

# 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 922

SPONSOR: Finance and Taxation Committee and Senator Burt

SUBJECT: Florida Retirement System

DATE: February 28, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/1 amendment</u>
2.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill includes bonus and incentive payments earned under ss. 231.700 and 236.08106, F.S., requiring a valid National Board for Professional Teaching Standards certificate or equivalent status in the definition of compensation for the purposes of calculating a final benefit under the Florida Retirement System. It also repeals an obsolete reference to the Quality Instruction Incentives Program, repealed in 1994.

This bill amends section 121.021, Florida Statutes.

**II. Present Situation:**

The FRS is a multi-employer, defined benefit, non-participatory pension plan that provides lifetime annuitized retirement benefits to employee-participants among 800 state, county, municipal, and special district government employers. The more than 600,000 active, and 200,000 retired members and beneficiaries of the FRS are distributed among five separate membership classes, each with their own normal service and annual benefit accrual features. Beginning in June 2002 the FRS will offer an alternative, defined contribution investment plan for employees wishing more active participation in their retirement planning.

“Compensation” and “bonus” are defined separately in s. 121.021(22) and (47), F.S. Compensation is the payment for services derived from employment and is inclusive of salary, leave, and overtime. Compensation payments must adhere to a formal written policy applied equally to all employees. Bonus is an irregular payment in addition to salary, based neither upon permanent eligibility nor equal application.

Two other provisions of Florida law discipline the operation of public sector pension benefits. Article X, section 14, State Constitution, provides that all promised pension benefits must be prefunded in a sound actuarial manner. Part VII of ch. 112, F.S., in implementing this constitutional provision, prohibits the use of any methodology that results in an intergenerational transfer of risk that results in present obligations being assumed by future taxpayers.

In 1998 and again in 2000, the Legislature created two recognition programs for public school instructional personnel. The first, codified in s. 236.08016, F.S., provides financial payments to teachers who receive advanced certification from the National Board of Professional Teaching Standards. The payments are considered bonuses within the meaning of s. 121.021(47), F.S., and are not accompanied by employer retirement contributions. The second recognition program, the Florida Mentor Teacher School Pilot Program in s. 231.700, F.S., provides salary incentives to public school instructional personnel. Both programs are subject to appropriation and are not assured from one year to another.

Between 1983 and 1994 the Legislature authorized a Quality Instruction Incentives Program in which each participating school district could award bonuses for demonstrated achievement by its salaried personnel. The reference has endured in s. 121.021(47), F.S., even though the program was discontinued.

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

Section 1. Section 121.021(22) is amended to include bonus and incentive payments earned under ss. 231.700 and 236.08106, F.S., requiring a valid National Board for Professional Teaching Standards certificate or equivalent status in the definition of compensation for the purposes of calculating a final benefit under the Florida Retirement System. The section also repeals archaic language referencing the Quality Instruction Incentives Program.

Section 2. The bill takes effect July 1, 2002.

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

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

None. As discussed, below, the mandate resulting from this bill affects district school boards not covered by the provisions of Article VII, s. 18, State Constitution.

#### **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:

Recipients of the named bonus and incentive payments will receive higher retirement benefits to the extent that they are reflected in their average best five year's of salary used to calculate a final FRS benefit.

C. Government Sector Impact:

The Division of Retirement reports the following information on the impact of s. 236.08016, F.S.:

**Historic and Estimated Fiscal Impact of Excellent Teaching Program in School Districts**

Fiscal Year	Bonuses Paid	Awards	Deferred Payroll Costs
FY 00	\$ 8,089,741	568	\$ 821,109
FY 01	\$ 8,561,615	2,207	\$ 783,388
FY 02e	\$ 9,972,901e	2,143e	\$ 728,022e

The division is not in receipt of any data on the Florida Mentor Teacher School Pilot program other than to note that eight schools have received a total of \$1.4 million for program planning. Deferred payroll costs are the amount of employer retirement costs which would have been paid had the program been covered under the definition of compensation. The deferrals assume a contribution rate for each of the years, respectively, of 10.15 percent, 9.15 percent, and 7.30 percent of gross salary. The estimated contribution rate for FY 2003 is yet to be established by the Legislature.

**VI. Technical Deficiencies:**

The Division of Retirement is required to attest to the actuarial soundness of all proposals to change pension statutes in order to effect compliance with Art. X, s. 14, State Constitution, Part VII of ch. 112, F.S, and Art. VII, s.18, State Constitution. In a review of this bill dated January 18, 2002, the division reported that SB 922 complied with none of these required provisions. Its conclusion was based in part on the potential of bonus payments resulting in windfall increases to the employee's average final compensation that could be funded only through completion of an actuarial study to determine if any upward adjustments in the payroll contribution rate were necessary. It further opined that the bill would be out of compliance with the unfunded mandates provision of the State Constitution.

**VII. Related Issues:**

The division's analysis of the effect of the bill on Art. VII, s. 18, State Constitution, relies on the assumption that the unfunded mandates provision extends to all local governments. It does not. The constitutional amendment applies *only* to counties and municipalities.

Unreported in the division's analysis is the collateral effect on other public employees whose salary compensation flows through the General Appropriations Act. The 2001 Legislature enacted a sweeping revision of the civil service statutes applicable to state employees. Two provisions of that legislation, ch. 2001-43, Laws of Florida, provide bonus payments and other incentives to employees for the achievement of tangible workplace improvements. Those payments would be unaddressed by this bill as SB 922 is directed at school district employees only. That civil service legislation also permitted permanent salary increases for employees from appropriation amounts remaining from abolished positions. In that latter case, the salary increases would be covered under the definition of compensation for retirement purposes.

The use of excludable amounts for employee recognition has a number of features: First, it is considered a nonrecurring expense and does not obligate continuation costs in subsequent fiscal years; second, the amounts can be generated with a lower percentage assessment than traditional across-the-board raises; third, there are no matching employer payments for retirement coverage; fourth, the payment ethic stresses tangible, measurable performance, not longevity; and, fifth, the payments cover only a small percentage of the total workforce.

**VIII. Amendments:**

None.