

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 Committee on Governmental Oversight and Accountability

BILL: SB 1326

INTRODUCER: Senator Soto

SUBJECT: Retirement

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1328 amends s. 121.101, F.S., to set the level of the annual cost of living adjustment for all FRS pension plan retirees and annuitants beginning July 1, 2016. The annual cost of living adjustment will be the greater of 3% or the percentage change in the Consumer Price Index for the Elderly as determined by the Bureau of Labor Statistics within the federal Department of Labor each year.

The system-wide cost of the benefit enhancements provided in this bill are roughly \$1.1 billion annually. State agencies, universities and colleges, school districts, counties and various other local governments participating in the Florida Retirement System will bear the cost.

II. Present Situation:

The 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 added to the FRS, and in 2007, the membership of the Institute of Food and Agricultural Sciences Supplemental Retirement Program was included in the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with most members contributing three percent of their salaries.²

¹ The Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2014, at p. 29. Available online at: https://www.rol.frs.state.fl.us/forms/2013-14_CAFR.pdf.

² Prior to 1975, members of the FRS were required to make employee contributions of either four percent for Regular Class employees or six percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Ch. 121, F.S. As of June 30, 2014, the FRS had 622,089 active members, 363,034 annuitants, 16,137 disabled retirees, and 38,058 active participants of the Deferred Retirement Option Program (DROP).³ As of June 30, 2014, the FRS consisted of 1,014 total employers; it is the primary retirement plan for the employees and officers of state and county government agencies, district school boards, Florida College institutions, and state universities, as well as the employees and officers of the 186 cities and 262 special districts that have elected to join the system.⁴

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

- The Regular Class⁵ consists of 537,993 active members, plus 5,402 in renewed membership;
- The Special Risk Class⁶ includes 68,593 active members;
- The Special Risk Administrative Support Class⁷ has 84 active members;
- The Elected Officers' Class⁸ has 2,040 active members, plus 147 in renewed membership; and
- The Senior Management Service Class⁹ has 7,607 members, plus 184 in renewed membership.¹⁰

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.

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

A member vests immediately in all employee contributions paid to the investment plan.¹¹ With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.¹² Vested benefits are payable upon termination or death as a

³ Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2014, at 112.

⁴ *Id.*, at 146.

⁵ The Regular Class is for all members who are not assigned to another class. (Section 121.021(12), F.S.)

⁶ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. (Section 121.0515, F.S.)

⁷ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁸ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. (Section 121.055, F.S.)

¹⁰ All figures from Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2014, at 115.

¹¹ Section 121.4501(6)(a), F.S.

¹² If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the

lump-sum distribution, direct rollover distribution, or periodic distribution.¹³ The investment plan also provides disability coverage for both in the line of duty and regular disability retirement benefits.¹⁴ An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁵

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁶ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁷

Pension Plan

General Background

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.¹⁸ Investment management of the pension plan assets is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁹ For members enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.²⁰ Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.²¹ For most members of the pension plan, normal retirement occurs at 30 years of service or age 62.²² For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement occurs at 25 years of service or age 55.²³ Members initially enrolled in the pension plan on or after July 1, 2011, have longer vesting requirements. For unreduced benefits for members initially enrolled after that date, most members must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.²⁴

member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. (Section 121.4501(6)(b) – (d), F.S.)

¹³ Section 121.591, F.S.

¹⁴ Section 121.4501(16), F.S.

¹⁵ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in the line of duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

¹⁶ Section 121.4501(8), F.S.

¹⁷ FLA.CONST. art. IV, s. 4.

¹⁸ Section 121.025, F.S.

¹⁹ Section 121.021(45)(a), F.S.

²⁰ Section 121.021(45)(b), F.S.

²¹ Section 121.091, F.S.

²² Section 121.021(29)(a)1., F.S.

²³ Section 121.021(29)(b)1., F.S.

²⁴ Sections 121.021(29)(a)2. and (b)2., F.S.

Cost of Living Adjustments

For members whose effective retirement date was before July 1, 2011, the member's monthly retirement benefit is increased by 3% each July 1.

