

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 7, 1998 Revised: \_\_\_\_\_

Subject: Florida Retirement System; Special Risk for Assistant State Attorneys, Assistant Statewide Prosecutors, and Assistant Public Defenders

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The committee substitute adds assistant state attorneys, assistant statewide prosecutors, and assistant public defenders to the list of individuals eligible for enhanced pension benefits in the Senior Management Class of the Florida Retirement System [FRS].

This committee substitute substantially amends section 121.0515, Florida Statutes.

**II. Present Situation:**

The FRS is a tax-qualified, non-participating, defined benefit pension plan composed of some 590,000 active state, county, municipal, and special district employees, and 160,000 annuitants, distributed among 800 different public employers. Though a relatively young system, having been created in the early 1970s through the combination of four separate pension systems, it has now become the fourth largest public pension system in the United States, and fifth overall, with plan assets in excess of \$80 billion. About three-quarters of the FRS members are employed by units of local government, principally district school boards, with the remaining 25% as employees of state agencies. The Division of Retirement provides benefit administration while the State Board of Administration undertakes asset management of the FRS investment portfolio.

FRS has six different classes of membership with varying vesting and service requirements prior to eligibility for receipt of normal retirement benefits. More than ninety percent of the membership of FRS are in the Regular Plan and are covered by its ten-year vesting and thirty-year service requirement. Each year of service is valued at 1.6%, the accrual factor which, when multiplied by years of service and average final compensation, produces a nominal pension benefit. Additional

separate classes provide coverage for senior managers, public safety personnel, administrative support personnel in public safety organizations, elected officers, and justices and judges.

The Special Risk Class is composed of certified law enforcement, firefighting, and correctional officer personnel employed at all levels of government. This membership class has ten-year vesting with a twenty-five year normal service requirement or the sooner attainment of age 55. Its accrual rate is 3.0%, thus yielding a normal retirement benefit in excess of that provided most other employees. The implementing authority for the Special Risk Class is contained in s. 121.0515, F.S., which, in part, provides that the occupant be engaged in work that is:

*[P]hysically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, and their coworkers to continue performing such duties . . . [without] suffering an economic deprivation . . . .*

The Senior Management Class provides a 2.0% accrual rate, seven-year vesting, and a normal service requirement of thirty years. The class is designed for managerial personnel in state and local government agencies and has a formula which limits its size, generally, to no more than one-half of one percent of the total workforce.

The Division of Retirement makes eligibility determinations for units of local government while the Department of Management Services makes that determination for State of Florida employees.

### **III. Effect of Proposed Changes:**

The committee substitute adds assistant state attorneys, assistant statewide prosecutors, and assistant public defenders to the Senior Management Class as designated occupational members effective January 1, 1999.

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

#### **A. Municipality/County Mandates Restrictions:**

All personnel costs associated with the state courts system are the obligation of the State of Florida. County governments provide only those office support functions specified in s. 27.34, F.S., for state attorneys and s. 27.5302, F.S., for public defenders.

#### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

On March 30, 1998 the Justice Administrative Commission estimated the costs of providing the retirement and related insurance benefits for the assistant state attorneys to be \$5,933,676 and \$3,937,799 for assistant public defenders for the second half of the next fiscal year. The additional cost for inclusion of the assistant statewide prosecutors is not currently available. The number of affected individuals in this latter category is less than a dozen and the cumulative additional costs are not believed to be significantly different.

The Governor's Recommended Budget provided funds for the employer assumption of benefit costs in the upgrading of these positions to Select Exempt Service. The Senate Appropriations Bill provides \$1,156,130 based upon that recommendation (Specific Appropriation 621, Senate Bill 2500).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 110.205, F.S., classifies attorneys, physicians, and other designated professional employees as exempt positions that cannot enjoy the protections of the Career Service System. State attorney investigators who conduct background criminal investigations are already members of the Special Risk Class.

Comparable attorney and investigator positions in the Office of the Public Defender are not affected by the provisions of this committee substitute as they are not law enforcement officers.

Exempt status is afforded a number of positions in state and local personnel systems which require the exercise of discretionary decision making in a policy making context. Many State of Florida

positions meeting these criteria are classified as eligible for Select Exempt Service status or Senior Management Class status under ss. 110.401 and 110.601, F.S., respectively. For both classes the employer pays all benefit costs for individual and family member alike. For the Senior Management Service class alone there is a separate retirement benefit option which permits the member to elect participation in an optional annuity in lieu of FRS membership. The annuity is a defined contribution plan in which the employee, in concert with a personally designated financial institution, acts as the sole manager of pension assets. Such annuity participants exchange the expectation of a guaranteed pension benefit with its long vesting and service schedule for the opportunity to personally own and manage their pension assets in an immediately vested and fully portable environment. The optional annuity selection is available only for university and community college faculty and members of the Senior Management Class.

The public law firm characteristics of the prosecutor's office - post-graduate education as a minimum requirement, discretionary decision making, absence of graduated and progressive job grades, horizontal entry from other law firms or entrance from law school, civilian orientation, and competitive market recruitment - would suggest that these positions possess characteristics more reflective of the Senior Management Class than of Special Risk Class.

**VIII. Amendments:**

None.