

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: SPB 7010

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: Roth Contribution Plans in Deferred Compensation Programs

DATE: December 1, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Harmsen	McVaney		Pre-meeting

I. Summary:

SPB 7010 grants specific authority to the Department of Financial Services (DFS) and local governments and constitutional officers to offer post-tax Roth 457(b) options within any deferred compensation plan established pursuant to s. 112.215, F.S. This broader grant of authority takes effect upon becoming a law but operates retroactively to January 1, 2026.

In 2010, the federal government allowed governmental 457(b) deferred compensation plans to adopt a Roth investment option in addition to their existing pre-tax investment options. However, section 112.215, F.S., the state deferred compensation law, was not modified to authorize this change to the legislatively authorized deferred compensation plans. Citing the change to federal law, the DFS updated its Deferred Compensation Plan document by rule in May 2013 to allow a Roth investment option under its Deferred Compensation Plan.¹ In July 2024, the DFS began enrolling interested Deferred Compensation Plan participants in the Roth investment option.²

The Legislature granted the DFS limited authority to allow Roth contributions into the Deferred Compensation Plan for the 2025-2026 fiscal year only. Participants eligible to make such contributions are limited to those participants who made Roth contributions prior to July 1, 2025. This limited authority is set to expire on July 1, 2026.³ As a result, the DFS limited Roth contributions to only those participants who made similar contributions within the Deferred Compensation Plan prior to July 1, 2025.⁴

¹ See Rule 69C-6.003, Form DFS-J3-1176, F.A.C. (May 2013), <https://flrules.org/Gateway/reference.asp?No=Ref-02725> (last visited Nov. 7, 2025).

² Florida Department of Financial Services, *Florida Deferred Compensation Plan Launches 457b Pre-Tax and Roth for State Employees* (Jun. 11, 2024), <https://www.myfloridacfo.com/news/newsletter/past-issues/news-details/2024/06/11/florida-deferred-compensation-plan-launches-457b-pre-tax-and-roth-for-state-employees> (last visited Nov. 20, 2025).

³ Chapter 2025-199, s. 71, Laws of Fla.

⁴ Florida Bureau of Deferred Compensation, *Urgent Legislative Update-Important Changes to 457(b) Roth Contributions Effective July 1, 2025*, <https://myfloridacfo.com/docs-sf/deferred-compensation-libraries/dc-documents/misc/urgent-2025-legislative-update-sb2502.pdf> (last visited Nov. 7, 2025).

This bill ratifies the DFS' prior actions with respect to the Roth option under the state Deferred Compensation Plan.

The impact on state and local government expenditures is indeterminate.

The bill takes effect upon becoming a law but operates retroactively to January 1, 2026.

II. Present Situation:

Florida Deferred Compensation Plan

In 1978, Congress authorized the creation of a deferred compensation plan as a retirement savings plan to allow public sector employees to supplement any existing retirement and pension benefits by saving and investing pre-tax income through a tax-deferred voluntary salary contribution.⁵ The employer acts as the plan sponsor and contracts with investment providers. The participant employee makes contributions into an investment vehicle made available through a deferred compensation plan and bears the investment risk.

Section 112.215, F.S., directs the Chief Financial Officer to implement and administer a deferred compensation plan for government employees.⁶ The original and current statutes regarding the implementation and administration of the deferred compensation plans made no mention of the federal laws. There is no specific statutory direction to comply with the federal Section 457(b) of the Internal Revenue Code or its regulations. Rather the primary statutory limitation on the state deferred compensation plan is that the compensation deferred (not paid to the employee) may not be included in the employee's taxable income under federal or state law until the compensation is actually received by the employee under the terms of the plan.⁷ This deferred compensation is transferred to investment providers for investment as directed by the employee. The deferred compensation and the associated investment earnings will be subject to the federal taxation upon distribution from the plan. Local governments and officers are also authorized to implement and administer local deferred compensation plans for their employees. Likewise, the primary statutory limitation on these local deferred compensation plans is that the compensation deferred may not be subject to federal or state income tax until the compensation is actually received by the employee.

