

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 853 Reemployment of Retired Law Enforcement Officers

SPONSOR(S): McClure and Alvarez

TIED BILLS: **IDEN./SIM. BILLS:** SB 400

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee	14 Y, 0 N	Villa	Miller
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multiple-employer, contributory plan that provides retirement income benefits for employees of state and county government agencies, district school boards, state colleges, and universities. It also serves as the retirement plan for employees of the cities, special districts, and independent hospitals 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. Membership in the FRS is divided into membership classes. The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency medical technicians, among others.

An FRS retiree may not be reemployed by an FRS employer within 6 months of termination. In addition, if the retiree is reemployed by an FRS employer during months 7 through 12, the retiree's retirement benefit for those months is suspended and forfeited. After the 12-month reemployment limitation period, there are no restrictions on receiving both a salary and retirement benefits when reemployed by an FRS employer. However, there is currently an exception for retired law enforcement officers that are reemployed as school resource officers that authorizes such retirees to be reemployed during months 7 through 12 and receive both a salary and retirement benefits.

The State and County Officers and Employees Retirement System (SCOERS) was consolidated into the FRS in 1970 as a closed group. SCOERS retirees reemployed by an FRS employer are prohibited from receiving a salary from reemployment and retirement benefits for 12 months after their date of retirement.

The bill authorizes an FRS retired law enforcement officer to be reemployed by an FRS employer in a position that qualifies for the Special Risk Class and receive compensation from that employer and retirement benefits provided the retiree is not reemployed within the 6 months following his or her date of retirement.

The bill also reduces the amount of time a SCOERS retiree is prohibited from receiving both a salary from an FRS employer and retirement benefits from 12 months to 6 months immediately subsequent to his or her date of retirement and limits those employees eligible for reemployment by an FRS employer to those reemployed in a position that qualifies for the Special Risk Class.

The bill may have a negative fiscal impact on state and local governments; however, such impact is indeterminate at this time. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Board of Administration

The State Board of Administration (SBA) is established by Art. IV, s. 4(e) of the Florida Constitution, and is composed of the Governor as Chair, the Chief Financial Officer, and the Attorney General, commonly referred to as the “Board of Trustees.”¹ The SBA has responsibility for investing the assets of the Florida Retirement System (FRS) Pension Plan² and administering the FRS Investment Plan,³ which combined represent approximately \$190.8 billion, or approximately 84.4 percent of the \$225.4 billion in assets managed by the SBA, as of October 31, 2023.⁴ The SBA also manages over 25 other investment portfolios, with combined assets of approximately \$34.6 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Prepaid College Plan, and various debt-service accounts for state bond issues.⁵

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated and closed 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 closed and 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 retirement plan.⁶ The FRS was amended in 1998 to include the Deferred Retirement Option Program (DROP) under the defined benefit plan and in 2000 was amended to provide a defined contribution plan alternative to the defined benefit plan for FRS members effective July 1, 2002.⁷

The FRS is a multiple-employer, contributory plan⁸ governed by the Florida Retirement System Act.⁹ As of June 30, 2023, the FRS had 646,277 active members,¹⁰ 455,601 retired members and beneficiaries, and 27,767 members in DROP.¹¹ It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and state universities. The FRS also serves as the retirement plan for the employees of the 181 cities, 153 special districts, and two independent hospitals that have elected to join the system.¹²

Membership of the FRS is divided into the following membership classes:¹³

¹ See also art. XII, s. 9, FLA. CONST.

² S. 121.151, F.S.

³ S. 121.4501(8), F.S. See also, rule 19-13.001, F.A.C.

⁴ See State Board of Administration, *Performance Report Month Ending: October 30, 2023*, <https://www.sbafla.com/fsb/Portals/FSB/Content/Performance/Trustees/2023/October%202023%20Monthly%20Trustee%20Report.pdf?ver=2023-12-22-140235-787>, (last visited January 5, 2024).

⁵ *Id.*

⁶ A closed retirement plan refers to a retirement plan that is no longer open to new members, meaning that employees who joined the organization after a certain date are not eligible to participate in the plan.

