

STORAGE NAME: h0275s1.go

DATE: February 8, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: CS/HB 275

RELATING TO: FRS/Wartime Veterans/Service Credit

SPONSOR(S): Committee on Governmental Operations and Representative Effman

TIED BILL(S):

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

- (1) GOVERNMENTAL OPERATIONS YEAS 6 NAYS 1
 - (2) GENERAL APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill amends s. 121.111(2), F.S., to permit wartime veterans who have been employed on or after January 1, 1987, under the Florida Retirement System (FRS), to purchase military service as additional years of employment for retirement purposes under the FRS. This bill also contains a legislative determination and declaration that the provisions of this bill fulfill an important state interest.

There will be a cost to the FRS Trust Fund if this bill passes. This bill does not provide the proper funding for this increased benefit and therefore does not comply with the Florida constitutional requirement of Article X, Section 14, that any increase in benefits must be funded on an actuarially sound basis.

This bill provides an effective date of upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

There are two types of military service [see s. 121.021(20)(a) and (b), F.S.,] that may be purchased as creditable service for retirement purposes under the FRS in accordance with the provisions of s. 121.111(1) and (2), F.S., respectively:

If the military service is job-related (where the member is in the active employ of a participating FRS employer immediately prior to entering the military service and leaves such employment for the purpose of induction into the Armed Forces of the United States), the member may purchase such leave of absence for military purposes as creditable service under the FRS. In such cases, the law does not require that the military service be during a period of active wartime as any job-related military service (wartime or non-wartime) is acceptable and may be purchased by the member as a leave of absence under the FRS law.

If the military service is not job-related, and provided the member's initial date of employment under the FRS preceded January 1, 1987, a member of the FRS may purchase up to four years of active wartime service in the Armed Forces of the United States as creditable service for retirement purposes under the FRS. No member whose initial date of employment was January 1, 1987, or later is eligible to purchase military service under the provisions of s. 121.111(2), F.S.

The question of military service being used as creditable service under the FRS has been a controversial issue and debated many times in the Legislature over the past 25 years. The FRS has always required that military service be during active duty wartime, regardless of whether the member was drafted or voluntarily joined the U. S. Armed Services.

The 1985 Legislature, after much debate, amended the FRS law [s. 121.111(2), F.S.,] declaring that military service (wartime or peacetime) could no longer be purchased as creditable service by any member whose initial employment under the FRS was on or after January 1, 1987. Employees hired after January 1, 1987, were prohibited from purchasing wartime service credit in the FRS because judicial decisions were increasing the likelihood that the FRS would be required to subsidize both wartime and peacetime military service if either type was awarded. Also, this change discontinued the FRS Trust Fund's subsidization of costs associated with future member's purchase of "wartime" military service. The contribution rate increases required to properly fund this provision were not

adopted when the FRS was initially established on December 1, 1970. (Article X, Section 14, of the Constitution, which requires that all benefit increases be funded on a sound actuarial basis, did not become effective until January 1, 1977.) One of the purposes of allowing members to purchase this service initially was to provide an incentive to encourage existing system members to transfer to the FRS.

Legislation was passed by the 1997 Legislature [see s. 121.1115, F.S.,] to allow FRS members to purchase their military service as "out of state" public service, although the cost is considerably more (20 percent of their first annual salary under the FRS, plus 6.5 percent interest compounded annually) than if purchased under s. 121.111(2), F.S. The purchase of military service under s. 121.111(2), F.S., is much less costly at 4 percent times a member's first year's salary under the FRS for each year of such service plus interest compounded annually. For example, if a member first hired on July 1, 1987, with an initial annual salary of \$21,000 and 4 years of wartime military service were allowed to purchase this service as current "wartime" service he or she would be able to purchase such service for \$7,153 compared to \$35,768. The difference in cost is necessary in order to fund these additional or increased benefits on a sound actuarial basis as required by our State Constitution. Thus, the Legislature has already acted to allow the purchase of any military service as out-of-state public service and as creditable service under the FRS, regardless of when or what date a member was employed under the FRS.