While the language in s. 112.215, F.S., closely mirrors and clearly contemplates adoption of a state deferred compensation plan pursuant to Section 457(b) of the Internal Revenue Code (as the federal law existed at the time of approval by the Internal Revenue Service), the original and current statutes make no specific reference to that provision, nor to the Internal Revenue Code

⁵ Internal Revenue Service, *IRC 457(b) Deferred Compensation Plans*, <https://www.irs.gov/retirement-plans/irc-457b-deferred-compensation-plans> (last visited Nov. 6, 2025). *See also*, 26 U.S.C. s. 457.

⁶ A government employee is any person employed by the state of Florida, or any governmental unit of the state, including any state agency, county, municipality, or other political subdivision of the state; any special district or water management district; any state university or Florida College System institution; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution for which compensation or statutory fees are paid. Section 112.215(2), F.S.

⁷ *See* s. 112.215(6)(a), F.S.

more generally where employee deductions are concerned.⁸ The 1975 language does specifically state that:

Notwithstanding any other provision of this act or any other provision of law to the contrary, any sum deferred under the deferred compensation program shall not be included for the purposes of computation of any income taxes withheld on behalf of any employee.⁹

Florida, through the DFS' Division of Treasury and Bureau of Deferred Compensation, administers a deferred compensation plan for its government employees. A government employee's eligibility to enroll in the State of Florida Deferred Compensation Plan (Deferred Compensation Plan) is subject to his or her employer's election to participate. As of September 30, 2025, the Deferred Compensation Plan has 95,942 accounts with an average of 42,067 of those accounts representing actively contributing participants. The Plan's assets total \$5,967,631,276.40.¹⁰

The Deferred Compensation Plan was commissioned in 1982,¹¹ and the IRS deemed it an eligible state deferred compensation plan as defined in section 457 of the Internal Revenue Code in 1988.¹² The Deferred Compensation Plan was approved with the following characteristics:

- The plan allows a participant to elect to defer compensation until his or her separation from state employment or an unforeseeable emergency.
- The plan sets a maximum amount that a participant may defer for each taxable year.
- The plan provides for a catch-up computation for the last three taxable years before a participant reaches normal retirement age, allowing contributions above the normal limit during that time.
- The plan maintains all property and all income attributable to amounts deferred by a plan participant as property of the State, subject only to claims by the State's general creditors. This protects participants' contributions until the time at which they separate from employment from the State or are otherwise eligible to claim those deferred contributions.
- The plan provides that any amount of compensation deferred under the plan, and any income attributable to that amount deferred, shall be includable in gross income only for the taxable year in which the compensation is paid or otherwise made available to the participant or his or her beneficiary.

⁸ A cross-reference to a specific statute incorporates the language of the referenced statute as it existed at the time the reference was enacted, unaffected by any subsequent amendments to or repeal of the incorporated statute. *Brown v. U.S.*, 602 U.S. 101, 116 (2024) and *Overstreet v. Blum*, 227 So.2d 197 (Fla. 1969). In contrast, as a general rule, a cross-reference to a general body of law (without reference to a specific statute) incorporates the referenced statute as it existed at the time the reference was enacted, unaffected by any subsequent amendments to or repeal of the incorporated statute. See *Williams v. State ex. Rel. Newberger*, 100 Fla. 1567, 125 So. 358 (1930), rev'd on other grounds on rehearing, 100 Fla. 1570, 131 So. 864 (1930); *Reino v. State*, 352 So. 2d 853 (Fla. 1977).

⁹ Ch. 75-295 (1975), Laws of Fla.

¹⁰ Florida Bureau of Deferred Compensation, *Plan Watch Booklet 2025* at 5-6, <https://www.myfloridacfo.com/docs-sf/deferred-compensation-libraries/dc-documents/publications/plan-watch-booklet.pdf> (last visited Nov. 6, 2025).

¹¹ Florida Bureau of Deferred Compensation, *Plan Watch Booklet 2025* at 1, <https://www.myfloridacfo.com/docs-sf/deferred-compensation-libraries/dc-documents/publications/plan-watch-booklet.pdf> (last visited Nov. 6, 2025).

