



employer contributions as required in ss. 121.055(3), F.S., 121.071(1)(a) and (4), F.S, and 121.071, F.S.

The Department of Education does not maintain data on the number of district school board rehires of retired members under s. 121.091(9), F.S. The Division of Retirement does not maintain any data on district school board rehires of retired members unless the Division is notified that a member has exceeded the 780-hour limit. Several representative districts were contacted to determine the magnitude of the current reemployment program. In the last two years, the Liberty County School District has hired only two retired FRS members under s. 121.091(9), F.S., for substitute teacher positions. Broward, Volusia, and Seminole County School Districts were contacted to obtain data on rehires of retired members but the hiring data is not yet available. Although specific data is not readily available statewide, it appears that the current reemployment program is not a major rehiring method.

#### Contribution Rates of Defined Pension Plan

FRS operates a traditional defined benefit pension plan. Under the defined benefit plan, employees were assured of an annuitized benefit at retirement calculated as a percentage of average final compensation. The defined benefit plan assumes all investment risk. The plan is designed to reward long-term employment at any of the employer-members of the FRS at all levels of state and local government. Pension portability is limited to an FRS employer.

In 2002, the Legislature enacted an alternative pension choice for participants in FRS to accommodate a more mobile workforce. The defined contribution investment plan allows participants to rollover their account upon separation from service with an FRS employer. Combined with an earlier vesting schedule, the plan affords a participant an opportunity to obtain retirement benefits without requiring long-term employment with an FRS employer. In addition, the plan authorizes a participant to self-manage their accounts while assuming investment risk.

The Legislature changed the method of assessing employer payroll contributions by blending the defined benefit and defined contribution plans, preventing each plan from being funded out of its own member base. In addition, the blended approach attempts to stabilize the net effect on the FRS rate structure due to the expected departure of the subsidized defined benefit plan participants. The Legislature estimated the number of participants electing the defined contribution plan and used the proportional share of payroll costs to establish the rate charged employers. Initial estimates anticipated a new plan enrollment of 178,000 employees and a cumulative asset transfer between \$8 billion and \$13 billion. In fact, as of December 6, 2002, 16,412 state and district school board employees had enrolled in the new plan and only \$182 million of assets were transferred. Accordingly, the payroll contribution rates charged employers may require adjustment.

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

#### School Board Reemployment of Certain Retired Members

The bill expands the exceptions to reemployment of retired FRS members by authorizing a district school board to reemploy a retired member as a teacher or an administrator certified as a teacher. In addition, the bill authorizes a school board to reemploy certain retired members on a contractual or noncontractual basis. The retired members eligible for reemployment are teachers,

administrators certified as teachers, education paraprofessionals, transportation assistants, bus drivers, and food service workers. The bill maintains current law by requiring a member to retire one calendar month in accordance with s. 121.021(39), F.S. Reemployment of the retired members remains subject to the 780 hour limit during months two to twelve following the retirement calendar month.

The bill may encourage instructional personnel to retire early by authorizing the member to retire and begin vesting for another pension. This is particularly acute because the defined contribution plan vests after only one year of service with an FRS employer. However, unlike the 60 month reemployment limit in DROP, the bill does not provide a fixed retirement date following reemployment. Instructional staff and administrative instructional staff are additionally encouraged to retire and begin second career employment by providing an offset to health insurance premiums prior to coverage under Medicaid.

The bill gives greater flexibility to a district school board to rehire instructional staff. However, by authorizing the rehire of retired members on a contractual basis, the bill may provide for the retired members to become part of the collective bargaining unit. Moreover, since most instructional staff contracts provide for 196 days per year of work, the 780-hour limitation in the first year would likely require a shorter work year. Accordingly, the bill may discourage school board participation in the second career program because the 780-hour limit may impede the award of a standard contract.

#### Contribution Rates of Defined Pension Plan

The bill repeals the FRS employer payroll contribution rates as a percentage of gross compensation effective July 1, 2002 and July 1, 2003, but does not provide an amended payroll contribution rate. The determination of contribution rates is awaiting the results of the 2002 actuarial study of the FRS. Accordingly, the effect of the bill with respect to the contribution rate can not be determined at this time.

The bill provides Legislative findings that the act is an important state interest and that beneficiaries must be provided benefits under the retirement system that are adequate, fair, managed, administered, and funded in an actuarially sound manner as provided in law.

The bill establishes an effective date of July 1, 2003.

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

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

Article X, Section 14 of the State Constitution provides that benefits to members or beneficiaries of a retirement or pension system may only be increased if the benefits are provided on a sound actuarial basis. The bill provides for the state actuary to use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the FRS and the statutorily prescribed rates for fiscal year 2003-2004. Because the statutorily prescribed rates have not been provided, it can not be determined at this time that there will be sufficient assets available in the FRS Trust Fund to offset the costs of the FRS. Accordingly, the bill may require amendment to satisfy the state constitution and Part VII of chapter 112, F.S.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The FRS program could face a fiscal impact. The magnitude of the fiscal impact would depend on the number of instructional personnel and administrative instructional personnel that accrue additional retirement benefits by beginning a second retirement plan. Because the bill may encourage early retirement, members would draw their retirement benefits for a longer period of time. A 2001 actuarial study was conducted at the request of the Division of Retirement for the fiscal impact of rehiring of all retired regular class. The actuarial study indicated a reduction in actuarial surplus by \$2.3 billion if implemented with the July 1, 2000 valuation and an increase in the employer contribution rate of 0.48 percent. There are no actuarial studies indicating the fiscal impact of implementing the bill's proposed district school reemployment of retired members. Moreover, there is no available data indicating the number of retired members that would be reemployed by a district school board.

If the employer contribution rates for the FRS program are amended there would likely be a fiscal impact on the FRS surplus or the FRS employers. As the contribution rates have not been provided in the bill, the magnitude of the fiscal impact can not be ascertained at this time.

**VI. Technical Deficiencies:**

The bill amends s. 121.71, F.S., by repealing the contribution rates as a percentage of a participant's gross compensation; however, the bill does not amend the effective dates of the contribution rates. Coupled with the act's effective date, July 1, 2003, the bill creates the potential for retroactively amending the contribution rates for fiscal year 2002.

**VII. Related Issues:**

The bill does not define the term “instructional personnel.” Although the term is defined in s. 1012.01, F.S., there is no cross-reference.

**VIII. Amendments:**

## Amendment #1:

The amendment repeals the 780-hour first year restriction on the rehire of certain retired Florida Retirement System employees by school districts. The amendment defines instructional personnel as classroom teachers as defined in s. 1012.01(2)(a), F.S. The amendment defines a school-based school administrator as a principal or assistant principal as defined in s. 121.01(3)(c), F.S. The amendment authorizes a school board to rehire instructional personnel and school-based administrators on a contractual basis, but other eligible employees may only be rehired on a noncontractual basis. If the retired member is reemployed within one calendar month of retirement, the application for retirement for instructional personnel or school-based school administrators is not voided.

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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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