October 30, 1997

SPECIAL MASTER'S FINAL REPORT	DATE	COMM.	ACTION
The Honorable Toni Jennings		GO	
President, The Florida Senate		WM	
Suite 409, The Capitol			
Tallahassee FL 32399-1100			

Re: SB 66 - Senator Williams
HB 3045 - Representative Boyd
Relief of Penny Tilley

THIS IS AN EQUITABLE CLAIM FOR $331.14 PER MONTH AGAINST THE STATE OF FLORIDA TO COMPENSATE CLAIMANT FOR RETIREMENT BENEFITS WHICH WOULD HAVE BEEN DUE HER AS A SURVIVING SPOUSE HAD HER DECEASED HUSBAND SURVIVED TO THE DATE ON WHICH HE WOULD HAVE VESTED IN THE FLORIDA RETIREMENT SYSTEM.

FINDINGS OF FACT: In August of 1987, Jack Tilley began employment with the State of Florida, Department of Corrections, as a Correctional Officer. He was a member of the Florida Retirement System, Special Risk Class, and had retirement contributions paid into the system on his behalf. Mr. Tilley died on June 26, 1997, prior to vesting for retirement benefits under the Florida Retirement System.

At the time of his death, Jack and Penny Tilley had been married for approximately 13 years. When they married, Mr. Tilley worked as a salesman in Ft. Lauderdale. Approximately 11 years ago, he retired from that job and received a lump sum retirement benefit of approximately $22,000, which they used to move to and establish themselves in Old Town. At that time, he received training as a Correctional Officer for the Department of Corrections. He began working for the Department in August of 1987.

As was stated above, Mr. Tilley died on June 26, 1997, prior to completing the 10 years of creditable service required to vest for retirement benefits. As a consequence, his widow, Penny Tilley, has no surviving spouse benefits under the Florida Retirement System.

According to the Florida Department of Management Services, Division of Retirement, had Mr. Tilley been vested at the time of his death and had he chosen retirement option 3, Mrs. Tilley would have been entitled to a monthly survivor benefit option payment in the amount of $331.14.

Penny Tilley has not been employed since 1986. She has a high school education and no specialized training. Mrs. Tilley is 54 years old, has high blood pressure and diabetes, and was recently diagnosed with cancer. She also has problems with her feet, which require surgery.

Mrs. Tilley has no income. She does not get Social Security or any other benefits. She received $32,000 in insurance benefits when Mr. Tilley died, which is almost gone. She has health insurance as a result of Mr. Tilley's employment with the state, but she has to pay the premiums and has no current source of funding to continue these payments when the remainder of the death benefit payment money is gone. If she cannot otherwise continue the current health insurance policy, she will likely be unable to replace it due to her pre-existing health conditions.

Mrs. Tilley's mother lives with her. Her mother is 80 years old, is in the early stages of Alzheimer's, and has limited use of her arms as a result of having broken both shoulders in the past. Mrs. Tilley has two daughters, one of whom also lives with Mrs. Tilley. This daughter was recently in a car accident and is partially disabled, requiring substantial care.

CONCLUSIONS OF LAW: As a correctional officer, Mr. Tilley was a member of the special risk class. Members of this classification of state employees are eligible for retirement earlier than those in other classes. Members of the special risk class can retire when they have at least 10 years of creditable service **and** are age 55 or older. Mr. Tilley was 56 years of age at the time of his death and so would have been of normal retirement age for a member of the special risk class had he been vested.

For State Retirement System purposes, a state employee earns a full month of retirement service credit for each month in which salary is paid for services performed. Thus, had Mr. Tilley worked on Tuesday, July 1, 1997, just 3 work days after the date on which he died, he both would have vested and could have retired at the normal retirement age for members of the special risk class.

At the time of his death, Mr. Tilley had accrued 18.25 hours of annual leave, 192.0 hours of sick leave, and 48.5 hours of special compensatory leave for hours which he had actually worked prior to his death. However, Florida law currently prohibits use of leave which is accrued and unused at the time of death as a credit toward years of creditable service for retirement purposes. Thus, his accumulated leave could not be credited toward the 3 working days, or 24 working hours, which he needed to vest.

The claim bill provides for monthly payments of $331.14 to Mrs. Tilley, the amount which would have been due her as Mr. Tilley's surviving spouse had he been vested in the Florida Retirement System at the time of his death. As these payments are not actually retirement benefits, they are to be made from General Revenue, not from the Retirement Trust Fund. Recipients of retirement benefit payments made from the Retirement Trust Fund receive two important corresponding benefits which Mrs. Tilley will not receive: an annual 3 percent cost of living increase and a health insurance subsidy payment.

ATTORNEYS FEES: None.

RECOMMENDATIONS: Accordingly, I recommend that SB 66 be reported FAVORABLY.

Respectfully submitted,

Glenn Lang
Senate Special Master

cc: Senator Williams
Representative Boyd
Faye Blanton, Secretary of the Senate
Richard Hixson, House Special Master