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 121.111(2), F.S., permitting any member who has service as defined in s. 121.021(20)(b), F.S., (actual "wartime service" in the Armed Forces of the United States, as defined by s. 1.01(14), F.S., or "wartime service" in the Allied Forces, not to exceed 4 years, if credit for such service has not been granted under any other federal or state system, and provided such service is not used in any other retirement system), who has been employed on or after January 1, 1987, under the Florida Retirement System (FRS), to receive creditable service for such military service if:

- (a) The member is vested;
- (b) Creditable service, not to exceed a total of 4 years, is claimed only as service earned in the Regular Class of membership; and
- (c) The member pays into the proper retirement trust fund 4 percent of gross salary, based upon his or her first year of salary subsequent to July 1, 1945, that he or she has credit for under this system, plus 4 percent interest thereon compounded annually from the date of first creditable service under this chapter until July 1, 1975, and 6.5 percent interest compounded annually thereafter, until payment is made to the proper trust fund.

This bill also contains a legislative determination and declaration that the provisions of this bill fulfill an important state interest.

There will be a cost to the FRS Trust Fund if this bill passes (Please see Section III. Fiscal Analysis and Economic Impact Statement). This bill does not currently provide for the proper funding of this increased benefit and therefore does not comply with Article X, Section 14, of the Florida Constitution, requiring that any increase in benefits must be funded on a sound actuarial basis.

This bill provides an effective date of upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

Please see Section C. Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

This bill does not provide the proper funding required to fund this benefit and therefore does not comply with Article X, Section 14 of the Constitution. Special Study 93-4, completed by the Division of Retirement's consulting actuaries, Milliman and Robertson, Inc., detailed the contribution rate increases associated with allowing the purchase of 1) military service for employees hired after December 31, 1986, and 2) service during periods of hostility as established by the United States Department of Veterans Affairs. These contribution rate increases would be adequate to properly fund this bill, however, this study is over 6 years old and may need to be updated. Since the original bill has been amended to clarify the purchase of wartime military service using the same provisions currently applicable to members employed prior to January 1, 1987, and should it be further amended to comply with constitutional requirements, the recommended increase in rates and estimated costs would be as follows:

| | INCREASE IN RATES |
|--|--------------------------|
| Regular Class | .03% |
| Senior Management Service Class | .06% |
| Special Risk - Regular | .05% |
| Special Risk - Admin. Support | .08% |
| Elected State and County Officers' Class | |
| Judges | .04% |
| Elected County Officers | .03% |
| All Other ESCOC Members | .02% |

STATE GOVERNMENT

| | |
|----------------|-------------|
| FY 7/00 - 6/01 | \$1,582,000 |
| FY 7/01 - 6/02 | \$1,661,000 |
| FY 7/02 - 6/03 | \$1,744,000 |

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

See Comments Above in III. A. 2.

LOCAL GOVERNMENT

| | |
|----------------|-------------|
| FY 7/00 - 6/01 | \$4,634,000 |
| FY 7/01 - 6/02 | \$4,866,000 |
| FY 7/02 - 6/03 | \$6,853,000 |

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill, when properly funded, will require counties and municipalities to spend funds or take an action requiring the expenditure of funds. It will necessitate increases in the retirement contribution rates paid by these entities. This bill may qualify for a Type A Mandate Exception which would remove the bill from super-majority voting requirements in that it applies to all similarly-situated persons and includes a formal legislative determination and declaration that the bill fulfills an important state interest.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties and municipalities to raise revenues.

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

This bill does not reduce the total aggregate percentage share of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill, as drafted and amended, does not provide the proper funding to fund the increase in pension benefits granted in this legislation and, therefore, does not comply with Article X, Section 14, of the State Constitution, and Chapter 112, Part VII, Florida Statutes.

STORAGE NAME: h0275s1.go

DATE: February 8, 2000

PAGE 6

B. RULE-MAKING AUTHORITY:

It is not anticipated that this bill will require additional rule-making authority over and above that which is currently granted to the Division of Retirement.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its February 8, 2000, committee meeting, the Committee on Governmental Operations adopted a strike everything amendment to amend the appropriate section of the Florida Statutes to accomplish the intent of HB 275. The bill was reported favorably, as amended, as a committee substitute. This version of the bill analysis is an analysis of CS/HB 275.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

Jimmy O. Helms