# 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: CS/SB 1102

SPONSOR: Governmental Oversight and Productivity Committee and Senator Sanderson

SUBJECT: Public Employee Optional Retirement

DATE: March 5, 2002 REVISED: ___ ___ ___ ___

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Wilson | Wilson | GO | Favorable/CS |
| 2. | | | AGG | |
| 3. | | | AP | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

## I. Summary:

The bill provides necessary transitional changes prior to the operation of the defined contribution optional retirement choice in the Florida Retirement System. It permits a time extension for making an asset transition from the defined benefit to the defined contribution choice; permits account balance rollovers; provides spousal notification for certain beneficiary changes; specifies the rate of interest to be earned on account balances in suspense status; and imposes penalties upon employers for late posting of payroll contributions. The bill is effective June 1, 2002.

This bill amends the following sections of the Florida Statutes: ss.121.4501 and 121.571.

## II. Present Situation:

The Florida Retirement System (FRS) is a defined benefit, multi-employer, non-participatory pension plan providing an annuitized retirement benefit to the 600,000 active and 200,000 retired participants and beneficiaries of its 800 employer-members. Plan membership is compulsory for constitutional entities and is optional for statutory units of government. At the attainment of normal retirement, that is, age 62 or 30 years of service or age 55 and 25 years of service, the eligible employee is entitled to receive a current or deferred monthly benefit for life with or without survivors' benefits. There are five membership classes covering officers and employees of state and local government employers. About 90 percent of the membership is in the Regular Class. About one-half of the total plan membership is employed in educational units.

Chapter 2000-169, Laws of Florida, enacted an alternative pension choice provision for FRS members, the Public Employees Optional Retirement Program (PEORP).. This defined contribution plan permits employees to enroll in a pension plan under the auspices of the FRS that permits them to manage their own funds and provides them with an actuarial equivalent equity value or accumulated benefit obligation. Persons choosing such an alternative investment plan contractually agree to discharge the FRS of all further financial obligation in exchange for the equity transfer. In this plan members will choose from an array of investment providers and products that have been competitively procured over the past two years by the State Board of Administration (SBA), the investment authority for the FRS. Branded, nationally recognized investment firms will participate in the offering. The State Board will also offer an unbranded selection in which participants may pick funds directly rather than provider companies. Employee selection periods are set in three phases beginning in June 2002 and ending in February 2003. The choice period will be extended first to state employees, then to education employees starting in September 2002, and finally to local government employees in December 2002.

The implementing statute specifically requires compliance with the United States Internal Revenue Code, Title, 26, United States Code to assure its tax-sheltered status. Chapter 2000-169, Laws of Florida, further requires the plan to adhere to the federal Employee Retirement Income Security Act (ERISA), Title 28, United States Code, which sets fiduciary standards on the plan and its trustees, notwithstanding the exemption provided government plans.

## III. Effect of Proposed Changes:

**Section 1.** The bill amends 121.4501(1), F.S., to provide for PEORP eligibility for new or renewed members of the FRS.

Subsection (3) is amended to permit the SBA to extend the customary 30-day transfer of employee funds to the optional plan in the event of unforeseen financial market disruption and trading suspension.

Subsection (4) is amended to adjust the dates for the staged enrollment of the respective state, education, and local government employee-participants from the fixed terms in the original bill to a term determined by action of the Board.

Subsection (5) is amended to permit the receipt into the employee's optional account of additional deposits from other qualified contribution accounts subject to SBA rules and applicable federal tax statutes.

Subsection (6) is amended to permit the posting of actual earnings on the non-vested accumulation of a terminated and vested member's suspense account rather than the nominal three and six percent listed in statute.

Subsection (7) is amended to recognize that the priority in beneficiary designation cannot be another non-spouse without the spouse's notification. The notification requirement does not apply in the event the spouse predeceases the beneficiary. The subsection also corrects an incorrect cross-reference to a federal statute.

Subsection (8) is amended to restrict the ability of the SBA to administer oaths and acknowledgements in connection with its program administration responsibilities.

**Section 2**. Section 121.571(2), F.S., is amended to require employer submission of employee contributions to the optional investment plan within five days. Late employer contributions are subject to a one percent per moth penalty in addition to full indemnification of the participant for resulting market losses. The third party administrator will calculate any losses and the cumulative penalties associated with this employer failure, including administrative fees, will be billed to the employer.

**Section 3.** The act takes effect June 1, 2002.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

None.

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

None.

### C. Trust Funds Restrictions:

None.

## V. Economic Impact and Fiscal Note:

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

None.

### C. Government Sector Impact:

The payroll cycle for imposition of penalties differs from that provided in the defined benefit plan. The reason stems from the fact that a defined benefit plan assures a final benefit result regardless of market experience. The investment plan is owned by the individual and the account balance is sensitive to the assets in the account at any given market day. The timing of the payroll posting is critical to earnings as the individual accounts values are computed at net asset value, close of markets, Eastern Time.

Additionally, the Department of Management Services operates an electronic posting system to provide rapid recognition of the remittance of payroll contributions by member employers.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Amendments:

None.