¹² Internal Revenue Service, *Memo regarding State of Florida Deferred Compensation Plans* (Oct. 26, 1988), on file with the Committee on Governmental Oversight and Accountability.

Roth 457(b) Governmental Deferred Compensation Plan

A Roth 457(b) account is a separate account in a 457(b) government-sponsored deferred compensation plan to which a participant makes designated Roth contributions. Unlike standard pre-tax contributions made to a 457(b) plan, Roth contributions are not excluded from an employee's gross income but are instead taxed at the time they are contributed to the account. Qualified distributions made from a Roth account, including its earnings, are excluded from gross income at the time of withdrawal (and are therefore not taxed at the time of an eligible withdrawal). Under federal law, if a Roth investment option is available as part of their plan, an employee may generally designate all, none, or a portion of his or her 457(b) deferred compensation deferrals for investment in a Roth account.¹³ An employee may not access his or her Roth 457(b) account (and its earnings) until at least five years elapsed since the employee's first designated Roth contribution and either the employee reaches age 59.5, is qualified as disabled, or dies.¹⁴

In 2010, the federal Small Business Jobs and Credit Act allowed government-sponsored deferred compensation plans to offer and classify Roth (post-tax) contributions as elective deferrals under their plans.¹⁵ However, section 112.215, F.S., the state deferred compensation law, was not amended to authorize this change. Indeed, today, s. 112.215, F.S., still requires that the deferred compensation plan become effective only after the CFO is satisfied by opinion from the appropriate federal authority that "the compensation deferred thereunder and/or the investment products purchased pursuant to the plan will not be included in the employee's taxable income under federal or state law until it is actually received by such employee..." The only mention of 26 U.S.C. s. 457 of the Internal Revenue Code within s. 112.215, F.S., occurs wherein direction is given to hold participants' moneys "accrued or accruing under and pursuant to s. 26 U.S.C. s. 457 and the deferred compensation plan provided for therein and adopted by this state..."

Citing the 2010 change to federal law, the DFS updated its Deferred Compensation Plan document by rule in May 2013 to allow a Roth investment option under its Deferred Compensation Plan.¹⁶ However, it was not until July 2024 that the DFS began enrolling interested Deferred Compensation Plan participants in the Roth investment option.¹⁷ This rule change allowing all Deferred Compensation Plan participants to make post-tax Roth

¹³ 26 U.S.C. s. 402A(b)(1) defines and permits such Roth contribution programs under 457(b) deferred compensation programs. The standard contribution limit for both Roth 457(b) and 457(b) Deferred Compensation Plans for the year 2025 is \$23,500. Internal Revenue Service, *COLA Increases for Dollar Limitations on Benefits and Contributions* (Aug. 26, 2025), <https://www.irs.gov/retirement-plans/cola-increases-for-dollar-limitations-on-benefits-and-contributions> (last visited Nov. 6, 2025).

¹⁴ Internal Revenue Service, *Retirement Topics – Designated Roth Account* (Aug. 26, 2025), <https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-designated-roth-account> (last visited Nov. 6, 2025).

¹⁵ Trucker Huss, *New Law Permits Conversion of Pre-Tax and Other Accounts to Designated Roth Account Within 401(k), 403(b) and Governmental 457(b) Plans*, <https://www.truckerhuss.com/2010/10/new-law-permits-conversion-of-pre-tax-and-other-accounts-to-designated-roth-account-within-401k-403b-and-governmental-457b-plans/> (last visited Nov. 25, 2025).

¹⁶ See Rule 69C-6.003, Form DFS-J3-1176, F.A.C. (May 2013), available at <https://flrules.org/Gateway/reference.asp?No=Ref-02725> (last visited Nov. 20, 2025).

