

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 7038

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Retirement

DATE: February 8, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>AP</u>	<b>GO Submitted as Comm. Bill/Fav</b>
	<u>Shettle</u>	<u>Sadberry</u>		<b>Pre-meeting</b>

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**I. Summary:**

SB 7038 establishes the contribution rates paid by employers participating in the Florida Retirement System (FRS) beginning July 1, 2022. These rates are intended to fund the full normal cost and the amortization of the unfunded actuarial liability of the FRS. With these modifications to employer contribution rates, the FRS Trust Fund will receive roughly \$176 million more in revenue on an annual basis beginning July 1, 2022. The public employers that will incur these additional costs are state agencies, state universities and colleges, school districts, counties, municipalities, and other governmental entities that participate in the FRS.

The bill also reduces the contributions paid by employers participating in the retiree health insurance subsidy program. With the reduced contribution rates, the revenues deposited into the Retiree Health Insurance Subsidy Trust Fund will be reduced roughly \$57.9 million on an annual basis beginning July 1, 2022.

The bill will have a fiscal impact on state funds appropriated by the Legislature for employee benefits. The bill will increase the amounts, in the aggregate, employers participating in the FRS and the retiree health insurance subsidy program must pay for retiree benefits. See Section V.

The bill takes effect July 1, 2022.

**II. Present Situation:**

**The Florida Retirement System (FRS)**

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.<sup>1</sup> The FRS is a contributory system, with active members contributing three percent of their salaries.<sup>2</sup>

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S. As of June 30, 2021, the FRS had 635,266 active members, 440,307 annuitants, 15,138 disabled retirees, and 31,655 active participants of the Deferred Retirement Option Program (DROP).<sup>3</sup> As of June 30, 2021, the FRS consisted of 985 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 includes the 179 cities and 151 special districts that have elected to join the system.<sup>4</sup>

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

- The Regular Class<sup>5</sup> consists of 541,698 active members and 7,645 in renewed membership;
- The Special Risk Class<sup>6</sup> includes 74,355 active members and 1,163 in renewed membership;
- The Special Risk Administrative Support Class<sup>7</sup> has 98 active members and 1 in renewed membership;
- The Elected Officers' Class<sup>8</sup> has 2,095 active members and 110 in renewed membership; and
- The Senior Management Service Class<sup>9</sup> has 7,875 active members and 220 in renewed membership.<sup>10</sup>

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.

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<sup>1</sup> Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2020-21 Annual Comprehensive Financial Report, at p. 35. Available online at: [https://employer.frs.fl.gov/forms/2020-21\\_ACFR.pdf](https://employer.frs.fl.gov/forms/2020-21_ACFR.pdf). (last visited January 5, 2022).

<sup>2</sup> 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.

<sup>3</sup> Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2020-21 Annual Comprehensive Financial Report, at p. 164.

<sup>4</sup> *Id.* at 200.

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

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> The Elected Officers' Class includes elected state and county officers, and 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.

<sup>9</sup> 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.

<sup>10</sup> All figures are from Florida Retirement System Pension Plan and Other State Administered Retirement Systems FY 2020-21 Annual Comprehensive Financial Report, at p. 167.

### ***Investment Plan***

In 2000, the Public Employee Optional Retirement Program (investment plan) was created as 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 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.<sup>11</sup> With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.<sup>12</sup> Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.<sup>13</sup> The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.<sup>14</sup> An FRS member who qualifies for disability while enrolled in the investment plan may 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.<sup>15</sup>

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

### ***Pension Plan***

The pension plan is administered by the Secretary of Management Services (DMS) through the Division of Retirement.<sup>18</sup> The State Board of Administration is responsible for the management of the pension fund assets.

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.<sup>19</sup> For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable

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<sup>11</sup> Section 121.4501(6)(a), F.S.

<sup>12</sup> 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 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.

<sup>13</sup> Section 121.591, F.S.

<sup>14</sup> See s. 121.4501(16), F.S.

<sup>15</sup> Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-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.

<sup>16</sup> Section 121.4501(8), F.S.

<sup>17</sup> FLA CONST. art. IV, s. 4.

<sup>18</sup> Section 121.025, F.S.

<sup>19</sup> Section 121.021(45)(a), F.S.

service.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> 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.<sup>23</sup> 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.<sup>24</sup>

### ***Optional Retirement Programs***

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;<sup>25</sup>
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;<sup>26</sup> and
- Members in specified positions at a Florida College institution may elect to enroll in the State Community College System Optional Retirement Program.<sup>27</sup>

### ***Contribution Rates***

Employers participating in the FRS are required to contribute a specified percentage of the member's monthly compensation to the Division of Retirement 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.<sup>28</sup> The rate is determined annually based on an actuarial study by the DMS that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

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<sup>20</sup> Section 121.021(45)(b), F.S.

