

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 982  
 SPONSOR: Senator Burt et al  
 SUBJECT: FRS/Teacher/Bonus Exclusions  
 DATE: March 29, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
2.	<u>O'Farrell</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill permits the use of bonus payments in the calculation of average final compensation in the Florida Retirement System.

This bill amends s. 121.021 of the Florida Statutes.

**II. Present Situation:**

The Florida Retirement System (FRS) is a defined benefit, nonparticipatory, multi-employer pension plan covering the employees, survivors and dependents of some 800 state and local government employers. It offers an annuitized monthly benefit payable over a retiree's lifetime that is calculated as a percentage of the highest five years of a member's average final pay. The FRS is composed of several sub classes of membership with separate benefit accrual rates: Regular (1.60 –1.68 percent); Special Risk (3.0 percent); Special Risk, Administrative Support (1.6 percent); Senior Management (2.0 percent); Justices and Judges (3.33 percent); and Elected Officers (3.0 percent).<sup>1</sup> Normal retirement occurs at the earlier completion of 30 years of service or age 62, or 25 years of service or age 55 for the two Special Risk classes. The FRS is a predominantly local government plan with state officers and employees comprising only about 25 percent of the total membership. Benefit administration is the responsibility of a gubernatorial agency, the Division of Retirement in the Department of Management Services. The State Board of Administration, headed by the Governor, Comptroller, and Treasurer in their collegial capacity, conducts investment activities.

<sup>1</sup>Accrual rate is the pension value per year of service. Accrual rate multiplied times total creditable service length in years multiplied times average final compensation (inclusive of up to 500 hours of annual leave) equals an Option 1 Benefit. There are three other reduced payment options with survivors' benefits. Effective July 1, 2001 the three separate minimum benefit qualification, or vesting periods of 7, 8, and 10 years will be collapsed into one uniform 6-year period.

The FRS was created in 1970 as the successor benefit plan to the separate Teachers' Retirement System, Highway Patrol retirement plan, and State and County Officers' and Employees Retirement System. In 1972 it incorporated the separate Judicial Retirement System. Today it covers about 600,000 active employees and nearly 200,000 retirees. Active members may choose to participate in a Deferred Retirement Option Program during the last five years of their service. Under its provisions participants have their monthly pension benefit paid into an interest bearing account. Upon termination of employment they have additional options to receive the amount in a full or partial lump sum payment or to transfer to a successor retirement account. Retired members receive a fixed 3 percent cost-of-living allowance each July 1 on their retirement benefit. Members who have terminated employment with vested rights, that is, the right to receive a benefit, do not have these benefits indexed to inflation until the commencement of benefit payments. State of Florida retirees have the option of maintaining their health insurance at full cost less a monthly Health Insurance Subsidy payment of \$5 per month per year of service, not to exceed \$150.

Florida specifically exempts from the average final compensation calculation any payments of a nonrecurring nature. Section 121.021(47), F.S., specifically defines "bonus" as ". . . a payment made in addition to an employee's regular or overtime salary." That subsection identifies a payment as a bonus if any one of four circumstances applies: it is not made uniformly to all employees; it commences later than the eleventh year of employment; it is not based upon permanent eligibility; or it is made less frequently than annually. Among the specific examples of items classified as bonus are: exit or severance pay; longevity payments; salary agreements incidental to an employee's agreement to retire; accumulated overtime, compensatory, or holiday time not taken within 11 months of the month in which the work was performed; *Quality Instructional Incentives Program* payments; and lump sum payments in recognition of employee accomplishment.

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

The bill amends s. 121.021, F.S. to permit the incorporation of bonus payments made pursuant to the Florida Mentor Teacher School Pilot Program and Excellent Teaching Program as part of average final compensation for the purposes of computing a pension benefit under the FRS.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The bill affects district school boards that are exempt from the provisions of Article VII, section 18, State Constitution.

#### **B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

While there are no specific trust fund restrictions, each FRS employer will have to adjust its payroll contribution rate to remit to the FRS Trust Fund approximately 10% of additional payroll expense attributable to the bonus payment. Art. X, s. 14, State Constitution, requires all public sector retirement plans to prefund their promised benefits in a sound actuarial manner.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Individual teachers eligible for the named bonus payments will have their pensions increased. Teachers are members of the Regular Class of the FRS with accrual rates calculated at 1.6 percent per year for creditable service years up to and including 30, and at 1.68 percent for cumulative service of 33 years or more.

**C. Government Sector Impact:**

The bill permits additional amounts to be recognized as salary for the purposes of computation of average final compensation. The direction of impact is toward public school employers and employees of charter schools leased from public employers that will have to assess some 10% on the bonus payments for their normal cost contributions.<sup>2</sup> The DMS further reports that 568 teachers were eligible for and received payments of \$8,089,740.62 under the Excellent Teaching Program during the fiscal year ending June 30, 2000. FY 2001 costs are estimated at \$9,638,686.62 for 1,268 teachers. School boards requested and received permission to have their employer share of Social Security matching payments (7.65%) deducted from the award amounts due to the shortage of funds. Extending this financial policy to the provisions of this bill would permit the existing stream of funds to be used at about a 90% rate. That would produce an adjusted bonus payment rate of about 83% of the original award amount.

The department indicated in its analysis that its consulting actuary was unable to determine the full costs of the proposal without an actuarial study.

**VI. Technical Deficiencies:**

None.

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<sup>2</sup>While nominally private entities, charter schools may employ leased public school instructional personnel who retain their FRS benefit status.

**VII. Related Issues:**

Article X, section 14, State Constitution, requires all public sector pension plans to fund promised benefits in advance using sound actuarial practice. On March 14, 2001 the Department of Management Services advised that its retirement program staff had determined that the bill did not appear to comply with this provision and its statutory codification as Part VII of ch. 112, Florida Statutes.

The Department raised additional issues of equitable treatment in the manner in which the bill was drafted since teachers eligible for QIIP would still have bonus payments excluded from retirement-based compensation. However, it should be noted that this early merit pay for teachers program, while still nominally listed in the Florida Statutes, no longer exists.

Each school district received a \$50,000 planning grant for the mentor School Pilot Program. None of these funds was earmarked for payment of awards, as the Program is not yet operational.

**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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