

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 2134

SPONSOR: Governmental Oversight and Productivity Committee and Senator Sanderson

SUBJECT: Florida Retirement System

DATE: March 8, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Wilson	GO	Favorable/CS
2.	Cooper	Yeatman	CA	Favorable
3.	_____	_____	AGG	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This CS creates a trust fund for the deposit of employer payroll contributions incidental to the operation of the Public Employees Optional Retirement Program enacted by ch. 2000-169, Laws of Florida.

This bill creates section 121.4503, Florida Statutes.

II. Present Situation:

The Florida Retirement System (FRS) is a multi-employer, defined benefit, federally tax-qualified, non-participatory public sector pension plan providing annuity benefits to 600,000 active participants and 200,000 beneficiaries of its 800 employer-members. Plan membership is compulsory for constitutional units of government but is optional for units created by statute or ordinance. At the attainment of normal retirement, that is, age 62 or thirty 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 survivor's benefits. The plan contains five membership classes covering officers and employees of state and local government units. About 90 percent of the membership is enrolled in the Regular Class and about one-half of the membership is employed in educational units.

Chapter 2000-169, Laws of Florida, enacted an alternative pension choice provision for FRS members. This investment, or defined contribution plan, permits employees to enroll in a pension arrangement that permits them to manage their own funds. Existing employees may transfer their accumulated benefit obligation of the defined benefit plan to the new account and receive a full equity equivalent value in cash, distributed among the investment holdings offered by the plan. Persons making such a choice contractually agree to discharge the FRS of all further financial

obligation to them in exchange for the equity transfer. Members will be able to 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 along with an unbranded selection in which participants may choose from funds rather than provider companies. Employee education and selection periods commence June 2002 and end in February 2003. The choice period will be extended first to state employees, then proceed to education employees in September 2002, and finally conclude with local government employees in December 2002.

The implementing law specifically requires compliance with the United States Internal Revenue Code, Title 26, United States Code and Title 28, United States Code, the Employee Retirement Income Security Act (ERISA) which sets fiduciary standards on the plan, its administrators, and its trustees, the Governor, Treasurer, and Comptroller.

The Internal Revenue Service has determined that its approval is contingent on the State of Florida providing a separate trust account for the receipt of funds from participating employers to separate them from other fiduciary funds flowing to the defined benefit plan.

Article III, section 19(f), State Constitution, imposes requirements on the legislative branch in the creation and renewal of trust funds. Trust funds have a nominal longevity of four years and must be created in a separate bill passed by a three-fifth vote of each house of the Legislature. There are nine trust accounts that have no decay period. The Florida Retirement System Trust Fund is one of those with perpetual existence under this constitutional provision. The amendment permits the Legislature to provide a perpetual period by statute for any named fund.

Chapter 215, F.S., permits named trust funds to have a surcharge on their account balances transferred to the General Revenue Fund. The chapter permits designated trust funds, including the Florida Retirement System Trust Fund, to be forgiven this surcharge. It also permits the Governor to disallow its application if the effect of imposition would be to jeopardize a federal grant-in-aid program.

III. Effect of Proposed Changes:

Section 1 creates s.121.4503, F.S., to establish The Public Employee Optional Retirement Program Clearing Trust Fund. The fund will operate to receive employer payroll contributions on behalf of employee-participants in the alternative investment pension plan under the auspices of the FRS and in accordance with the interagency agreement between the SBA and the Department of Management Services.

Pursuant to Article III, s. (19f), State Constitutions, the clearing trust fund is not subject to termination nor is it subject to the service charge imposed by s. 215.20, F.S.

Section 2 provides that the act will take effect upon becoming a law.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The clearing account is required by the Internal Revenue Service to provide the necessary separation of funds incidental to the exercise of the respective fiduciary duties of the two participating state agencies: the SBA as investment manager and the Department of Management Services as benefit payor.

VIII. Amendments:

None.