

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 784

INTRODUCER: Senators Gruters and Broxson

SUBJECT: Retirement

DATE: April 9, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Pre-meeting
2.			AEG	
3.			AP	

I. Summary:

SB 784 amends s. 121.101(4), F.S., to provide a minimum annual 2 percent cost-of-living adjustments (COLA) for a Florida Retirement System (FRS) Pension Plan retiree who was a member of the Special Risk Class, retires on or after July 1, 2011, and has service credit earned before July 1, 2011. This minimum COLA for eligible retirees will be applied prospectively for retirement payments beginning on or after July 1, 2019.

An actuarial study has been completed to determine the amount of additional funding necessary to meet the requirements under Article X, Section 14 of the State Constitution and Part VII, chapter 112, F.S., that retirement benefit enhancements are funded on a concurrent and actuarially sound basis. Based on an actuarial study¹ of the impact of similar changes with a 2% minimum COLA, the annual retirement contributions system-wide will need to be increased by \$113.7 million² to meet the concurrent funding requirement.

The bill provides a determination that the bill fulfills an important state interest.

The bill takes effect upon becoming a law.

II. Present Situation:

The Florida Retirement System

The 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

¹ Letter to Ms. Shirley Beauford, Re: Special Actuarial Study of Prospective Minimum COLA Rate for Tier 1 Special Risk Class Members and Beneficiaries, dated April 2, 2019 (on file with the Senate Committee on Governmental Oversight and Accountability).

² *Id.* at Table 2-1.

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.³ The FRS is a contributory system, with active members contributing three percent of their salaries.⁴

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2018, the FRS had 643,333 active members, 415,800 annuitants, 16,032 disabled retirees, and 33,432 active participants of the Deferred Retirement Option Program (DROP).⁵ As of June 30, 2018, the FRS consisted of 1,002 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 173 cities and 267 special districts that have elected to join the system.⁶

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

- The Regular Class⁷ consists of 551,997 active members and 7,349 in renewed membership;
- The Special Risk Class⁸ includes 72,642 active members and 976 in renewed membership;
- The Special Risk Administrative Support Class⁹ has 87 active members;
- The Elected Officers' Class¹⁰ has 2,050 active members and 120 in renewed membership; and
- The Senior Management Service Class¹¹ has 7,881 active members and 207 in renewed membership.¹²

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

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

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

³ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, at p. 35. Available online at: https://www.rol.frs.state.fl.us/forms/2017-18_CAFR.pdf. (Last visited January 28, 2019.)

⁴ Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 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.

⁵ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, at p. 160.

⁶ *Id.*, at 196.

⁷ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁸ 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.

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² All figures are from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, at p. 163.

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.¹³ Investment management 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.¹⁴ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.¹⁵ 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.¹⁶ For most current members of the pension plan, normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.¹⁷ For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.¹⁸ Members initially enrolled in the pension plan on or after July 1, 2011, have longer service requirements. For members initially enrolled after that date, the member 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 60.¹⁹

The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency, correctional and forensic medical care who meet statutory criteria for membership as set forth in section 121.0515, F.S.

Under current law, the COLA is 3 percent for retirees and beneficiaries with an effective retirement date prior to July 1, 2011. Retirements effective on and after July 1, 2011, receive an individually determined COLA calculated as 3 percent multiplied by the quotient of the sum of the member's service credit earned prior to July 1, 2011, divided by the sum of the member's total service credit earned. Pension Plan members initially enrolled on or after July 1, 2011, have a post-retirement COLA equal to zero.

When the FRS was created COLA was a variable tied to the consumer price index with a 3 percent cap each year. There have been a period of special adjustments without impacting the increase in general for all FRS retirees and surviving beneficiaries, until the 1987 Florida Legislature changed the COLA to a fixed 3 percent of the June benefit unless the retiree was not retired for at least 12 calendar months in which case the first COLA was a prorated portion of 3 percent based on the number of months retired prior to the first July after retirement.

¹³ Section 121.025, F.S.

¹⁴ Section 121.021(45)(a), F.S.

¹⁵ Section 121.021(45)(b), F.S.

¹⁶ Section 121.091, F.S.

¹⁷ Section 121.021(29)(a)1., F.S.

¹⁸ Section 121.021(29)(b)1., F.S.

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

Funding for Benefit Enhancements

Article X, Section 14, of the State Constitution

Since 1976, the State Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes. – 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.

Part VII of Chapter 112, F.S.

Article X, Section 14, of the State Constitution is implemented by statute under part VII of chapter 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act,” which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to “... prohibit 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.”

III. Effect of Proposed Changes:

Section 1 amends s. 121.101, F.S., to provide a minimum annual 2 percent COLA for a FRS Pension Plan retiree who was a member of the Special Risk Class, retired on or after July 1, 2011, and had service credit earned before July 1, 2011. This minimum COLA for eligible retirees and their beneficiaries is applied prospectively for retirement payments beginning on or after July 1, 2019.

As drafted, the retiree must have been a member of the Special Risk Class at some point in the member’s career. Special Risk membership is not required at the time of retirement or prior to July 1, 2011.

Section 2 provides a determination that the bill fulfills an important state interest.

Section 3 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State 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 legislative findings that the bill fulfills important state interests, and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, community colleges, counties, and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Since 1976, Article X, Section 14, of the State Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes. – 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 State Constitution. 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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Based on an actuarial study²⁰ of the impact of similar changes with a 2% minimum COLA, the annual retirement contributions system-wide will need to be increased by \$113.7 million²¹ to meet the concurrent funding requirement.

The Department of Management Services will incur some costs to modify the benefits calculation programs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Two special actuarial studies have been completed on similar changes to the COLA. In each study, the retiree must have been a member of the Special Risk Class on June 30, 2011, and at the time of retirement. The impact based on a 2% minimum COLA is estimated to be \$113.7 million²² annually. The impact based on a 1.5% minimum COLA is estimated to be \$59.1 million²³ annually.

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.

²⁰ Letter to Ms. Shirley Beauford, *supra* note 1.

²¹ *Id.* at Table 2-1 (page 2 of 2).

²² *Id.*

²³ *Id.* at Table 2-2 (page 2 of 2).