¹⁷ Florida Department of Financial Services, *Florida Deferred Compensation Plan Launches 457b Pre-Tax and Roth for State Employees* (Jun. 11, 2024), <https://www.myfloridacfo.com/news/newsletter/past-issues/news-details/2024/06/11/florida-deferred-compensation-plan-launches-457b-pre-tax-and-roth-for-state-employees> (last visited Nov. 7, 2025).

contributions appears to have been made in contravention to the enabling statute's limitation of the Plan to pre-tax contributions only.

In response, the Legislature granted the DFS limited and remedial authority to allow employee Roth contributions into the Deferred Compensation Plan for the 2025-2026 fiscal year only. Such contributions are limited to those employees who had made Roth contributions prior to July 1, 2025. This limited statutory grant of authority is intended to allow existing Deferred Compensation Plan participants who had made Roth contributions to continue those contributions and to provide time for the Legislature to contemplate a broader and more permanent grant of such authority impacting all participants. This limited grant of authority is set to expire on July 1, 2026.¹⁸ As a result, the DFS limited Roth contributions to only those participants who made similar contributions within the Deferred Compensation Plan prior to July 1, 2025.¹⁹

Additionally, section 71 of chapter 2025-199, Laws of Florida, requires the DFS to submit a report to the Legislature by December 1, 2025, to plan a transition of any after-tax contributions and their earnings out of the state deferred compensation plan. The DFS submitted a report in compliance with this provision on November 24, 2025, wherein it concludes that it can neither take corrective actions to remove investments from the Roth option within the scope of the Internal Revenue Code, nor force the Roth participants to clear their investments from their Roth accounts.²⁰ This proposal would leave a portion of Roth (after-tax) investments in the Deferred Compensation Plan.

Application of SECURE 2.0 to Roth Investments

Effective January 1, 2024, the federal SECURE 2.0 Act amended the Internal Revenue Code's catch-up contributions provisions to require a high-earning plan participant (whose FICA wages exceed \$145,000 in the preceding year) to make catch-up contributions as designated post-tax Roth contributions, rather than pre-tax deferred compensation contributions. Catch-up contributions are higher contributions that governmental 457(b) deferred compensation plan participants may make in limited instances, usually based on age.²¹ While this new requirement on high-earning participants to use post-tax Roth contributions for catch-up became effective in 2024, IRS Notice 2023-62 provided for a two-year administrative transition period, resulting in an actual effective date of January 1, 2026.²²

¹⁸ Chapter 2025-199, s. 71, Laws of Fla.

¹⁹ Florida Bureau of Deferred Compensation, *Urgent Legislative Update-Important Changes to 457(b) Roth Contributions Effective July 1, 2025*, <https://myfloridacfo.com/docs-sf/deferred-compensation-libraries/dc-documents/misc/urgent-2025-legislative-update-sb2502.pdf> (last visited Nov. 7, 2025).

²⁰ E-mail from Morgan Husbands, Florida Department of Financial Services, *Roth Contributions Report for Legislature* (Nov. 24, 2025)(on file with the Senate Committee on Governmental Oversight and Accountability).

²¹ Internal Revenue Service, *Issue Snapshot- Section 457(b) plan of governmental and tax-exempt employers- Catch-up contributions* (Apr. 8, 2025), <https://www.irs.gov/retirement-plans/issue-snapshot-section-457b-plan-of-governmental-and-tax-exempt-employers-catch-up-contributions> (last visited Nov. 7, 2025).

²² However, the special catch-up contribution allowed during the three years prior to normal retirement age are exempt from the Roth-only requirement. Sarah Sise, Lauren Schuster, et.al, QUARLES, *SECURE 2.0 Act Retirement Plan Update: Roth Catch-Up Contributions in 2026* (Nov. 4, 2025), <https://www.quarles.com/newsroom/publications/secure-2-0-act-retirement-plan-update-roth-catch-up-contributions-in-2026>. See also, Kevin Nolt, TRUCKER & HUSS, *The Roth Catch-Up Regulations are Final: What You Need to Know!*, <https://www.truckerhuss.com/newsletter/roth-catchup-regulations/#footnotes1> (last visited Nov. 19, 2025), and Kim Boberg, et.al, Groom Law Group, *IRS Issues Final Regulations on Catch-Up Rule Changes*

