

# 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.)

**BILL:** CS/SB's 1054 & 1440

**SPONSOR:** Governmental Oversight and Productivity Committee, Senators Latvala and Silver, and others

**SUBJECT:** Salaries and Benefits

**DATE:** March 7, 2000                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This committee substitute merges Senate Bills 1054 and 1440. The committee substitute includes correctional probation officers in the Special Risk Class of the Florida Retirement System effective January 1, 2001, provided that they meet prescribed criteria, and includes probation and parole regional administrators in the Special Risk Class. It also includes assistant state attorneys, assistant statewide prosecutors, and assistant public defenders in the Senior Management Service Class of the Florida Retirement System effective January 1, 2001. The bill places legislative assistants in the Senior Management Service Class of the Florida Retirement System effective July 1, 2000.

This committee substitute amends sections 121.021, 121.0515, and 121.055, Florida Statutes.

## II. Present Situation:

**The Florida Retirement System** - The Florida Retirement System (FRS) is a statewide, defined benefit pension plan. It includes five membership classes:

- ▶ Regular Class
- ▶ Special Risk Class<sup>1</sup>
- ▶ Special Risk Administrative Support Class
- ▶ Elected State and County Officer's Class,<sup>2</sup> and
- ▶ Senior Management Service Class.<sup>3</sup>

<sup>1</sup>Section 121.0515, F.S.

<sup>2</sup>Section 121.0512, F.S.

<sup>3</sup>Section 121.055, F.S.

**Special Risk Class** - Section 121.0515(1), F.S., establishes legislative intent for the creation of the Special Risk Class of membership in the Florida Retirement System (FRS). That subsection provides:

In creating the Special Risk Class of membership within the Florida Retirement System, it is the intent and purpose of the Legislature to recognize that persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions are required as one of the essential functions of their positions to perform work that is physically 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, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other positions and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they suffer an economic deprivation therefrom. Therefore, as a means of recognizing the peculiar and special problems of this class of employees, it is the intent and purpose of the Legislature to establish a class of retirement membership that awards more retirement credit per year of service than that awarded to other employees; however, nothing contained herein shall require ineligibility for special risk membership upon reaching age 55.

Members of the Special Risk Class:

- ▶ Receive 3 percent of average final compensation (AFC), as opposed to 1.60 percent to 1.68 percent for a Regular Class member, for each year of service earned.
- ▶ Reach normal retirement at an earlier age (55 vs. 62) or with fewer years of service (25 vs. 30) than a Regular Class member.

Current law establishes eligibility requirements for membership in the Special Risk Class. Membership is limited to persons employed as law enforcement officers,<sup>4</sup> firefighters,<sup>5</sup> correctional officers,<sup>6</sup> emergency medical technicians or paramedics<sup>7</sup> who meet the criteria in s. 121.0515, F.S.

Section 121.0515(2)(a), F.S., requires that a law enforcement officer must be certified, or required to be certified, in compliance with s. 943.1395, F.S.<sup>8</sup> Sheriffs and elected police chief are

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<sup>4</sup>Section 121.0515(2)(a), F.S.

<sup>5</sup>Section 121.0515(2)(b), F.S.

<sup>6</sup>Section 121.0515(2)(c), F.S.

<sup>7</sup>Section 121.0515(2)(d), F.S.

<sup>8</sup>Section 943.1395, F.S., authorizes certification if the person complies with s. 943.13(1)-(10), F.S. That section requires a person to be at least 19 years of age; to be a citizen of the United States; be a high school graduate or its equivalent; not to have been convicted of a felony or misdemeanor involving perjury or a false statement; not to have received a dishonorable discharge from any of the Armed Forces of the United States; have documentation of his or her processed fingerprints on file with certain entities; to have passed a physical examination by a licensed physician; to have good moral character as determined by a background investigation; to execute and submit to the appropriate employing entity an affidavit-of-applicant form attesting to his or her compliance with the foregoing; to have completed a commission-approved basic recruit training program for the applicable

excluded from meeting the certification requirements of the section. A law enforcement officer must:

- ▶ have duties and responsibilities that include the pursuit, apprehension, and arrest of law violators or suspected law violators; or
- ▶ be an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or
- ▶ be the supervisor or command officer of a member or members who have such responsibilities.

Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included in the class.

