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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME PREVENTION, CORRECTIONS & SAFETY (HCC)
ANALYSIS**

BILL #: HB 649
RELATING TO: Law Enforcement Officers' Disabilities
SPONSOR(S): Representative Bilirakis and Others
TIED BILL(S):

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

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY (HCC) YEAS 8 NAYS 0
 - (2) STATE ADMINISTRATION (SGC)
 - (3) CRIMINAL JUSTICE APPROPRIATIONS (FRC)
 - (4) COUNCIL FOR HEALTHY COMMUNITIES
 - (5)
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I. SUMMARY:

This bill modifies the existing legal presumption that any condition or impairment of health of a *firefighter* or *state law enforcement officer* caused by tuberculosis, heart disease, or hypertension and leading to total or partial disability or death was suffered in the line of duty by expanding coverage to include *county law enforcement officers*.

This bill requires county law enforcement officers, upon entering into service as a county law enforcement officer, to successfully pass a physical examination that fails to reveal any evidence of tuberculosis, heart disease, or hypertension.

This bill does not authorize governmental entities to negotiate for additional life and disability insurance benefits for county law enforcement officers who suffer partial or total disability or die in the line of duty as a result of tuberculosis, heart disease, or hypertension.

There should be no cost to FRS employers for expanding the presumption under s. 112.18(1), F.S., to cover *county law enforcement officers*.

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:

Under the Department of Management Services, the Division of Retirement serves 800,000 statewide retirement system members and oversees approximately 500 local government retirement systems. The division administers all statewide retirement systems, the largest of which is the Florida Retirement System (FRS). The FRS provides disability retirement benefits to its members as an incidental benefit. To claim disability retirement, the member must be totally and permanently disabled. This means that the member is prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as an officer or employee. All state and *county* employees are compulsory members of the FRS, and about 60 Florida cities cover their firefighters, police and general employees or both under the FRS.

The *Special Risk Class* is one of five membership classes in the FRS, and is open only to law enforcement officers, firefighters, correctional officers, emergency medical technicians and paramedics who meet the criteria set forth in section 121.0515(2), Florida Statutes. Due to the physical and mental demands of their jobs, members of the Special Risk Class are allowed to retire at an earlier age and are eligible to receive higher in-line-of-duty disability benefits than regular class members.

TYPES OF DISABILITY RETIREMENT

Regular Disability is granted for an illness or injury from natural causes or an accident not related to employment. Currently, to be eligible for regular disability, a member must complete 5 to 10 years of creditable service to be entitled to a monthly disability. Effective July 1, 2001, the 10-year service requirement for regular disability benefits will be reduced to 8 years, as provided in Chapter 2000-169, Laws of Florida. The minimum annual regular disability benefit is 25% of average final compensation for an option 1 benefit. (The Option 1 benefit is the maximum retirement benefit payable to the member during his or her lifetime.)

"Disability in line of duty" is defined under Section 121.021(13), F.S., as "an injury or illness arising out of and in the actual performance of duty required by a member's employment during his or her regularly scheduled working hours or irregular working hours as required by the employer." Unlike regular disability, a member is eligible for in-line-of-duty disability benefits from his or her first day of employment. Special Risk Class members receive a minimum annual in line of duty disability benefit of 65% of average final compensation for an option 1 benefit. For members of

other classes of FRS, the minimum in line of duty disability benefit is 42% of average final compensation.

Presumed in-line-of-duty disability applies to persons in specified positions who become disabled as a result of certain diseases the law finds to be incident to employment. Under current law,

s. 112.18(1) a firefighter or state law enforcement officer (police, corrections and correctional probation officers employed by the State) who is totally and permanently disabled due to tuberculosis, heart disease, or hypertension is presumed to have suffered an in-line-of-duty disability. The presumption was initially established for firefighters in 1965 and was expanded to include state law enforcement officers in 1999, pursuant to the enactment of Chapter 99-392, Laws of Florida. To qualify for the presumption under the provisions of s 112.18(1), F.S., firefighters and state law enforcement officers must have successfully passed a preemployment physical examination which failed to reveal any evidence of tuberculosis, heart disease or hypertension.

For firefighters, paramedics, emergency medical technicians, law enforcement officers, or correctional officers who are disabled due to hepatitis, meningococcal meningitis, or tuberculosis, the disability is presumed to have occurred in the line of duty, as provided in s. 112.181, F.S.

Burden of Proof. Unless a legal presumption applies, such as the one provided for firefighters and state law enforcement officers under s. 112.18, F.S., the FRS member must show by competent evidence that the disability occurred in the line of duty to qualify to receive the higher in-line-of-duty disability benefits.

IN-LINE-OF-DUTY DEATH BENEFITS

The Florida Retirement System provides death benefits for surviving spouses and eligible dependents (or both) of active members. Under s. 121.091(7), F.S., death benefits may be paid for an active member of the FRS who dies before retirement due to an injury or illness (including tuberculosis, heart disease, or hypertension.) If the injury or illness arises out of and in the actual performance of duty required by his or her job, the member's surviving spouse and eligible dependent(s) or both are entitled to in-line-of-duty death benefits.