The IRS' nondiscrimination rule²³ requires that a deferred compensation plan be made equally available to all of the plan sponsor's employees. The rule has also been interpreted to require that plans that offer a Roth investment option to high-earners (who are subject to a requirement that they make those contributions to a Roth account), must also offer all catch-up eligible participants – those who will be age 50 or older in a given year – the ability to make catch-up contributions on a Roth basis.²⁴ If the plan does not offer a Roth investment option, then those high-earner participants required to make their catch-up contributions to a Roth account are excluded from the ability to make catch-up contributions except to the extent that government-sponsored 457(b) deferred compensation plans are exempt from the Roth-only requirement for the purposes of the standard ("special") catch-up.²⁵ While this exclusion of high-earners from the ability to make the same dollar amount of catch-up contributions as other plan participants would generally violate the universal availability rule, a Federal Regulation effective November 17, 2025 allows it.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 112.215, F.S., to grant specific statutory authority to the CFO, for purposes of the state deferred compensation plan, and to any officer administering a local deferred compensation plan, to offer a post-tax Roth contribution program in accordance with section 402A of the United States Internal Revenue Code as part of their deferred compensation plan. This will authorize the Bureau of Deferred Compensation and any other deferred compensation plan operated under s. 112.215, F.S., to accept post-tax Roth contributions on behalf of its Deferred Compensation Plan participants.

Section 2 repeals section 71 of Chapter 2025-199, Laws of Florida, which, for the 2025-2026 fiscal year, grants statutory authority to DFS to allow Roth contributions under the Deferred Compensation Plan to those employees who had made Roth contributions prior to July 1, 2025.

Section 3 ratifies the prior actions of the CFO that permitted, for purposes of the state Deferred Compensation Plan, contributions to a qualified Roth contribution program, beginning July 1, 2024. This ratification addresses the rulemaking undertaken by the DFS in 2013, and subsequent thereto, the actual establishment of the Roth option under the Deferred Compensation Plan, and the enrollment of participants into Roth contribution plan.

Section 4 makes the effect of the bill retroactive to January 1, 2026.

The bill takes effect upon becoming a law.

(Sept. 18, 2025), (<https://www.groom.com/resources/irs-issues-final-regulations-on-catch-up-rule-changes/>) (last visited Nov. 19, 2025).

²³ 26 U.S.C. §1.414(v)-4, as applied to 26 U.S.C. 403(b)(12)(A)(ii).

²⁴ Elizabeth Drake, Allison Ullman, GROOM LAW GROUP, *IRS Issues Much Anticipated Guidance on Catch-Up Contributions* (Jan. 14, 2025), https://www.groom.com/resources/irs-issues-much-anticipated-guidance-on-catch-up-contributions/?utm_source=vuture&utm_medium=email&utm_campaign=employers&utm_content=catch+up+irs+final (last visited Nov. 19, 2025).

²⁵ 26 CFR §1.414(v)-2(c)3.B (2025), <https://www.govinfo.gov/content/pkg/FR-2025-09-16/pdf/2025-17865.pdf> (last visited Nov. 25, 2025).

²⁶ 26 CFR §1.414(v)-2(b)2 (2025).

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

Not applicable. The bill does not require municipalities or counties to spend funds, reduce the authority of municipalities or counties to raise revenue, or reduce the percentage of state tax shared with municipalities and counties.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

With the broader statutory authority to accept both pre-tax contributions and post-tax Roth contributions, government employees will be permitted to choose to invest their deferred compensation funds in either a pre- or post-tax option.

