

**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 Governmental Oversight and Accountability Committee

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BILL: SPB 7040

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: Florida Retirement System

DATE: January 3, 2012                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Roberts		<b>Pre-meeting</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

This bill cleans up and clarifies a number of issues raised by the enactment last session of Senate Bill 2100, which made a number of substantial changes to the Florida Retirement System (FRS). The bill corrects a cross reference, clarifies the existing prohibition on enrolling as a renewed member in the FRS, clarifies that loans and hardship withdrawals are prohibited in the FRS and optional retirement programs, and makes Deferred Retirement Option Program (DROP) deferral ages consistent with normal retirement ages.

This bill amends the following sections of the Florida Statutes: 121.0515, 121.053, 121.055, 121.071, 121.091, 121.122, 121.35, 121.4501, 121.591, and 1012.875.

**II. Present Situation:**

**Florida Retirement System**

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to the 572,000 active and 319,000 retired members and beneficiaries of its more than 900 state and local government public employers. Originally established in 1970 as the successor to the Teachers' Retirement System and the State and County Officers' and Employees' Retirement System, the FRS is today a combination of five previously separate pension plans. Benefit payments are administered by the Department of Management Services through its Division of Retirement while investment management is undertaken by the Board of Administration. Established as a Section 401(a) government plan under the Internal Revenue Code, its benefits are exempt from federal taxation until received by the employee.

As a defined benefit plan, the FRS "Pension Plan" provides retirement income expressed as a percent of final pay. Members accrue retirement credits based upon their eligibility in one of several membership classes. Years of creditable service multiplied by average final salary multiplied by the accrual rate for the membership class, plus specified annual leave, yield a monthly annuity benefit at normal retirement. The accrual rates range from 1.60 percent for the Regular Class to 3.33 percent for Justices and Judges. Members seeking early retirement dates receive a five percent reduction in the benefit for each year below their normal age threshold.

All membership classes in the Pension Plan permit enrollment in a Deferred Retirement Option Program (DROP) under which a participant may extend employment for an additional five years - eight years for instructional personnel in district school boards - and receive a lump sum benefit at a fixed rate of interest for that additional service. Enrollment in DROP requires the participant to serve the employer with a deferred resignation from employment at the end of the period.

Reenrollment in the FRS is prohibited for retirees who are initially reemployed on or after July 1, 2010.

Management employees and instructional employees in higher educational units are also permitted to enroll in one of three other separate optional retirement programs that exist outside of FRS authority.

### **Optional Retirement Programs**

Eligible employees may elect to participate in one of three optional retirement programs in lieu of participation in the FRS.

Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program.<sup>1</sup> Employees in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program.<sup>2</sup> Eligible employees of a community college may elect to enroll in the Community College Optional Retirement Program.<sup>3</sup>

### **Changes to the FRS in 2011**

The 2011 Legislature enacted<sup>4</sup> sweeping changes to the FRS, by providing for the following:

- Effective July 1, 2011, required 3 percent employee contribution for all FRS members. DROP participants are not required to pay employee contributions.
- For employees initially enrolled on or after July 1, 2011, the definition of "average final compensation" means the average of the 8 highest fiscal years of compensation for creditable service prior to retirement, for purposes of calculation of retirement benefits. For employees

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<sup>1</sup> Section 121.055(6), F.S.

<sup>2</sup> Section 121.35, F.S.

<sup>3</sup> Section 1012.875, F.S.

<sup>4</sup> Chapter 2011-68, L.O.F.; Senate Bill 2100.

initially enrolled prior to July 1, 2011, the definition of “average final compensation” continues to be the average of the 5 highest fiscal years of compensation.

- For employees initially enrolled in the pension plan on or after July 1, 2011, such members will vest in 100 percent of employer contributions upon completion of 8 years of creditable service. For existing employees, vesting will remain at 6 years of creditable service.
- For employees, initially enrolled on or after July 1, 2011, increased the normal retirement age and years of service requirements, as follows:
  - For Special Risk Class: Increased the age from 55 to 60 years of age; and increased the years of creditable service from 25 to 30.
  - For all other classes: Increased the age from 62 to 65 years of age; and increased the years of creditable service from 30 to 33 years.
- Maintained DROP; however, employees entering DROP on or after July 1, 2011 will earn interest at a reduced accrual rate of 1.3 percent. For employees currently in DROP or entering before July 1, 2011, the interest rate remains 6.5 percent.
- Eliminated the cost-of-living adjustment (COLA) for service earned on or after July 1, 2011. Subject to the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the reinstatement of the COLA, the new COLA formula will expire effective June 30, 2016, and the current 3 percent cost-of-living adjustment will be reinstated.
- To implement the bill for the 2011-12 fiscal year, funded the Division of Retirement with four positions and \$207,070 in recurring funds and \$31,184 in non-recurring funds.

### III. Effect of Proposed Changes:

**Section 1** corrects a reference in s. 121.0515(3)(k), F.S., to the appropriate section describing employees eligible for membership in the Special Risk Class. Without this change, the cross-reference in s. 121.0515(3)(k), F.S., incorrectly refers to inclusion of certain forensic employees in s. 121.0515(2)(f), F.S., instead of the correct cross-reference for continued Special Risk Class membership by members who suffer a specified in-line-of-duty injury and can no longer perform Special Risk Class duties, but who remain employed by the same employer at the time of injury in s. 121.0515(2)(i), F.S.

**Section 2** amends s. 121.055, F.S., to clarify that a retiree of a state-administered retirement system who is elected or appointed for the first time to an elective office in a regularly established position with a covered employer may not be enrolled as a renewed member in any state-administered retirement system.

**Section 3** amends s. 121.055, F.S., by specifying a date for clarity and clarifies that loans and hardship withdrawals are prohibited in the Senior Management Service Optional Annuity program.

**Section 4** amends s 121.071, F.S., to clarify that that loans and hardship withdrawals are prohibited in the FRS.

**Section 5** amends s. 121.091, F.S., to adjust the DROP deferral ages for members enrolled after July 1, 2011, for those entering DROP based on years of service instead of normal retirement age. This change makes the DROP deferral age 5 years before normal retirement age - age 55 for

Special Risk Class members and age 60 for all other members, which will line up the DROP deferral age with the normal retirement ages.

**Section 6** amends s. 121.122, F.S., to clarify that a retiree of a state-administered retirement system who is initially reemployed in a regularly established position on or after July 1, 2010, may not be enrolled as a renewed member.

**Section 7** amends s. 121.35, F.S., to clarify that that loans and hardship withdrawals are prohibited in the State University System Optional Retirement Program. The bill also provides a definition of the term “benefit,” to clarify when distributions received by a member prohibit enrollment as a renewed member in a state-administered retirement system.

**Section 8** amends s. 121.4501, F.S., to clarify that a retiree of a state-administered retirement system initially reemployed in a regularly established position on or after July 1, 2010 is not eligible to participate in a state-administered retirement system.

**Section 9** amends s. 121.591, F.S., clarify that that loans and hardship withdrawals are prohibited in the FRS Investment Plan.

**Section 10** amends s. 1012.875, F.S., to clarify that that loans and hardship withdrawals are prohibited in the State Community College System Optional Retirement Program.

The bill takes effect July 1, 2012.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.