⁷ DMS, *Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Comprehensive Financial Report Fiscal Year Ended June 30, 2023*, at p. 33. A copy of the report can be found online at: http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports [hereinafter *Annual Report*] (last visited January 4, 2024).

⁸ Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent of their salaries 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, at 3 percent of their salary regardless of membership class.

⁹ Ch. 121, F.S.

¹⁰ As of June 30, 2022, the FRS Pension Plan, which is a defined benefit plan, had 441,816 members, and the FRS Investment Plan, which is a defined contribution plan, had 204,461 members. Annual Report, *supra* note 5, at p. 188.

¹¹ *Id.*

¹² *Id.*, at 266.

¹³ *Id.*, at 191.

- Regular Class¹⁴ consists of 550,931 members (85.27 percent of the total 2023 FRS membership). This class is for all members who are not assigned to another class.
- Special Risk Class¹⁵ includes 75,495 members (11.68 percent). This class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency medical technicians, among others.
- Special Risk Administrative Support Class¹⁶ has 93 members (0.014 percent). This class is for former Special Risk Class members who provide administrative support within an FRS special risk employing agency. Members of this class must maintain the certification required for their former Special Risk Class position and be subject to recall into those positions if needed.
- Elected Officers' Class¹⁷ has 2,105 members (0.33 percent). This class is for 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.
- SMSC¹⁸ has 7,714 members (1.19 percent). This class is for members who fill senior management level positions assigned by law to the SMSC or authorized by law as eligible for SMSC designation.

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

- The defined benefit plan, also known as the pension plan; and
- The defined contribution plan, also known as the investment plan.

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).¹⁹ Investment management is provided by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing 6 years of service with an FRS employer.²⁰ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after 8 years of creditable service.²¹ A member vests immediately in all employee contributions paid to the pension plan.²² 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.²³

For non-special risk members of the pension plan initially enrolled before July 1, 2011, normal retirement is the earlier of 30 years of service or age 62.²⁴ Those members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of credible service or attain age 65.²⁵ For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earlier of 25 years of credible service or age 55.²⁶

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

¹⁴ S. 121.021(12), F.S.

¹⁵ S. 121.0515, F.S.

¹⁶ 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. S. 121.0515(8), F.S.

¹⁷ S. 121.052, F.S.

¹⁸ S. 121.055, F.S.

¹⁹ See s. 121.025, F.S.

²⁰ S. 121.021(45)(a), F.S.

²¹ S. 121.021(45)(b), F.S.

²² See s. 121.091(5)(a), F.S.

²³ S. 121.091, F.S.

²⁴ S. 121.021(29)(a)1., F.S.

²⁵ S. 121.021(29)(a)2., F.S.

²⁶ S. 121.021(29)(b), F.S.

earliest that any member could participate in the investment plan was July 1, 2002. The SBA is primarily responsible for administering the investment plan.²⁷

A member vests immediately in all employee contributions paid to the investment plan.²⁸ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.²⁹ Vested benefits are payable upon termination of employment with the FRS employer or death, as a lump-sum distribution, direct rollover distribution, or periodic distribution.³⁰ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.³¹ 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.³²

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.³³

Deferred Retirement Option Program

The Deferred Retirement Option Program (DROP) allows eligible members of the FRS Pension Plan to participate in the program and defer receipt of retirement benefits while continuing employment with an FRS employer. The deferred monthly benefits accrue, plus interest,³⁴ in the FRS on behalf of the employee for the period of time the member participates in DROP. Upon termination of employment, the member receives the total DROP benefits and begins to receive the previously determined normal retirement benefits.³⁵

A member may elect to participate in DROP anytime after reaching the normal retirement date.³⁶ Generally, an eligible member is authorized to participate in DROP for 8 years. However, certain instructional personnel may participate in DROP for 10 years until June 30, 2029.³⁷

Employment After Retirement

The FRS is a 401(a) qualified plan under the Internal Revenue Code (IRC). Accordingly, FRS contributions qualify for tax deductions and investment earnings are tax deferred until distributed to retirees. Federal regulations require 401(a) qualified plans to be established by an employer primarily to provide regular and clearly defined benefits to its employees over an extended period, typically for life, following retirement or upon reaching the normal retirement age.³⁸ Retirement involves more than just a decrease in the hours worked by an employee. Therefore, retirement benefits cannot be distributed solely because an employee's hours have been reduced before reaching normal retirement age.³⁹

²⁷ S. 121.4501(8), F.S.