The Bureau of Deferred Compensation reports that federal law may forestall the Bureau's ability to allow any deferred compensation participants to make catch-up contributions if it is not granted authority to offer the Roth investment option. However, recent federal guidance on the matter appears to allow deferred compensation plans to continue to offer pre-tax catch-up contribution opportunities to employees who have FICA wages of less than \$145,000 in the prior tax year, even if high-earner employees are prohibited from making catch-up contributions in the same pre-tax manner as a result of the plan's lack of a post-tax Roth investment option.²⁷

²⁷ “[A]n applicable employer plan that does not have a qualified Roth contribution program would be allowed to permit catch-up eligible participants who are not subject to the Roth catch-up requirement to make catch-up contributions even though catch-up eligible participants who are subject to the Roth catch-up requirement would not be permitted to make catch-up contributions.” Internal Revenue Service, *Catch-Up Contributions*, 90 Fed. Reg. at 2651 (Jan. 13, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-09-16/pdf/2025-17865.pdf> (last visited Nov. 25, 2025).

C. Government Sector Impact:

The Department of Financial Services may incur costs associated with updating information technology software to administer the use of post-tax Roth contributions in the state deferred compensation plan consistent with state law.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Catch-Up Contributions**

- The Age 50 Catch-Up allows participants who are 50 or older to contribute up to \$7,500 per taxable year (for a total of \$31,000) in 2025.²⁸ For tax year 2024, 2,175 Florida Deferred Compensation Plan participants used this catch-up, with an average contribution of \$28,861.33.²⁹
- The Pre-retirement Catch-Up (also called the “super” catch-up) allows a deferred compensation plan member who is age 60-63 to make an additional contribution of up to \$11,250 in tax year 2025.³⁰ Once a participant turns 64, they revert to the standard age 50 catch-up contribution limit. This catch-up cannot be combined with the special catch-up (discussed below). This allows the plan member to defer up to \$34,750 in tax year 2025. During tax year 2025, 79 Florida Deferred Compensation Plan participants, out of 5,089 eligible participants signed up for this catch-up.³¹
- The Traditional Catch-Up (also called the “special catch-up”) allows participants who are within three years of their normal retirement age³² to make a maximum catch-up contribution of the lesser of double the standard deferral limit (equal to \$23,500 in the 2025 tax year), or the sum of the standard deferral (for tax year 2025, \$23,500, or the total amount of your wages, if less than \$23,500) plus the amount of standard deferrals a participant could have contributed in prior years, but did not.³³ This “underutilized limitation” does not include foregone catch-up contributions. The traditional catch-up cannot be used in the same tax year as the age 50 catch-up or the pre-retirement catch-up.

²⁸ Florida Bureau of Deferred Compensation, *2025 Contribution Limits*, https://www.myfloridacfo.com/docs-sf/deferred-compensation-libraries/dc-documents/administrative-documents/contribution-limits.pdf?sfvrsn=21f610e7_34 (last visited Nov. 19, 2025).

²⁹ November 6, 2025 Deferred Compensation Plan Advisory Council Meeting.

³⁰ 26 CFR §1.414(v)-1(c)(2)(i)(b). *See also*, Mary Graf, VOYA FINANCIAL, *Preparing Employers for the Age 60-63 Catch-Up Contribution Provision*, <https://www.voya.com/voya-insights/preparing-employers-new-age-60-63-catch-contribution-provision> (last visited Nov. 20, 2025).

³¹ November 6, 2025 Deferred Compensation Plan Advisory Council Meeting.

³² Normal retirement age is the earlier of age 65 or the age that the participant has a right to retire and receive full benefits under the governmental retirement plan—but no later than age 70.5.

³³ Internal Revenue Service, *Issue Snapshot- Section 457(b) Plan of Governmental and Tax-Exempt Employers—Catch-Up Contributions* (Apr. 8, 2025), <https://www.irs.gov/retirement-plans/issue-snapshot-section-457b-plan-of-governmental-and-tax-exempt-employers-catch-up-contributions> (last visited Nov. 20, 2025).

The 2025 taxable year's regular deferral limit and three catch-up limits are summarized below:

Regular Deferral Limit	\$23,500
Age 50+ Catch-Up	\$7,500 (\$31,000 total)
Age 60-63 Catch-Up (Pre-Retirement)	\$11,250 (\$34,750 total)
Traditional Catch-Up	Up to \$47,000 total

VIII. Statutes Affected:

This bill substantially amends section 112.215 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.
