

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 Community Affairs

BILL: CS/CS/SB 136

INTRODUCER: Community Affairs Committee; Governmental Oversight and Accountability Committee; and Senators Hays and others

SUBJECT: Public Officers and Employees

DATE: March 4, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 136 amends ss. 112.19 and 112.191, F.S., to provide additional death benefits for state law enforcement officers, correctional officers, correctional probation officers and firefighters who are killed while engaged in the performance of their duties, or as a result of receiving intentional or accidental bodily injury. The monthly benefit equals 50 percent of the monthly salary being received by the member at the time of death, and is payable as follows:

- To the surviving spouse for the lesser of the lifetime of the spouse or 300 months (25 years);
- If no surviving spouse, payable to the youngest child until age 21, or until any child who is a full-time student reaches age 25; or
- If no surviving spouse or children, payable to a joint annuitant under the Florida Retirement System (FRS) for the lesser of the period the joint annuitant receives benefits under the FRS or 300 months.

The bill appropriates the funds necessary to cover the annual costs associated with these new benefits from the General Revenue Fund to the State Risk Management Trust Fund of the Department of Financial Services. The benefits would be paid out monthly, within 60 days of notification, and in coordination with relevant state agencies.

The bill authorizes local governments to offer similar benefits to law enforcement officers, correctional officers, correctional probation officers or firefighters employed by the local

governments, and also clarifies that no limitation is placed on the ability of a municipality or charter county to provide death benefits to its employees or their beneficiaries.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

In the Line of Duty Death Benefits Available under Chapter 121, F.S.

The Florida Retirement System (FRS) currently provides death benefits for surviving spouses and/or eligible dependents of active members of the pension plan.¹ Death benefits may be paid for an active member of the FRS pension plan who dies before retirement due to an injury or illness.² Certain health conditions for firefighters, law enforcement, correctional and correctional probation officers are deemed accidental and suffered in the line of duty (ILOD).³ If the injury or illness arises out of and in the actual performance of duty required by his or her job, the member’s surviving spouse and/or eligible dependent(s) are entitled to ILOD death benefits.

If an active FRS member (regardless of vested status) dies in the line of duty, the surviving spouse receives a monthly benefit for her lifetime equal to half the member's monthly salary at death.⁴ If the spouse dies, the benefit continues until the member’s youngest child reaches 18 or is married, if earlier.⁵ If the deceased member is entitled to a higher retirement benefit based on service credit, the higher benefit is payable to the spouse or eligible dependent(s).⁶

For ILOD deaths, the surviving spouse or eligible dependent may purchase credit for any service, which could have been claimed by the member at the time of his/her death.⁷ If a member dies within one year of vesting, the surviving spouse or other eligible dependent may use the member’s annual, sick, or compensatory leave, or purchasable service, to purchase enough service credit to vest the member posthumously.⁸

The following chart notes the Special Risk Class ILOD death benefits for the last five years for the State of Florida and the local governmental entities participating in the FRS:⁹

	2009-10	2010-11	2011-12	2012-13	2013-14	Total
State Count	0	2	2	1	0	5

¹ Under the investment plan, no minimum death benefit is payable to a surviving spouse or children. Accumulations in the member’s account are payable to the designated beneficiary. Section 121.591, F.S.

² Section 121.091(7), F.S.

³ Section 112.18(1)(a), F.S., provides any condition of health caused by tuberculosis, heart disease or hypertension resulting in the total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty.

⁴ Section 121.091(7)(d), F.S. If vested posthumously, the surviving spouse or dependent would be entitled to a death benefit.

⁵ *Id.*

⁶ Section 121.091(7)(b) and (d), F.S.

⁷ Section 121.091(7)(e), F.S.

⁸ Section 121.091(7)(f), F.S.

⁹ E-mail from Department of Management Services dated Jan. 12, 2015.

State Benefits	0	\$49,928	\$37,424	\$25,862	0	\$113,214
Local Count	5	5	4	2	1	17
Local Benefits	\$146,836	\$129,389	\$97,061	\$56,932	\$30,052	\$460,270

Death Benefits Available under Chapter 112, F.S.

Chapter 112, F.S., provides death benefits that are supplemental to the benefits afforded under ch. 121, F.S., for law enforcement officers, correctional officers, correctional probation officers, firefighters, instructional staff and school administrators under specified circumstances.¹⁰ The Bureau of Crime Prevention and Training within the Department of Legal Affairs annually adjusts the statutory amounts¹¹ for price level changes in the Consumer Price Index since 2002.¹² The table below shows the benefit amounts currently provided.¹³

	Law Enforcement	Firefighters	Instructional Personnel
Accidental Death in performance of duties	\$65,773	\$65,773	None
Accidental Death in response to emergency	Additional \$65,773	Additional \$65,773	None
Death by intentional act of another	\$198,272	\$198,272	\$198,272