<sup>21</sup> Section 121.091, F.S.

<sup>22</sup> Section 121.021(29)(a)1., F.S.

<sup>23</sup> Section 121.021(29)(b)1., F.S.

<sup>24</sup> Sections 121.021(29)(a)2. and (b)2., F.S.

<sup>25</sup> The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Effective July 1, 2017, the SMSOAP is closed to new members. Section 121.055(6), F.S.

<sup>26</sup> Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

<sup>27</sup> If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

<sup>28</sup> Section 121.70(1), F.S.

In the annual actuarial valuation of the Florida Retirement System based on July 1, 2021, plan assets and liabilities, Milliman, Inc., the state actuary, determined the following key data relating to the FRS pension plan:<sup>29</sup>

	Valuation Results (in \$ billions)			
	July 1, 2018	July 1, 2019	July 1, 2020	July 1, 2021
Actuarial Liability	\$186.0	\$191.3	\$200.3	\$209.6
Actuarial Value of Assets	\$156.1	\$161.0	\$164.3	\$174.9
Unfunded Actuarial Liability	\$29.9	\$30.3	\$36.0	\$34.7
Funded Percentage (Actuarial Value of Assets/Actuarial Liability)	83.9%	84.2%	82.0%	83.4%

The state actuary determines a rate associated with the normal cost of the pension plan (funding the prospective benefits) and a rate necessary to amortize prior unfunded actuarial liabilities (UAL) over a thirty-year period and new tranches of unfunded actuarial liabilities over a twenty-year period. The following are the current employer contribution rates<sup>30</sup> for each class and the blended rates recommended by the state actuary beginning in July 2022:<sup>31</sup>

Membership Class	Current Rates Effective July 1, 2021		Recommended Rates to be effective July 1, 2022	
	Normal Cost	UAL Rate	Normal Cost	UAL Rate
Regular Class	4.91%	4.19%	5.16%	4.23%
Special Risk Class	15.27%	8.90%	15.91%	9.53%
Special Risk Administrative Support Class	9.73%	26.31%	9.91%	26.16%
Elected Officer’s Class	8.49%	53.52%	8.34%	56.76%
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders				
• Justices and Judges	13.38%	25.81%	13.90%	27.64%
• County Officers	10.28%	39.42%	10.31%	43.98%
Senior Management Service Class	6.49%	20.80%	6.83%	22.15%
Deferred Retirement Option Program	7.23%	9.45%	7.77%	9.15%

For all membership classes, except the DROP and certain members with renewed membership, employees contribute three percent of their compensation towards retirement.<sup>32</sup>

<sup>29</sup> Florida Retirement System Pension Plan Actuarial Valuation as of July 1, 2021, at p. 3.

<sup>30</sup> Section 121.71(4) and (5), F.S.

<sup>31</sup> Letter to Ms. Andrea Simpson, *Re: Blended Proposed Statutory Rates for the 2022-2023 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP*, dated December 1, 2021 (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>32</sup> Section 121.71(3), F.S.

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.<sup>33</sup>

### **Retiree Health Insurance Subsidy**

Section 112.363, F.S., provides for a retiree health insurance subsidy. This subsidy is paid from the Retiree Health Insurance Subsidy Trust Fund to eligible retirees of the FRS. The amount of the monthly subsidy is \$5 for each year of service in the FRS, but not less than \$30 nor more than \$150.

The subsidy is funded through a contribution by employers participating in the FRS. The current contribution is 1.66 percent of the employer's monthly payroll. The contribution is paid to the DMS for deposit in the Retiree Health Insurance Subsidy Trust Fund. This program is funded on a "pay-as-you-go" basis rather than on an actuarial basis. This means that the revenues and expenditures of the trust fund are designed to match each other on an annual basis, with minimal reserves accumulated.

Participants of the university, community college, and senior management service defined contribution retirement programs receive contributions directly into their retirement accounts during the years of employment; these participants will not receive the health insurance subsidy during retirement. Participants of the FRS investment plan will not receive the health insurance subsidy contributions directly, but will be eligible to receive the health insurance subsidy upon retirement.

Sections 121.052, 121.055, and 121.071, F.S., also set forth the employer-paid contributions for the retiree health insurance trust fund for the various FRS membership classes.