Section 121.0515(2)(b), F.S., also includes a member who is a firefighter who is certified, or required to be certified, in compliance with s. 633.35, F.S.,<sup>9</sup> and who is employed solely within the fire department of the employer or agency of state government. The member's duties and responsibilities must include on-the-scene fighting of fires or direct supervision of firefighting units, or the member must be supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included in the class.

Section 121.0515(2)(c), F.S., also includes a correctional officer who is certified, or required to be certified under s. 943.1395, F.S.<sup>10</sup> Additionally, the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or the member must be the supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included in the class.

Correctional probation officers were members of the Special Risk Class before October 1, 1978.

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criminal justice discipline; to achieve an acceptable score on the officer certification examination; and to comply with continuing training or education requirements.

<sup>9</sup>Section 633.35, F.S., requires the establishment of a firefighter training program of not less than 360 hours. The Division of State Fire Marshall must issue a certificate of compliance to any person satisfactorily complying with the training program who has passed an examination, and who possesses prescribed qualifications for employment as a firefighter.

<sup>10</sup>Section 943.1395, F.S., authorizes certification if the person complies with s. 943.13(1)-(10), F.S. That section requires a person to be at least 19 years of age; to be a citizen of the United States; be a high school graduate or its equivalent; not to have been convicted of a felony or misdemeanor involving perjury or a false statement; not to have received a dishonorable discharge from any of the Armed Forces of the United States; have documentation of his or her processed fingerprints on file with certain entities; to have passed a physical examination by a licensed physician; to have good moral character as determined by a background investigation; to execute and submit to the appropriate employing entity an affidavit-of-applicant form attesting to his or her compliance with the foregoing; to have completed a commission-approved basic recruit training program for the applicable criminal justice discipline; to achieve an acceptable score on the officer certification examination; and to comply with continuing training or education requirements.

**Senior Management Service Class** - The Senior Management Service Class (SMSC) was established effective February 1, 1987. Section 110.401, F.S., states the purpose for the creation of the SMSC:

It is the intent of this part to create a uniform system for attracting, retaining, and developing highly competent senior-level managers at the highest executive-management level agency positions in order for the highly complex programs and agencies of state government to function effectively, efficiently, and productively. . . .

Section 110.402(1), F.S., creates the SMSC and provides that it is

. . . created as a separate system of personnel administration for positions in the executive branch the duties and responsibilities of which are primarily and essentially policymaking or managerial in nature.

The SMSC receives a higher accrual value (2 percent) and a shorter vesting period (7 years) than the FRS Regular Class. Senior managers whose positions have been added to the class in subsequent years can purchase (or their employer can purchase for them) additional retirement credit for service within the purview of the class retroactive to February 1, 1987. State senior managers also can choose to withdraw from the FRS and participate instead in the Senior Management Service Optional Annuity Program with immediate vesting. SMSC members employed in local agencies may make an irrevocable election to withdraw from the FRS altogether. Such members who do withdraw are not required to participate in a lifetime annuity provided by the local agency.

Originally, membership in the SMSC was strictly limited to those members holding positions in the SMSC of the state personnel system (executive branch employees only). A number of positions have been added to the class since 1990:

- ▶ January 1, 1990 - Local Senior Managers -- These positions include community college presidents, appointed school superintendents, and the county manager and city manager of each local government participating in the FRS.
- ▶ January 1, 1990 - Legislative Managers -- These positions include selected managerial staff of the Legislature, the Auditor General and his managerial staff, and the Executive Director of the Ethics Commission.
- ▶ January 1, 1991 - State University System Managers -- These positions include the Executive Service of the State University System and State university presidents.
- ▶ January 1, 1991 - State Board of Administration Managers -- These positions are senior-level management positions with the State Board of Administration.
- ▶ January 1, 1994 -- Certain judicial branch senior managers, managerial positions in the offices of each state attorney and public defender, and additional managerial positions in each local agency. Contribution rates were increased to fund the addition of this group.
- ▶ July 1, 1999 - Judges of Compensation Claims -- There are 31 of these positions within the Department of Labor and Employment Security.

Assistant state attorneys, assistant public defenders, and assistant statewide prosecutors are not members of the SMSC, but are members of the Regular Class. The Regular Class has a normal

retirement age of 62 and an accrual value per year of 1.60 percent - 1.68 percent of average final compensation at retirement. Members of the Regular Class must have 10 years of service to vest for benefits.