²⁸ S. 121.4501(6)(a), F.S.

²⁹ 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 5 years. If the member is not reemployed as an eligible employee within 5 years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. S. 121.4501(6)(b) – (d), F.S.

³⁰ S. 121.591, F.S.

³¹ See s. 121.4501(16), F.S.

³² Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate a non-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. S. 121.091(4)(f), F.S.

³³ S. 121.72(7), F.S.

³⁴ Currently, the interest that is applied accrues at an effective annual rate of 4 percent compounded monthly. Before July 1, 2011, the rate was 6.5 percent, and between July 1, 2011, through June 30, 2023, the rate was 1.3 percent. S. 121.091(13)(c)1., F.S.

³⁵ S. 121.091(13), F.S.

³⁶ S. 121.091(13)(a)2., F.S.

³⁷ S. 121.091(13)(b), F.S.

³⁸ 26 CFR § 1.401(a)-1(b)(1)(i).

³⁹ 26 CFR § 1.401(a)-1(b)(3).

Florida law prohibits a distribution from being made prior to participation in DROP or termination of employment.⁴⁰ The law applies the same definition of termination of employment for retirements occurring either before and after normal retirement age. Thus, determining whether a bona fide termination of employment has occurred is crucial for both the tax-exempt qualification of the FRS and state statutory compliance purposes.⁴¹

The Internal Revenue Service (IRS), the federal agency responsible for administering the IRC, has not provided an objective test for determining whether a bona fide termination of employment has occurred. Instead the IRS has applied Treasury Regulation 1.409A-1(h)(I)(ii), which states whether a termination of employment has occurred is determined based on whether the facts and circumstances indicate that the employer and employee reasonably anticipated that no further services would be performed after a certain date⁴² or that the level of bona fide services the employee would perform after such date would permanently decrease to no more than 20 percent of the average level of bona fide services performed over the immediately preceding 36-month period.⁴³ However, when applying the regulation in the context of a 401(a) plan, the IRS has opined that “if both the employer and employee know at the time of ‘retirement’ that the employee will, with reasonably [sic] certainty, continue to perform services for the employer, a termination of employment has not occurred upon ‘retirement’ and the employee has not legitimately retired.”⁴⁴

In order to apply the requirement of a bona fide termination, Florida law has incorporated the federal regulation and further has implemented a reemployment limitation period in which an FRS retiree may not be reemployed⁴⁵ by an FRS employer within 6 months of termination.⁴⁶ In addition, if the retiree is reemployed by an FRS employer during months 7 through 12, the retiree’s retirement benefit for those months is suspended and forfeited.⁴⁷ After the 12-month reemployment limitation period, there are no restrictions on receiving both a salary and retirement benefits when reemployed by an FRS employer.⁴⁸

A retiree employed in violation of the reemployment limitation period and the FRS employer employing such retiree are jointly and severally liable for reimbursement to the retirement trust fund from which the benefits were paid. Pension benefits remain suspended until repayment has been made. Benefits suspended beyond the reemployment limitation period are applied towards repaying the benefits received in violation of the reemployment limitation period.⁴⁹

Florida law currently provides two exceptions to the reemployment limitation period. The first authorizes retirees to provide civic, charitable, and humanitarian services to an FRS employer during the first 12 months following retirement provided the following criteria are met:

- Before the date of retirement, there is no agreement or understanding between the employer and the retiree that the retiree will return to provide services for the employer;

⁴⁰ S. 121.091, F.S.

⁴¹ Memorandum to David DiSalvo, Director, Division of Retirement, *Re: Bona Fide Terminations from Employment and Bona Vide Volunteer Services* (dated January 8, 2021) on file with the Constitutional Rights, Rule of Law & Government Operations Subcommittee.