The payments outlined above for accidental death in performance of duties, accidental death in response to emergency and death by intentional act of another, for firefighters, law enforcement, correctional, and correctional probation officers, are made to the beneficiary designated by the firefighter or officer in writing.¹⁴ If no designation is made, payments are made to the firefighter or officer’s surviving spouse and children in equal amounts.¹⁵ If there is no surviving spouse or children, payment is made to the firefighter’s or officer’s parents.¹⁶ If there is no surviving spouse, child or parent, payment will be made to the firefighter’s or officer’s estate.¹⁷

In regards to the payment concerning the death by intentional act of another for instructional personnel, if a beneficiary is not designated, the instructional staff’s or school administrator’s estate would receive the money.¹⁸

¹⁰ For definitions of these terms, see ss. 112.19(1) and 112.1915(1)(b), F.S.

¹¹ Sections 112.19(2)(a), 112.191(2)(a), 112.19(2)(b), 112.19(2)(c), and 112.1915(3)(a), F.S.

¹² Sections 112.19(2)(j) and 112.191(2)(i), F.S.

¹³ Conversation with Rick Nuss, Office of the Attorney General, Bureau of Criminal Justice Programs (Feb. 13, 2015).

¹⁴ Sections 112.191(2)(d) and 112.19(2)(d), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 112.1915(1)(f), F.S.

Other death benefits under ch. 112, F.S., which are available to law enforcement, correctional officers, correctional probation officers, firefighters and instructional staff and school administrators who are killed in the line of duty include the following:

- Funeral and burial expenses (full-time law enforcement, correctional, or correctional probation officer employed by a state agency under specified circumstances;¹⁹ and instructional staff and school administrator employed by school district);²⁰
- Surviving family health insurance premiums payment by political subdivision of the state and local school district (full-time law enforcement officer or correctional officer);²¹ full-time firefighter;²² and instructional staff and school administrator);²³
- Family health insurance premium payments for catastrophic injury (full-time law enforcement, correctional, correctional probation officer,²⁴ or firefighter²⁵ employed by state or a political subdivision of state); and
- Educational expenses of surviving spouse and children (law enforcement, correctional, or correctional probation officer;²⁶ firefighter;²⁷ and instructional staff or school administrator).²⁸

Death benefits available under Chapter 185, F.S.

Chapter 185, F.S., governs municipal police pensions. If a municipal police officer dies before being eligible to retire, the officer's beneficiaries will receive:

- A refund of all contributions made by the officer to the retirement trust fund;²⁹
- Death benefits from life insurance or annuity contract if purchased for officer, subject to limitations;³⁰ and
- Benefits payable to officer at early or normal retirement age (if officer had at least 10 years of service).³¹

Death benefits provided in accordance with s. 112.19, F.S., are not included in the calculation of death or retirement benefits under this chapter.³²

¹⁹ Section 112.19(2)(f), F.S.

²⁰ Section 112.1915(3)(b), F.S.

²¹ Section 112.19(2)(g), F.S.

²² Section 112.191(2)(f), F.S.

²³ Section 112.1915(3)(c), F.S.

²⁴ Section 112.19(2)(h), F.S.

²⁵ Section 112.191(2)(g), F.S.

²⁶ Section 112.19(3), F.S.

²⁷ Section 112.191(3), F.S.

²⁸ Section 112.1915(3)(d), F.S. (surviving children only, not spouse).

²⁹ Section 185.21(1), F.S.

³⁰ *Id.*

³¹ Section 185.21(2), F.S.

³² *Id.*

Death benefits available under Chapter 175, F.S.

Chapter 175, F.S., governs firefighter pensions. If a firefighter dies before being eligible to retire, the officer's beneficiaries will receive:³³

- A refund of all contributions made by the firefighter to the pension trust fund;³⁴
- Death benefits from life insurance or annuity contract if purchased for firefighter, subject to limitations;³⁵ and
- Benefits payable to firefighter at early or normal retirement age (if officer had at least 10 years of service).³⁶

Death benefits provided in accordance with s. 112.191, F.S., are not included in the calculation of death or retirement benefits under this chapter.

Compensation for death under Chapter 440, F.S.

The Workers' Compensation Law provides that the death of an employee of the state or one of its subdivisions, which results from an injury arising out of and in the course of employment, is a basis for a right to compensation.³⁷ When a death results within one year of an accident, or within five years following continuous disability, the employer pays:³⁸

- Actual funeral expenses up to \$7,500;
- Compensation to enumerated dependents in the form of a percentage of the deceased employee's weekly wages, not to exceed \$150,000; and
- Payment of postsecondary student fees for the surviving spouse.