The Florida Statutes do not contain a definition for "legislative assistant." Neither does the Florida Administrative Code. The personnel classifications established in the Joint Policies and Procedures of the Presiding Officers of the Florida Legislature, however, currently contain five levels of district legislative assistants:

- ▶ District Legislative Assistant I
- ▶ District Legislative Assistant II
- ▶ District Legislative Assistant III
- ▶ District Senior Legislative Assistant
- ▶ District Chief Legislative Assistant

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

The committee substitute provides that effective January 1, 2001, the term "special risk member" also includes any member who is employed as a correctional probation officer and meets the special criteria set forth in s. 121.0515(2)(c)2., F.S.

The committee substitute amends s. 121.0515, F.S., to add subparagraph (c)2., which includes a member who is employed as a correctional probation officer and who is certified, or required to be certified, in compliance with s. 943.1395, F.S. Further, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within institutions of the community; or the member must be the supervisor of a member or members who have such responsibilities. Administrative support personnel are not included. Probation and parole circuit and deputy circuit administrators are made participants in the Special Risk Class.

The committee substitute also contains a statement of proper and legitimate state purpose. The committee substitute provides that a proper and legitimate state purpose is served when employees and retirees of the state and of its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner, as required by Section 14 of Article X of the State Constitution and part VII of chapter 112, F.S. The committee substitute provides that the Legislature determines and declares that the provisions of this act fulfill an important state interest.

The committee substitute amends s. 121.055, F.S., which establishes the Senior Management Service Class, to include, effective July 1, 2000, all legislative assistants.

The committee substitute also includes, effective January 1, 2001, assistant state attorneys, assistant statewide prosecutors, and assistant public defenders in the Senior Management Service Class.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. Other Constitutional Issues:

Article X, s. 14 of the State Constitution, provides:

A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

The committee substitute contains a statement that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner, as required by Art. X, s. 14, of the State Constitution, and part VII of ch. 112, F.S. The committee substitute states that the Legislature determines and declares that the provisions of the act fulfill an important state interest.

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

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

C. Government Sector Impact:

SMSC	SALARY				INCREASE		
	1999-00	20001-01	2001-02	2002-03	2000-01	2001-02	2002-03
Legislative Assistants	\$8,696,208	\$9,131,018	\$9,587,569	\$10,066,947	\$180,794	\$189,833	\$199,325
Asst. Public Defenders	\$58,175,592	\$61,084,371	\$64,138,590	\$67,345,519	\$604,735	\$1,269,944	\$1,333,441
Asst. State Attorneys	\$88,585,333	\$93,014,599	\$97,665,329	\$102,548,596	\$920,844	\$1,933,773	\$2,030,462
Asst. Statewide Prosecutors	\$2,339,096	\$2,456,050	\$2,578,853	\$2,707,796	\$24,314	\$51,061	\$53,614
<b>Total</b>					\$1,730,688	\$3,444,612	\$3,616,843
<b>Special Risk</b>							
Probation Officers	-	\$125,125,115	\$131,381,370	\$137,950,439	\$6,888,137	\$14,465,088	\$15,188,343
Forensic Workers	-	-	-	-	-	-	-
<b>Total</b>					\$6,888,137	\$14,465,088	\$15,188,343
<b>TOTAL</b>					\$8,618,826	\$17,909,701	\$18,805,186

According to calculations prepared by the Department of Management Services, the Department of Corrections would pay an additional 11.01 percent (based upon current contribution rates) of the salaries of its 3,638 affected employees. This is the difference between the retirement contribution rate for Regular Class members of 9.21 percent and the recommended rate of 20.22 percent for Special Risk Class members.

Affected agencies would pay an additional 1.98 percent of the salaries of their affected employees; the difference between the current Regular Class retirement contribution rate of 9.21 percent and the current SMSC retirement contribution rate of 11.19 percent. These rates may change as a result of the Actuarial Valuation of the FRS as of July 1, 1999.

There do not appear to be any local government positions that qualify for the Special Risk Class under the committee substitute.

VI. Technical Deficiencies:

None.

**VII. Related Issues:**

The committee substitute provides only prospective Special Risk Class coverage effective January 1, 2001. Service between October 1, 1978 and December 31, 2000, will not count toward a special risk normal retirement rate.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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