

STORAGE NAME: h0369a.jud

DATE: April 11, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
JUDICIARY
ANALYSIS**

BILL #: HB 369

RELATING TO: Judicial Employees/FRS

SPONSOR(S): Representative Garcia

TIED BILL(S):

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

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
 - (2) JUDICIARY YEAS 9 NAYS 0
 - (3) GENERAL APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill amends s. 121.055, F.S., expanding the Senior Management Service Class (SMSC) of the Florida Retirement System (FRS) to include assistant state attorneys, assistant statewide prosecutors, and assistant public defenders who are now Regular Class members of the FRS. The bill, as originally filed, also authorizes the state courts to pay Selected Exempt Service benefits to judicial assistants.

At its February 22, 2000, committee meeting, the Committee on Governmental Operations adopted an amendment removing the language authorizing the state courts to pay Selected Exempt Service benefits to judicial assistants since this was accomplished in the 1999 General Appropriations Act under current statutory authority granted to the courts. Please refer to Section VI. of the bill analysis.

The bill will have an impact on state expenditures.

This bill provides an effective date of October 1, 2000.

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"/> |

B. PRESENT SITUATION:

The FRS is a statewide, defined benefit pension plan. It includes five membership classes: Regular Class, Special Risk Class, Special Risk Administrative Support Class, Elected State Officers' Class, and Senior Management Service Class.

Assistant state attorneys, assistant statewide prosecutors, and assistant public defenders belong to the FRS Regular Class. Members of the Regular Class become eligible for normal retirement benefits at attainment of 62 years of age or completion of 30 years service, whichever occurs first; must have 10 years of service to vest retirement benefits; and accrue retirement credit at a rate of 1.6 percent per year of service. To fund these benefits, employers currently contribute 9.21 percent of each employee's gross pay.

The Senior Management Service Class of the FRS became effective February 1, 1987, and has existed as a separate system of personnel administration for employees of the executive branch whose responsibilities primarily and essentially require policymaking or managerial oversight. The class is limited in size to no more than .5 percent of the total full-time equivalent positions in career service. Exempt from the Career Service System, Senior Management Service employees are not subject to continuing employment contracts or civil service protections, and serve at the pleasure of the state or local agency employer.

By establishing this membership class, the Legislature created a uniform system of recruiting and retaining competent individuals to top-policymaking, managerial positions in state government. In addition, many of these professionals recruited by officials whose tenures are subject to the elective process, are not likely to remain in state government for the 10 years required to vest Regular Class retirement benefits. Consequently, the SMSC has a shorter vesting period (7 years of service) and a higher accrual rate (2 percent). To fund these benefits, employers currently contribute 11.19 percent of each employee's gross pay.

The Legislature created the Selected Professional Service System pursuant to ch. 85-318, L.O.F., since renamed the Selected Exempt Service. The system exists as a separate system of personnel administration for positions designated as managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. As intended by the Legislature, these positions provide management flexibility to ensure that the workforce is responsive to agency needs. This class is limited in size to no more than 1.5 percent of the total full-time equivalent positions in career service. Selected Exempt Service employees serve at the pleasure of the agency head and are exempt from personnel actions.

C. EFFECT OF PROPOSED CHANGES:

This bill expands the Senior Management Service Class (SMSC) to include assistant state attorneys, assistant statewide prosecutors, and assistant public defenders who are now Regular Class members of the Florida Retirement System (FRS), effective January 1, 2000. This bill also authorizes the state courts to pay Selected Exempt Service benefits to judicial assistants, effective October 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 121.055(h)(1), F.S., providing that , effective January 1, 2001, participation in the Senior Management Service Class shall be compulsory for assistant state attorneys, assistant statewide prosecutors, and assistant public defenders.

Section 2. Provides that the state courts are authorized to pay Selected Exempt Service benefits to all judicial assistants within the state courts system.

Section 3. Provides an effective date of October 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

This bill affects the Justice Administration Commission and its assistant state attorneys and assistant public defenders as well as the Department of Legal Affairs and its assistant statewide prosecutors. In total there are 3,065.80 FTE positions affected by the bill.

<u>Job Title</u>	<u>FTE Pos</u>	<u>Additional Annual Cost</u>
Assistant State Attorney(ASA)	1,803.50	\$1,855,407
Assistant Public Defender(APD)	1,225.30	\$1,211,129
Assistant Statewide Prosecutor(ASP)	37.00	\$45,890
Totals	3,065.80	\$3,112,426

Based upon current contribution rates for Regular Class Membership (9.21 percent) and SMSC (11.19 percent) the incremental cost to the state will be 1.98 percent of total payroll for the affected members. The additional cost to the state for the next three years including a 3 percent cost of living adjustment is:

FY 00-01	\$1,556,213 (Jan 1 to June,30 2001)
FY 01-02	\$3,205,798
FY 02-03	\$3,301,972

This cost information was supplied by the Justice Administration Commission and the Office of Statewide Prosecutor.

Authorization to pay Selected Exempt Service benefits to Judicial Assistants was implemented in the 1999 General Appropriations Act and they are currently receiving these benefits within available appropriations. These individuals are now eligible for the following benefits pursuant to 60M-1.008 and 1.009, F.A.C.:

- * 176 hours of credited annual leave;
- * 104 hours of credited sick leave;
- * payment for 100 percent of the premium for state individual life insurance policy;
- * payment for 100 percent of the state group health insurance plan premium for the individual or their family; and
- * payment for 100 percent of the state individual disability insurance policy.

Judicial assistants have been exempted from the formula which limits the Selected Exempt Service personnel system in size to no more than 1.5 percent of the total full-time equivalent positions in career service. Pursuant to s. 25.382(3), F.S., the Supreme Court is authorized to adopt and establish by rule, policies related to employee pay classification as applicable and independent of the Legislature's authority provided they remain within appropriated funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

According to the Department of Management Services, the vast majority of attorneys employed by the executive branch fall into the Senior Executive Service category. The Department currently counts 999 attorneys and senior attorneys employed by that branch.

The Legislature employs at least 62 attorneys in the House and in various joint committees. Of those, only 2 are classified as Senior Management Service employees; the remainder are classified as "regular class" employees by the Office of Legislative Services. The Senate does not track employees by the title "attorney," so the number of attorneys that are employed in the Senate cannot be determined.

The Office of State Courts administrator reports that there are 382 attorneys working in the judicial branch, exclusive of judges and justices. These attorneys are all in the "regular class" of the Florida retirement system.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its February 22, 2000, committee meeting, the Committee on Governmental Operations adopted an amendment removing language from the bill authorizing Selected Exempt Service benefits for judicial assistants since it is no longer needed. Authorization to pay these benefits to judicial assistants was implemented in the 1999 General Appropriations Act and they are currently receiving these benefits within available appropriations. Pursuant to s. 25.382(3), F.S., the Supreme Court is authorized to adopt and establish by rule, policies related to employee pay classification as applicable and independent of the Legislature's authority provided they remain within appropriated funds. The amendment is traveling with the bill.

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VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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