

STORAGE NAME: h3635p1.go

DATE: April 8, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: PCS/HB 3635

RELATING TO: Florida Retirement System (Senior Management Service Class Status for Assistant State Attorneys, Assistant Statewide Prosecutors, and Assistant Public Defenders)

SPONSOR(S): Representative Sindler and others

COMPANION BILL(S): SB 1074(s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 3635, as originally filed, would expand the Special Risk Class of the Florida Retirement System (FRS) to include assistant state attorneys. Presently, Special Risk Class membership is limited to firefighters, law enforcement officers, and correctional officers.

This proposed committee substitute (PCS) provides, in lieu of Special Risk Class status, that, effective January 1, 1999, participation in the Senior Management Service Class shall be compulsory for assistant state attorneys, assistant statewide prosecutors, and assistant public defenders. As members of the Senior Management Service Class, these members may elect to participate in the Senior Management Service Optional Annuity Program as an alternative to FRS membership.

Funding to provide for increased employer payroll contribution rates, as a result of this proposed change, will need to be secured in the 1998-1999 General Appropriations Act. Please see Fiscal Impact on State Agencies/State Funds.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Special Risk Class of the Florida Retirement System (FRS) 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 Special Risk Class member 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....

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. 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 Selected Exempt Service status or Senior Management Class status under ss. 110.602 and 110.402, F.S., respectively. For both classes, the employer pays all benefit costs for individual and family members 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 not available to the Special Risk Class.

The public law firm characteristics of the positions of assistant state attorney, assistant statewide prosecutor, and assistant public defender -- 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 Service Class than of the Special Risk Class.

B. EFFECT OF PROPOSED CHANGES:

Section 1. Amends s. 121.055, F.S., providing that, effective January 1, 1999, participation in the Senior Management Service Class of the Florida Retirement System shall be compulsory for assistant state attorneys, assistant statewide prosecutors, and assistant public defenders.

Section 2. Provides an effective date of October 1 of the year in which enacted.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

Assistant state attorneys, assistant statewide prosecutors, and assistant public defenders would be granted Senior Management Service Class status which has an accrual rate for each year of service of 2% rather than 1.6%.

b. If an agency or program is eliminated or reduced:

This PCS does not eliminate or reduce an agency or program.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Assistant state attorneys, assistant statewide prosecutors, and assistant public defenders, by virtue of being accorded Senior Management Service Class status, would be eligible to participate in the Senior Management Service Optional Annuity Program which provides them the opportunity to personally own and manage their pension assets in an immediately vested and fully portable environment.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This PCS does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This PCS does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 121.055, F.S.

E. SECTION-BY-SECTION RESEARCH:

Please refer to Section II. B., Effect of Proposed Changes.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The State of Florida Justice Administrative Commission estimates the following costs to provide these positions Senior Management Service Class status:

Assistant Public Defenders - \$3,937,799

Assistant State Attorneys - \$5,933,676

This information is based on COPES payroll data as of 3/20/98.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

\$9,871,475

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None. 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. 27.54, F.S., for public defenders.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

Providing Senior Management Service Class status for these positions may help in the recruitment and retention of qualified personnel.

D. **FISCAL COMMENTS:**

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

This PCS does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This PCS does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This PCS does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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