⁴² The regulation provides that the employment relationship is treated as continuing intact while the individual is on a bona fide leave of absence if the leave does not exceed 6 months, or if longer, as long as the individual retains a right to reemployment pursuant to statute or contract. The IRS explains in the preamble to the regulation that “a bona fide leave of absence refers to a leave of absence where there is a reasonable expectation the service provider will return to service with the service recipient.” Department of the Treasury, Internal Revenue Service, *Application of Section 409A to Nonqualified Deferred Compensation Plans*, 26 CFR Part I [TD 9321], RIN 1545-BE79 (Dated April 17, 2007).

⁴³ See IRS PLR 201147038; see also Memorandum to David DiSalvo, Director, Division of Retirement, *Re: Bona Fide Terminations from Employment and Bona Vide Volunteer Services* (dated January 8, 2021) on file with the Constitutional Rights, Rule of Law & Government Operations Subcommittee.

⁴⁴ IRS PLR 201147038.

⁴⁵ For purposes of the reemployment limitation period, the term “employment” includes the provision of services. S. 121.021(39), F.S.

⁴⁶ S. 121.021(39), F.S.

⁴⁷ S. 121.021(9)(c), F.S.

⁴⁸ However, for reemployed members, the FRS employer must pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the FRS in addition to the contributions for social security and for the retiree health insurance subsidy. S. 121.091(9)(c)2., F.S.

⁴⁹ S. 121.091(9)(b)1. and (9)(c)3., F.S.

- The employer or a third party does not provide any form of compensation, including any cash equivalents, to the volunteer for the volunteer service;
- Except as otherwise provided in law, a volunteer cannot be provided any employee benefits, including health or life insurance benefits. However, a volunteer may be provided certain perquisites necessary for, and for the limited purpose of, completing tasks associated with the volunteer program, such as an assigned uniform or the provision of equipment;
- The number of volunteer hours per week, including training hours, that the volunteer provides is no more than 20 percent of the number of hours that the volunteer was expected to work per week before the date of retirement;
- There is a clear distinction between the duties of a volunteer and the duties of an employee;
- The schedule of a volunteer, including the number of hours volunteered and the number and type of assignments for which he or she agrees to volunteer, is controlled by the volunteer; and
- The employer and retiree maintain adequate records to document adherence to the above criteria, which must be made available to DMS or the SBA upon request.⁵⁰

The second exception to the reemployment limitation period applies to law enforcement officers that are reemployed as school resource officers and authorizes such retirees to be reemployed during months 7 through 12 after retirement and receive both a salary and retirement benefits. The reemployed retired law enforcement officer may not renew membership in the FRS except as provided in law.⁵¹

Renewed Membership

Effective July 1, 2017,⁵² retirees of the investment plan, Senior Management Service Optional Annuity Program (SMSOAP), State University System Optional Retirement Program (SUSORP), or State University System Optional Retirement Program (SCCORP) may renew membership in the FRS.⁵³ Such renewed member will participate in the appropriate membership class in the investment plan, unless employed in a position eligible for participation in the SUSORP or the SCCSORP, in which case the retiree will become a renewed member of the SUSORP or the SCCSORP, as applicable. A renewed member may not qualify for disability retirement benefits and must satisfy the vesting requirements of the specific plan. A renewed member in the FRS Investment Plan who is not receiving the maximum health insurance subsidy is entitled to earn additional credit towards the subsidy.⁵⁴ Retired FRS Pension Plan members are not eligible for renewed membership in the FRS.⁵⁵

⁵⁰ S. 121.091(15), F.S.

⁵¹ S. 121.091(9)(f), F.S.

⁵² Different renewed membership provisions apply to FRS members who retired and were reemployed prior to July 1, 2010. Prior to July 1, 2010, retirees of the pension plan or investment plan could renew membership in either plan or in another state administered retirement system similar to newly hired members and earn service credit towards a subsequent retirement benefit. From July 1, 2010, to July 1, 2017, FRS retirees were ineligible to be enrolled as a renewed member. S. 121.122(1) and (2), F.S.

⁵³ S. 121.122(3), (4), and (5), F.S. Upon renewed membership, the employer and the renewed member are required to pay applicable contributions.

⁵⁴ *Id.*

⁵⁵ S. 121.122(2), F.S.

