

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1165 Florida Retirement System
SPONSOR(S): Evers and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 812

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee		Brazzell	Everhart
2) Fiscal Council			
3) State Administration Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill allows Special Risk Class members who received credit in another class of the Florida Retirement System while employed as a community-based correctional probation officer, or their employers, to purchase an upgrade of their Regular Class credit to Special Risk Class credit. The cost to the member or employer would be the difference in contributions paid and the Special Risk contribution that would have been paid during the period being claimed, plus interest at 6.5% compounded annually until the date the payment is made. This would result in individuals whose credit has been upgraded receiving increased retirement benefits.

This bill results in net additional unfunded liabilities to the Florida Retirement System of \$18.6 million. To fully fund this benefit, Special Risk Class contribution rates for every Special Risk Class employer—not just those whose employees would receive this benefit--would need to increase by 0.04%. Special Risk Class employer contribution rates for FY 2004-05 are 17.34% of gross compensation and are scheduled to increase to 22.16% for FY 2005-06, absent Legislative action. Accordingly, this bill has a fiscal impact on state and local governments. See *“Fiscal Comments”*, below.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present situation

The Florida Retirement System (FRS) provides retirement and disability benefits for Florida state and county employees and for employees of those cities and special districts which choose to participate in the FRS. As of June 30, 2004, state employees (including university employees) represent 21.83% of the FRS membership; counties, 23.46%; district school boards, 48.3%; and community colleges, 2.84%; and cities and special districts that have opted to join the FRS, 3.57%.

The active membership of the FRS is divided into five membership classes. Each class is separately funded based upon the costs attributable to the members of that class. The classes and their current employer contribution rates as a percent of gross compensation are:

- Regular Class, 6.20%.
- Special Risk Class, 17.34%.
- Special Risk Administrative Support Class, 8.73%.
- Elected Officers' Class, 11.30%-17.46%, depending on subclass.
- Senior Management Service Class, 8.18%.

The Florida Statutes provide membership criteria for the Special Risk Class in s. 121.0515, F.S. The class is intended for persons working in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions. Because these individuals must perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, their careers may be shorter than other employees', the Legislature provided different retirement benefits for them. Compared to Regular Class members, a Special Risk Class member:

- Earns retirement credit at the rate of 3% of average final compensation (AFC) for each year of service, as opposed to the 1.60%-to-1.68% credit per year of service earned by a Regular Class member.
- Qualifies for normal retirement at an earlier age (age 55 vs. age 62) or with fewer years of service (25 years vs. 30 years).
- Who is totally and permanently disabled in the line of duty qualifies for a 65% minimum option 1 benefit payment compared to a Regular Class member similarly disabled, who qualifies for a 42% minimum option 1 benefit payment.

Proposed changes

Special Risk Class members who received credit in another class of the FRS while employed as a community-based correctional probation officer, or their employers, would be allowed to purchase an upgrade of their Regular Class credit to Special Risk Class credit. The cost to the member or employer would be the difference in contributions paid and the Special Risk contribution that would have been paid during the period being claimed, plus interest at 6.5% compounded annually until the date the payment is made.

Approximately 2,624 individuals are currently employed as community-based correctional probation officers. These individuals are employed by the state. Data analyzed by the consulting actuaries indicated that members have an average of 9.33 years of past Regular Class Service.

This bill would increase the retirement benefit received by individuals whose retirement credit was upgraded. However, because the payment made to upgrade the service will be insufficient to completely offset the increased liabilities to the FRS, the bill results in a net additional unfunded liability to the Florida Retirement System of \$18.6 million.¹ The state would need to increase the Special Risk Class employers' contribution—paid by all employers, not just employers of individuals receiving this benefit—by 0.04% to fund this benefit in an actuarially sound manner.

C. SECTION DIRECTORY:

Section 1 amends s. 121.0515, F.S., to grant Special Risk Class members the ability to upgrade creditable service from another class earned while working as community-based correctional probation officers.

Section 2 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Retirement System Trust Fund could receive revenues of up to \$69.3 million from the purchase of upgraded credit from individuals or their employers.

2. Expenditures:

See "Fiscal Comments", below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments", below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the actuarial study, "the projected increase in actuarial liabilities is \$87.9 million offset by the projected cost the members pay for the eligible service under this proposal of \$69.3 million, which results in net additional unfunded liabilities of \$18.6 million." To fully fund this benefit, Special Risk Class employer contribution rates would need to increase by 0.04%. This would result in higher Special Risk Class employer contribution rates paid by all Special Risk Class employers, not just employers whose members would receive this benefit. Such employers include state agencies, counties, district school boards, and municipalities and special districts which have opted into the FRS. Special Risk Class employer contribution rates for FY 2004-05 are 17.34% of gross compensation and are scheduled to increase to 22.16% for FY 2005-06, absent Legislative action.

¹ Based on documents provided by the Division of Retirement, the consulting actuaries estimated that 2,279 individuals would be eligible, each having an average of 0.933 years of Regular Class service, that all Regular Class service eligible for upgrade would be upgraded, all elections occurred on June 30, 2004 (since it is to the individual's benefit to purchase the upgrade as soon as possible, avoiding additional interest cost), that salary increases were equal to the interest cost of 6.5%.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

By increasing benefits for employees of FRS employers, the bill will likely require counties and certain municipalities to expend funds through higher employer contribution rates and thus appears to be a mandate. This bill does not contain any provisions that would exempt it from the requirements of Art. VII, s. 18(a). Regarding the criteria the bill must meet in order to bind counties and municipalities, the bill does apply to all persons similarly situated but does not contain a statement of important state interest. It thus does not meet the requirement to bind effectively counties and municipalities.

2. Other:

Article X, s. 14, Florida Constitution

Since 1976, the Florida 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, s. 14 of the Florida 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."

Actuaries performed a study regarding compliance with Article X, s. 14 of the Florida Constitution and Part VII of Chapter 112, F.S. This study indicates that Special Risk Class employer contributions rates would need to increase by 0.04% of gross compensation to fund this benefit in an actuarially sound manner.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill is a mandate. It lacks a declaration of important state interest, which is required for the bill to bind counties and municipalities.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.