

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 7107	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Appropriations Committee; State Affairs Committee; Caldwell and others	116 Y's	1 N's
COMPANION BILLS:	HB 87; HB 917; SB 7012	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 7107 passed the House on February 24, 2016; however, SB 7012, which addressed similar issues, had previously passed the Senate on February 10, 2016, and subsequently passed the House on March 9, 2016. SB 7012 also includes HB 87 and HB 917.

The Florida Retirement System (FRS) is a multiple-employer, contributory plan that provides retirement income benefits to employees of the state and county government agencies, district school boards, state colleges, and universities as well as participating employees of cities and independent hospitals and special districts that have elected to join the system. 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.

The bill increases survivor benefits for Special Risk Class members of the pension plan killed in the line of duty on or after July 1, 2013. Rather than receiving a monthly payment equal to one-half of the member's monthly salary at the time of death, the member's spouse and children are eligible to receive a monthly payment equal to the member's total monthly salary at the time of death.

The bill establishes new survivor benefits for Special Risk Class members of the investment plan killed in the line of duty on or after July 1, 2013. As a result, the spouses and children of such members will receive the same survivor benefits provided to Special Risk Class members of the pension plan, including the new increased benefit. The bill provides a process for calculating the retroactive benefit.

Payment of these new benefits will begin on July 1, 2016.

In addition, for Special Risk Class members of the investment plan or pension plan killed in the line of duty on or after July 1, 2013, survivor benefits may be extended to the 25th birthday of an unmarried child enrolled as a full time student if there is no surviving spouse or the surviving spouse dies.

The bill provides that a proper and legitimate state purpose is served by the bill, provides allocations for the survivor benefits authorized by the act, and provides for adjustments to employer contribution rates in order to fund the proposed changes.

For Fiscal Year 2016-17, the bill appropriates the recurring amounts of \$5,445,537 from the General Revenue Fund and \$1,062,991 from trust funds to Administered Funds in order to fund the increased employer contribution rates to be paid by state agencies, state universities, state colleges, and school districts. See Fiscal Comments section for further discussion.

The bill was approved by the Governor on April 8, 2016, ch. 2016-213, L.O.F., and will become effective on July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7107z1.SAC

DATE: April 11, 2016

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

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 FRS, 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 FRS is a multiple-employer, contributory plan² governed by the Florida Retirement System Act.³ As of June 30, 2014, the FRS provides retirement income benefits to 622,089 active members,⁴ 363,034 retired members and beneficiaries, and 38,058 members of the Deferred Retirement Option Program (DROP).⁵ It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 189 cities and 273 independent hospitals and special districts that have elected to join the system.⁶

The membership of the FRS is divided into five membership classes:⁷

- Regular Class⁸ consists of 543,434 members (87.35 percent of the membership);
- Special Risk Class⁹ includes 68,593 members (11.02 percent);
- Special Risk Administrative Support Class¹⁰ has 84 members (.01 percent);
- Elected Officers' Class¹¹ has 2,187 members (0.35 percent); and
- Senior Management Service Class¹² has 7,791 members (1.25 percent).

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

¹ *Florida Retirement System Pension Plan And Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2014*, at 29. A copy of the report can be found online at: http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports (last visited February 6, 2016) [hereinafter *Annual Report*].

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class members or 6 percent for Special Risk Class members. Members were again required to contribute to the system after June 30, 2011.

³ Chapter 121, F.S.

⁴ As of June 30, 2014, the FRS Pension Plan, which is a defined benefit plan, had 512,364 members, and the investment plan, which is a defined contribution plan, had 109,725 members. *Annual Report, supra* note 1, at 112.

⁵ *Id.*

⁶ Florida Retirement System Participating Employers for Plan Year 2015-16, prepared by the Department of Management Services, Division of Retirement, Revised November 2015, at 8. A copy of the document can be found online at: <https://www.rol.frs.state.fl.us/forms/part-emp.pdf> (last visited February 6, 2016).

⁷ Email from staff of the Division of Retirement dated February 12, 2015 (on file with the State Affairs Committee).

⁸ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁹ 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.

¹⁰ 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 FRS. Section 121.0515(8), F.S.

¹¹ 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.

¹² 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.