State and County Officers and Employees Retirement System

The State and County Officers and Employees Retirement System (SCOERS) was consolidated into the FRS in 1970 as a closed plan.⁵⁶ SCOERS retirees may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation without limitation, unless the public employer participates in the FRS. SCOERS retirees reemployed by an FRS employer are prohibited from receiving a salary from reemployment and retirement benefits for 12 months after their date of retirement. Any retiree employed in violation of the reemployment limitation period must provide notice of such reemployment to his or her employer and DMS, and that person's retirement benefits will be suspended for the duration of the reemployment limitation period. A retiree employed in violation of the reemployment limitation period and any agency that knowingly employs such retiree are jointly and severally liable for reimbursement to the retirement trust fund from which the benefits were paid. In order to avoid liability, the FRS employer must have a written statement from the retiree that the person is not retired from a state-administered retirement system. Any benefits suspended beyond the reemployment limitation period will apply toward the repayment of benefits received in violation of the reemployment limitation period.⁵⁷

Effect of the Bill

The bill authorizes an FRS retired law enforcement officer to be reemployed by an FRS employer in a position that qualifies for the Special Risk Class and receive both compensation from that employer and retirement benefits, provided the retiree is not reemployed within the 6 months following the date of retirement. The reemployed retired law enforcement officer may not renew membership in the FRS, except as currently provided in law.

The bill also reduces the amount of time a SCOERS retiree is prohibited from receiving both a salary from an FRS employer and retirement benefits, from 12 months to 6 months immediately subsequent to the date of retirement, and limits those employees eligible for reemployment by an FRS employer to those reemployed in a position that qualifies for the Special Risk Class.

The bill makes other conforming and technical changes.

B. SECTION DIRECTORY:

Section 1 amends s. 121.091, F.S., relating to benefits payable under the system.

Section 2 amends s. 122.16, F.S., relating to employment after retirement.

Section 3 provides an effective date of July 1, 2024.

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:

⁵⁶ Annual Report, *supra* note 5, at 33.

⁵⁷ S. 122.16(1) and (2), F.S. The reemployment authorization does not apply to those members retired due to disability. See s. 122.16(2)(a), F.S. Employer and employee contributions are required as provided in s. 121.122, F.S. for renewed membership in the FRS. S. 122.16(2)(c), F.S.

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill will have a negative fiscal impact to the extent it results in a greater number of retired members being reemployed after 6 months of retirement as those retirees will no longer forfeit their retirement benefits for months 7 through 12. The fiscal impact to the state and local governments is indeterminate at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Single Subject

The Florida Constitution provides that “[e]very law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.”⁵⁸ As applied by the Florida Supreme Court, the subject of the act is stated in its “relating to” clause.⁵⁹ The Legislature can make the relating to clause broad and a bill may contain various subtopics without violating the single subject requirement.⁶⁰ However, if the subject mentioned in the title is restricted, only provisions that are reasonably related to and included within that restricted subject can be legally included in the body of the act. This holds true even if there could have been additional provisions in a single act with a broader subject expressed in its title.⁶¹

The bill’s subject is reemployment of retired law enforcement officers, as expressed in its relating to clause. Section 2 of the bill, however, relates to all retirees of the SCOERS; not only retired law enforcement officers. Accordingly, the relating to clause may be too narrow to provide sufficient guidance about the scope of the act.

⁵⁸ Art. III, s. 6, FLA. CONST.

⁵⁹ *Franklin v. State*, 887 So. 2d 1063 (Fla. 2004). In the opinion the Court refers to the “relating to” clause as the “short title.”

⁶⁰ See *Burch v. State*, 558 So. 2d 1 (Fla. 1990) (statute did not violate single-subject rule, although statute dealt with comprehensive criminal regulations and procedures, moneylaundering, and safe neighborhoods, as each of the provisions bore a logical relationship to the single subject of crime control).

⁶¹ *Ex parte Knight*, 41 So. 786 (Fla. 1906).

Actuarial Requirements

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida 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.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits 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.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 51-52: Currently, SCOERS retirees are authorized to be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from that employer, unless that employer participates in the FRS, in which case the retiree may not receive both a salary and retirement benefits for 12 months immediately subsequent to his or her date of retirement. The bill limits the positions that retirees can be reemployed in by FRS employers to those that qualify for the Special Risk Class, even after the reemployment limitation period.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.