Survivor Death Benefits from the Public Safety Officers' Benefits Program

The Public Safety Officers' Benefits Program (PSOB), administered by the U.S. Department of Justice, provides education benefits and a one-time death benefit to eligible survivors of federal, state or local public safety officers who die in the line of duty. The amount of the PSOB benefit is \$339,310 for eligible deaths occurring on or after October 1, 2014.³⁹

III. Effect of Proposed Changes:

Section 1 amends s. 112.19, F.S, to provide certain benefits to qualifying survivors of a law enforcement officer,⁴⁰ correctional officer or a correctional probation officer who is killed while engaged in the performance of their duties, whether the act leading to the loss of life was unlawful and intentional, or accidental, or the result of receiving accidental bodily injury.⁴¹

³³ Section 175.201, F.S., for firefighters employed by any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan.

³⁴ Section 175.201(1), F.S.

³⁵ *Id.*

³⁶ Section 175.201(2), F.S.

³⁷ Section 440.02, F.S.

³⁸ Section 440.16(1), F.S.

³⁹ U.S. Dep't of Justice Office of Justice Programs, *Public Safety Officers' Benefits Programs*, available at <https://www.psob.gov/index.html> (last visited Feb. 13, 2015).

⁴⁰ As this term is defined in s. 943.10(1), F.S.

⁴¹ See, Section 112.19, F.S.

The new monthly benefit granted is equal to 50 percent of monthly salary at time of the law enforcement officer, correctional officer, or correctional probation officer's death. The monthly benefit is payable:

- a. For the lesser of the surviving spouse's lifetime or 300 months (25 years).
- b. If the surviving spouse dies before receiving 300 monthly payments, for the use and benefit of member's child or children until the later of the 21st birthday of member's youngest child, or until the 25th birthday of any child of the officer if such child is enrolled as full-time student.
- c. If no surviving spouse but a surviving child or children under the age of 25, for the use and benefit of member's child or children under the same terms and conditions noted above in b.
- d. If no surviving spouse or children, but a surviving joint annuitant under the Florida Retirement System, for the use and benefit of such joint annuitants until those joint annuitants no longer receive benefits under the FRS but not to exceed 300 months.

Additionally, this section provides for an annual appropriation from the General Revenue Fund to the State Risk Management Trust Fund within the Department of Financial Services (DFS) to cover the annual costs associated with payment of the benefits authorized by this section. DFS is provided with rule-making authority in order for the benefits to be paid out of a separate account of the State Risk Management Trust Fund, monthly, within 60 days of notification, and in coordination with the Department of Management Services (DMS), and the state agency employing the decedent.

This section creates s. 112.19(7), F.S., which authorizes local governments to provide similar benefits to its law enforcement officers, correctional officers, and correctional probation officers, while prohibiting benefits exceeding those of the bill. No limitation is placed on the ability of a municipality or charter county to provide death benefits to its employees or their beneficiaries.

Section 2 amends s. 112.191, F.S., to provide the same new death benefits authorized in s. 112.19, F.S., to firefighters.

Section 3 reenacts s. 185.21, F.S., relating to municipal police pensions, to incorporate the amendment made to s. 112.19, F.S.

Section 4 reenacts s. 175.201, F.S., relating to firefighter pensions, to incorporate the amendment made to s. 112.191, F.S.

Section 5 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

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:

The fiscal impact on the State of Florida is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.19 and 112.191.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS by Community Affairs on March 4, 2015:

The eligibility of the death benefit payment is revised to maintain consistency with s. 112.19, F.S. Instead of referring to “in the line of duty,” or “official capacity,” the CS makes the survivor benefit available to specified relatives if the death occurs while the agency employee is engaged in the performance of their duties, whether the act was unlawful and intentional, or accidental, or the result of receiving accidental bodily injury.

DFS is provided with rule-making authority in order for the benefits to be paid out of a separate account of the State Risk Management Trust Fund, monthly, within 60 days of notification, and in coordination with DMS, and the state agency employing the decedent.

Clarification is made that no limitation is placed on the ability of a municipality or charter county to provide death benefits to its employees or their beneficiaries.

CS/SB 136 by Governmental Oversight and Accountability:

- Creates the new death benefits in ch. 112, F.S., relating to public employees, rather than ch. 121, F.S., relating to the FRS. This means the benefits will not be funded through contributions to the FRS.
- Expands the employees eligible for the new benefits to include correctional officers and correctional probation officers employed by the state.
- Modifies the beneficiaries eligible to receive the death benefits to include only the surviving spouse, children up to age 21 or children up to age 25 if enrolled as full-time students, and certain joint annuitants that receive other benefits under the FRS.
- Limits the monthly benefits to 300 months (25 years).
- Authorizes local governments to provide similar benefits to their employees in the same occupations.
- Reenacts s. 185.21, F.S., relating to municipal police pensions, to incorporate the amendment made to s. 112.19, F.S.
- Reenacts s. 175.201, F.S., relating to firefighter pensions, to incorporate the amendment made to s. 112.191, F.S.

B. Amendments:

None.