Distinctions are made in the laws applicable to death benefits, depending on whether the death is found to be due to an injury or illness "suffered in the line of duty." From the first day of employment, an FRS member is eligible for in-line-of-duty death benefits that will pay a minimum monthly benefit to a survivor equal to half the member's last monthly salary. If the deceased member would have been entitled to a higher retirement benefit based on service credit, the higher benefit would be payable to his or her spouse or eligible dependent(s). Special survivor provisions apply to both in-line-of-duty and non-duty deaths which allows the surviving spouse or eligible dependent to purchase credit for any service, which could have been claimed by the member at the time of his or her death.

Burden of Proof. Unless a legal presumption applies, such as the one provided for firefighters and state law enforcement officers under s. 112.18, F.S., the eligible beneficiary must show by competent evidence that the death occurred in the line of duty to qualify to receive the higher in-line-of-duty death benefits.

In addition to the death benefits available under Chapter 121, F.S., special death benefits are provided under s. 112.19, F.S., for law enforcement officers, correctional officers, and correctional probation officers who are killed in the performance of duty. Similar death benefits are available for firefighters dependents under s. 112.191, F.S.

C. EFFECT OF PROPOSED CHANGES:

The bill amends s. 112.18(1), F.S., to modify the legal presumption that any condition or impairment of health suffered by a *firefighter* or *state law enforcement officer* caused by tuberculosis, heart disease, or hypertension and resulting in total or partial disability or death was accidental and suffered in the line of duty, unless shown otherwise by competent evidence. This bill would expand the presumption to cover *county* law enforcement officers.

More county law enforcement officers who are disabled or die as a result of tuberculosis, heart disease or hypertension would qualify for workers compensation and for the generally higher in-line-of-duty benefits available under the Florida Retirement System (FRS). Under the provisions of this bill, the burden of proving that a disability or death was accidental and suffered in the line of duty would be shifted from the affected law enforcement officer to the officer's *employer*.

This bill amends s. 112.18(1), F.S., to require *county* law enforcement officers, upon entering into service as a county law enforcement officer, to successfully pass a physical examination that fails to reveal any evidence of tuberculosis, heart disease, or hypertension.

All county employees are compulsory members of the FRS. This bill should have no fiscal impact, as FRS employers already pay the required contribution rate to fund the benefit cost to provide this presumption to their Special Risk employees. (See Fiscal Comments.)

This bill does not authorize governmental entities to negotiate for additional life and disability insurance benefits for county law enforcement officers who suffer partial or total disability or death in the line of duty as a result of tuberculosis, heart disease, or hypertension, as is currently authorized for firefighters under s. 112.18(2).

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 112.18(1), F.S., to modify the legal presumption that any condition or impairment of health suffered by a firefighter or state law enforcement officer caused by tuberculosis, heart disease, or hypertension and resulting in total or partial disability or death was accidental and suffered in the line of duty, expanding the presumption to cover *county* law enforcement officers. Requires county law enforcement officers, upon entering into service as a county law enforcement officer, to successfully pass a physical examination that fails to reveal any evidence of tuberculosis, heart disease, or hypertension.

Section 2: Provides that the act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This benefit will be provided at no cost for Florida Retirement System (FRS) employers, as those employers already pay the required contribution rate to fund the benefit cost.

The information provided in this analysis represent costs relevant to the Florida Retirement System only; costs for other pension plans and costs attributable to workers' compensation claims are unknown.

See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The cost of the presumed in-line-of-duty disability benefits to the Florida Retirement System (FRS) has been funded since 1999 with the enactment of Chapter 99-392, Laws of Florida (House Bill 1883), although it has been available only to firefighters and state law enforcement officers, including state correctional and correctional probation officers. As originally filed, HB 1883 would have expanded the presumption provided under s. 112.18(1), F.S., to cover all law enforcement officers and would have funded the cost through a contribution rate increase of 0.08% for the Special Risk Class. This amount was determined by the consulting actuaries for the FRS (Actuarial Special Study 1991-1B) to be sufficient to fund inclusion of all Special Risk members under the presumption. However, when the bill was amended to limit its application to state law enforcement officers only, the corresponding contribution rate increase was not changed. In 2000, under Chapter 200-167, Laws of Florida, the minimum rate paid for in-line-of-duty disabilities for Special Risk Class members was increased from 42% to 65%, and the cost of this benefit improvement was funded through a contribution rate increase of 0.13% for the Special Risk Class and 0.21% for the Special Risk Administrative Support Class.

There should be no cost to FRS employers for expanding the presumption under s. 112.18(1), F.S., to cover *county* law enforcement officers, since the FRS benefit has already been funded.

However, it is possible that as more members use in-line-of-duty disability benefits, it would produce actuarial losses that would slowly emerge. If such costs occur, they would have to be funded through contribution rate increases as recommended in future annual valuations of the FRS.

The information provided in this analysis represent costs relevant to the Florida Retirement System only; costs attributable to workers' compensation claims are unknown.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take 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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY (HCC):

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