A recent cash flow analysis of the Retiree Health Insurance Subsidy Trust Fund indicates the following key cash flow data for Fiscal Year 2020-2021 through Fiscal Year 2023-2024. Under current law and current administration and assuming only two percent payroll growth for Fiscal Year 2022-2023 and Fiscal Year 2023-2024, the trust fund reserves are expected to continue to grow to exceed more than 13 months' expenditures by the end of Fiscal Year 2023-24. The following table illustrates changes in fund balance of the Retiree Health Insurance Subsidy Trust Fund.

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<sup>33</sup> See ss. 121.4503 and 121.72(1), F.S.

<b>Retiree Health Insurance Subsidy Trust Fund</b>				
<b>Changes in Fund Balance (in \$ millions)</b>				
	<b>FY 2020-21</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>
Fund Balance – beginning of year	\$324.94	\$393.94	\$467.67	\$539.66
Revenues (employer contributions and investment earnings)	\$583.47	\$596.66	\$603.13	\$615.32
Expenditures	\$514.54	\$522.95	\$531.14	\$540.66
Excess of Revenues over Expenditures	\$68.93	\$73.71	\$71.99	\$74.66
Fund Balance – end of year	\$393.94	\$467.67	\$539.66	\$614.33
Reserves (balance / monthly expenses) – end of year	9.1 months	10.7 months	12.1 months	13.5 months

**III. Effect of Proposed Changes:**

**Section 1** amends s. 112.363, F.S., to reduce the employer-paid contribution to the Retiree Health Insurance Trust Fund from 1.66 percent of gross compensation to 1.50 percent of gross compensation for each member of the FRS.

**Section 2** amends s. 121.052, F.S., to reduce the employer-paid contribution to the Retiree Health Insurance Trust Fund from 1.66 percent of gross compensation to 1.50 percent of gross compensation for each member of the Elected Officers’ Class of the FRS.

**Section 3** amends s. 121.055, F.S., to reduce the employer-paid contribution to the Retiree Health Insurance Trust Fund from 1.66 percent of gross compensation to 1.50 percent of gross compensation for each member of the Senior Management Service Class of the FRS.

**Section 4** amends s. 121.071, F.S., to reduce the employer-paid contribution to the Retiree Health Insurance Trust Fund from 1.66 percent of gross compensation to 1.50 percent of gross compensation for each member of the Regular, Special Risk, and Special Risk Administrative Support classes of the FRS.

**Section 5** amends s. 121.71, F.S., to set the employer-paid contribution rates to the Florida Retirement System Trust Fund for each membership class and subclass of the FRS. The bill also updates the employer-paid contribution rates for each membership class to address the unfunded actuarial liabilities of the FRS.

**Section 6** provides findings that the bill fulfills an important state interest.

**Section 7** provides an effective date of July 1, 2022.

**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, state universities, community colleges, counties, municipalities, and special districts.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

This bill does not impose, authorize to impose, or raise a state tax or fee. Thus, the requirements of Art. III, s. 19 of the State Constitution are not applicable.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The aggregate employer contributions anticipated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2022-2023 will increase by approximately \$176.0 million when compared to the employer contributions paid in Fiscal Year 2021-2022. The impacts by employer group for Fiscal Year 2022-2023 are noted below.

<b>Employer Group</b>	<b>Additional Contributions</b>
<b>State Agencies</b>	\$32.3 m
<b>Universities</b>	\$6.9 m
<b>Colleges</b>	\$3.9 m
<b>School Boards</b>	\$47.0 m
<b>Counties</b>	\$74.6 m
<b>Other</b>	\$11.2 m
<b>Total</b>	\$176.0 m

With the enactment of this legislation, the revenues deposited into the Retiree Health Insurance Subsidy Trust Fund will be reduced by approximately \$57.9 million annually. The reduction in contributions by employer group for Fiscal Year 2022-2023 are noted below. With the implementation of the reduced contributions, the trust fund reserves are expected to be in excess of 10.8 months' expenditures by the end of Fiscal Year 2022-2023. While the contributions are reduced, the reserves are expected to continue growing during the forecasted period.

<b>Employer Group</b>	<b>Reduced Contributions</b>
<b>State Agencies</b>	(\$8.0 m)
<b>Universities</b>	(\$2.9 m)
<b>Colleges</b>	(\$1.9 m)
<b>School Boards</b>	(\$25.2 m)
<b>Counties</b>	(\$16.6 m)
<b>Other</b>	(\$3.3 m)
<b>Total</b>	(\$57.9 m)

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 112.363, 121.052, 121.055, 121.071, and 121.71.

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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