For members who retire on or after July 1, 2011, the member's monthly retirement benefit is increased on July 1 of each year by 3%, prorated by the member's service credit earned prior to July 1, 2011 divided by the member's total service credit earned.

Members who initially enroll in the FRS on or after July 1, 2011, receive no cost of living adjustment during retirement. This is because the member's total service will be post-2011, resulting in the 3% adjustment prorated to 0%.

Reinstatement of Cost of Living Adjustments

At the time the COLA was modified in 2011, the Legislature included a provision that allowed the 3% COLA to be reinstated contingent the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the 3% COLA. If the legislature provides such funding and enacts sufficient employer contributions, the provision regarding the prorated COLA expires and the COLA reverts to 3% annually.

Consumer Price Indices

The Bureau of Labor Statistics (BLS) within the federal Department of Labor models an experimental consumer price index (CPI) for Americans 62 years of age and older. This index is referred to as Consumer Price Index for the Elderly or CPI-E. The fixed market basket of goods and services used for this index is different from the fixed market basket used for the Consumer Price Index for All Urban Consumers (CPI-U).

The annual percentage change in the CPI-U for the period December 1982 through December 2011 was 2.9%. The annual percentage change in the CPI-E for the same period was 3.1%.²⁵ The BLS does not forecast the CPI-E.

III. Effect of Proposed Changes:

Section 1 amends s. 121.101, F.S., to set the level of the annual cost of living adjustment for all FRS pension plan retirees and annuitants beginning July 1, 2016. The annual cost of living adjustment will be the greater of 3% or the percentage change in the CPI-E for the year.

Section 2 provides that the Legislature finds that this act fulfills an important state interest.

Section 3 provides that the act takes effect on July 1, 2016.

²⁵ http://www.bls.gov/opub/ted/2012/ted_20120302.htm (last viewed January 22, 2016).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Subsection (a) of s. 18, Art. VII of the Florida Constitution provides in pertinent part 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 legislative findings that the bill fulfills important state interests (see section 9), and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, universities, community colleges, counties, and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article X, section 14 of the Florida Constitution provides:

A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

An actuarial study has been completed to comply with Article X, section 14 of the Florida Constitution.²⁶ However, the bill does not provide the adjustments to contribution rates necessary to fund the cost of the retirement benefit enhancements.

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

None.

²⁶ *Re: Actuarial Study – Prospective Reinstatement of 3 Percent COLA*, from Milliman, Inc., to Dan Drake, State Retirement Director, dated December 15, 2015. (on file with the Senate Committee on Governmental Oversight and Accountability).

B. Private Sector Impact:

Members and annuitants of the FRS who retire on or after July 1, 2011, will receive greater COLAs each year during retirement. Members and annuitants of the FRS who retired before July 1, 2011, may receive greater COLAs in any year for which the percentage change in the CPI-E is greater than 3%.

C. Government Sector Impact:

The bill does not provide the funding necessary to implement the benefit enhancement. The new contributions that will be required on an annual basis to implement the benefit enhancement are noted in the table below. However, the amounts are understated because the special actuarial study completed to determine the actuarial costs assumed that the prospective COLA would be only 3% rather than the greater of 3% or the percentage change in the CPI-E.

Employer Group	Impact on Contributions
State Agencies	\$181.5 m
Universities	\$73.0 m
Colleges	\$31.9 m
School Boards	\$380.7 m
Counties	\$367.7 m
Other	\$56.3 m
Total	\$1,091.1 m

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 121.031, F.S., directs the DMS to complete an annual actuarial valuation of the FRS pension plan based on the benefits authorized at the time. The benefits to be included in the actuarial analysis includes the implementation of the annual COLA. If this bill is enacted, the COLA will be the greater of 3% or the percentage increase in the CPI-E. However, at this time, there is no forecast of the CPI-E. Thus, the state actuary will have to choose a presumed COLA for the actuarial model which may overstate or understate the actuarial costs of the FRS pension plan.

VIII. Statutes Affected:

This bill substantially amends section 121.101 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of 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.