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

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

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

FRS 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 pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

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

A member vests immediately in all employee contributions paid to the investment plan.¹⁵ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁶ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁷

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. The amount of money contributed to each member's account varies by class as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	6.30%
Special Risk Class	14.00%
Special Risk Administrative Support Class	7.95%
Elected Officers' Class	
• Justices and Judges	13.23%
• County Elected Officers	11.34%
• Others	9.38%
Senior Management Service Class	7.67%

FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement (division).¹⁸ Investment management is handled by the SBA.

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 initially enrolled on or after July

¹³ Section 121.4501(8), F.S.

¹⁴ Section 4(e), Art. IV, Fla. Const.

¹⁵ Section 121.4501(6)(a), F.S.

¹⁶ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the State Board of Administration (SBA) for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, 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.

¹⁷ Section 121.591, F.S.

¹⁸ Section 121.025, F.S.

¹⁹ Section 121.021(45)(a), F.S.

1, 2011, the member vests in the pension plan after eight years of creditable service.²⁰ A member vests immediately in all employee contributions paid to the pension plan.

Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final compensation.²¹ The accrual rate varies by class as follows:

Membership Class	Accrual Rate
Regular Class	1.60%, 1.63%, 1.65%, 1.68% ²²
Special Risk Class	3.00%
Special Risk Administrative Support Class	1.60%, 1.63%, 1.65%, 1.68% ²³
Elected Officers' Class	
• Justices and Judges	3.33%
• Others	3.00%
Senior Management Service Class	2.00%

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.²⁴ For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²⁵ Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.²⁶

Death or Survivor Benefits

If a member is terminated by reason of death prior to becoming vested in the FRS, the member's beneficiary is only entitled to the member's accumulated contributions.²⁷ Under the pension plan, if the member has vested at the time of his or her death, the member's joint annuitant²⁸ is entitled to receive the optional form²⁹ of payment for the annuitant's lifetime.³⁰ If the designated beneficiary does not qualify as a joint annuitant, the member's beneficiary is only entitled to the return of the member's personal contributions, if any.³¹ If the member dies in the line of duty, the surviving spouse of the member is entitled to receive a monthly benefit equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime.³² If there is no surviving spouse or the surviving spouse dies, the member's children under 18 and unmarried may receive the benefits until the youngest child's 18th birthday. Members in the investment plan are not entitled to these death benefits; instead, the member's beneficiary is entitled to the balance of the member's investment plan account, provided the member has met the one-year vesting requirement.³³

²⁰ Section 121.021(45)(b), F.S.

²¹ Section 121.091, F.S.

²² Section 121.091(1)(a)1., F.S.

²³ Section 121.0515(8)(a), F.S.

²⁴ Section 121.021(29)(a)1., F.S.

²⁵ Section 121.021(29)(b)1., F.S.

²⁶ Sections 121.021(29)(a)2. and (b)2., F.S.

²⁷ For purposes of disbursement of benefits, a member is considered retired as of the date of the death.

²⁸ A joint annuitant is considered to be the member's spouse, natural or legally adopted child who is either under age 25 or is physically or mentally disabled and incapable of self-support (regardless of age), or any person who is financially dependent upon the member for one-half or more of his or her support and is the member's parent, grandparent, or person for whom the member is the legal guardian. Section 121.021(28), F.S.

²⁹ Under the pension plan, a member has a choice of payment options. If the member dies prior to retirement, the member's joint annuitant is entitled to select either to receive the member's contributions or a reduced monthly benefit payment for life.

³⁰ Section 121.091(7)(b)1., F.S.

³¹ Section 121.091(7)(b)2., F.S.

³² Section 121.091(7)(d)1., F.S. If the surviving spouse dies, or if the member is not married, the monthly payment that would have otherwise gone to the surviving spouse must be paid for the use and benefit of the member's child or children that are under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Section 121.091(7)(d)2. and 3., F.S.

³³ See s. 121.591(3)(b), F.S.

