rates.

The bill revises the definition of "vesting" to clarify that the vesting schedule solely applies to pension plan members. It also revises the definition of "normal retirement date" to clarify that normal retirement age for pension plan members is attained on the normal retirement date of the member. It further clarifies that the normal retirement age for investment plan members is the later of the date a member attains normal retirement age, or is vested under the investment plan as provided by law.

The bill conforms the deferral age for DROP participants initially enrolled in the FRS on or after July 1, 2011, to changes made by Senate Bill 2100 regarding a member's normal retirement date. It provides that a member initially enrolled in the FRS on or after July 1, 2011, who reaches his or her normal retirement date based on service before reaching age 65, or 60 for special risk members, may defer his or her election to participate in DROP to the 12 months immediately following the date the member attains age 60, or 55 for special risk members.

The bill makes it clear that a retiree of the investment plan, SMSOAP, SUSORP, or SCCSORP who is reemployed on or after July 1, 2010, is prohibited from being reenrolled as a renewed member of a state-administered retirement system.

The bill provides that a member of the SMSOAP, SUSORP, or SCCSORP may receive a distribution of up to 10 percent of his or her benefit after termination for one calendar month. The member also must reach his or her normal retirement date as provided in current law. The bill authorizes DMS and the board of trustees of community colleges to adopt rules to implement this distribution. This provision aligns the optional retirement programs with the investment plan.

For purposes of the SMSOAP, SUSORP, and SCCSORP, the bill clarifies that the current prohibition on hardship loans does not apply to:

- A requested distribution for retirement;
- A mandatory de minis distribution authorized by the administrator; or
- A required minimum distribution provided pursuant to the Internal Revenue Code.

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[41] Codified in s. 121.021(45)(b), F.S.
[42] Codified in s. 121.021(24), F.S.
[43] Codified in s. 121.091(13)(c)1.b., F.S.
[44] Codified in ss. 121.021(29)(a) and (b)2.a. and b., F.S.

The bill clarifies that members of the SUSORP may receive payment of benefits from either annuity contracts or investment contracts. Additionally, the bill provides that the term "benefit" for purposes of the SUSORP means a distribution taken by the member, or surviving beneficiary, funded in part or in whole by employer and employee contributions. A rollover distribution to another qualified plan qualifies as a distribution.

The bill provides that members of the SUSORP may not receive benefits funded by voluntary personal contributions until after termination from employment for three calendar months. This provision aligns the payout of benefits funded by voluntary personal contributions with those for the payout of benefits funded by mandatory employee contributions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.