Contribution Rates

FRS employers are responsible for contributing a set percentage of the member's monthly compensation to the division to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.³⁴ The rate is determined annually based on an actuarial study by DMS that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

The following are the current employer contribution rates for each class:³⁵

Membership Class	Effective July 1, 2015
Regular Class	2.91%
Special Risk Class	11.35%
Special Risk Administrative Support Class	3.71%
Elected Officers' Class	
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	6.48%
• Justices and Judges	11.39%
• County Officers	8.48%
Senior Management Service Class	4.32%

Regardless of employee class, all employees contribute 3 percent of their compensation towards retirement.³⁶

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.³⁷

Effect of the Bill

Pension Plan Line-of-Duty Death Benefits

The bill increases survivor benefits for Special Risk Class members of the pension plan killed in the line of duty on or after July 1, 2013. Rather than receiving a monthly payment equal to one-half of the member's monthly salary at the time of death, the member's spouse and children are eligible to receive a monthly payment equal to the member's total monthly salary at the time of death. This survivor benefit is payable in lieu of the member's normal retirement benefit based on service credits and average final compensation.

The survivor benefits are payable for the life of the surviving spouse. If there is no surviving spouse or the surviving spouse dies, the member's unmarried children under 18 years of age may receive the benefits until the youngest child's 18th birthday. The bill provides that the benefits may be extended to the 25th birthday of an unmarried child enrolled as a full time student.

The survivor benefits supersede any beneficiary designation made by the member.

Payment of these new benefits will begin on July 1, 2016.

³⁴ Section 121.70(1), F.S.

³⁵ Section 121.71(4), F.S.

³⁶ Section 121.71(3), F.S.

³⁷ See ss. 121.4503 and 121.72(1), F.S.

Investment Plan Line-of-Duty Death Benefits

The bill establishes new survivor benefits for members of the investment plan who are in the Special Risk Class killed in the line of duty on or after July 1, 2013. As a result, the spouses and children of such members will receive the same survivor benefits provided to Special Risk Class members of the pension plan, including the new increased benefit. To receive the benefit, the spouse and children must elect to transfer the balance of the member's investment plan account to the survivor benefit account of the FRS Trust Fund. The line-of-duty death benefits supersede any other distribution that may have been provided by the member's designation of beneficiary. Payment of these new benefits will begin on July 1, 2016.

For a member killed in the line of duty on or after July 1, 2013, but before July 1, 2016, the initial monthly benefit payable on or after July 1, 2016, will be equal to the member's monthly salary at the time of death, except that it will be actuarially reduced by the amount of the investment plan payout, if a payout was issued to the surviving spouse or the eligible unmarried dependent child or children.

For Fiscal Year 2016-17, upon notification from DMS that sufficient funds are not available to pay the survivor benefits, the bill directs the SBA to transfer funds from the Administrative Trust Fund to the survivor benefits account to ensure the timely payment of the benefits.

Miscellaneous Provisions

Effective July 1, 2016, the bill provides:

- Allocations for the line-of-duty death benefits provided for special risk members of the investment plan.
- Adjustments to employer contribution rates for the Special Risk Class and DROP in order to fund the new line-of-duty death benefits provided by the bill.

The bill provides a statement of important state interest. It provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Spouses and children of FRS members in the Special Risk Class killed in the line of duty on or after July 1, 2013, may receive increased survivor benefits.

D. FISCAL COMMENTS:

Employers participating in the FRS whose employees are members of the Special Risk Class or DROP³⁸ will incur increased employer contribution rates to fund the new benefits. The anticipated impacts by employer group for Fiscal Year (FY) 2016-17 are as follows:

Employer Group	Impact on Contributions
State Agencies	\$5.4 m
Universities	\$0.2 m
Colleges	\$0.1 m
School Boards	\$0.8 m
Counties	\$17.2 m
Other	\$1.3 m
Total	\$25.1 m

For FY 2016-17, the bill appropriates the recurring amounts of \$5,445,537 from the General Revenue Fund and \$1,062,991 from trust funds to Administered Funds to fund the increased employer contribution rates to be paid by state agencies, state universities, state colleges, and school districts.

³⁸ All membership classes in the FRS Pension Plan may participate in DROP, which allows a member to retire without terminating employment. A member who enters DROP may extend employment for an additional five years, except that instructional personnel may extend employment for an additional eight years under certain circumstances. While in DROP, the member's retirement benefits accumulate and earn interest compounded monthly. *See* s. 121.091(13), F.S.