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 958

SPONSOR: Governmental Oversight and Productivity Committee

SUBJECT: Retirement/District School Board/Florida Retirement System

DATE: April 1, 2003 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matthews, Jr.	O'Farrell	ED	Fav/1 amendment
2.	Wilson	Wilson	GO	Fav/CS
3.			AP	
4.				
5.				
6.				

I. Summary:

This bill authorizes a district school board to reemploy certain retired personnel on a contractual or noncontractual basis as instructional personnel or administrative personnel certified as instructional personnel following one month of retirement. The bill further revises the payroll contribution rates for the defined benefit plan of the Florida Retirement System (FRS) for the 2003-2004 fiscal year; reduces the administrative expenses charged for educational programs undertaken by the Board of Administration; prescribes the same distribution options for community college personnel in the optional retirement annuity as is in effect for university personnel; permits designated instructional personnel in district school boards to extend their participation in the Deferred Retirement Option Program (DROP) by an additional three years, subject to the approval of the hiring authority; and makes renewed school board instructional personnel members compulsory participants in the Public Employees Optional Retirement Program (PEORP).

This bill amends ss. 121.051, 121.091, 121.40, 121.4501, 121.71, 121.74, and 1012.875, Florida Statutes.

II. Present Situation:

School Board Reemployment of Certain Retired Members

Section 121.091(9)(b)3., F.S., provides, in pertinent part, that a district school board may reemploy a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after the member has been retired for one calendar month. An FRS retiree who returns to work for an FRS employer during the first month of retirement voids his or her retirement. Reemployment of the retired member is limited to 780 hours during the first 12 months of his or her retirement.

Employment beyond 780 hours requires written notice to the Division of Retirement and suspension of retirement benefits for the remainder of the first 12 months of retirement. After the first 12 months, the 780-hour limitation is eliminated.

The reemployment by the district school board does not affect the average final compensation or year of creditable service of the retiree or the DROP participant. Upon renewed membership in the FRS, the employer must pay the applicable employer contributions as required in ss. 121.055(3), 121.071(1)(a) and (4), 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 are 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 retired member as instructional personnel and to be no longer subject to the 780 hour limit during months two to twelve following the retirement calendar month. The effect is to forgive the suspense period during which the pension benefit cannot be paid for early return to a covered position in the workforce.

Extended Participation in DROP
The bill permits instructional personnel to participate in DROP for an additional three years subject to approval of the hiring authority. DROP was authorized by the 1997 Legislature and was effective in 1998. The first full five-year cohort of participants is scheduled for departure on June 30, 2003. A participant is required to terminate employment on that date or forfeit the DROP account balance in its entirety.

Contribution Rates of Defined Benefit Pension Plan
The bill prescribes the revised employer payroll contribution rates for the FRS for FY 2004 which are displayed below. Included also is a reduction from 15 to 8 basis points (.0015 to .0008) in the asset fee charged by the Board of Administration for the conduct of participant information and education programs.

On March 12, 2003, Milliman USA issued its separate valuation of the supplemental retirement plan for the Institute of Food and Agricultural Sciences (IFAS). The IFAS plan is a closed plan with 113 active participants remaining out of a total membership base of 236. The plan operates differently from a defined benefit plan in that its benefit structure is inversely related to salary. IFAS was designed to act as a supplement to Social Security and as such provides a relatively greater benefit to lower salary levels than to higher ones. The Milliman valuation indicated that this effect, coupled with lower asset performance and expected salary increases, required a payroll contribution rate increase form 6.96 percent to 13.83 percent. Based on the Milliman valuation the current and recommended rates for the FRS are as follows:

Current and Proposed FRS Payroll Contribution Rates, FYs 2003 & 2004, Percent of Employer Payroll

Retirement Class	Current (%)	Proposed (%)	Difference (%)
Regular	4.50	6.18	1.68
Special Risk	14.75	17.32	2.57
Special Risk-Administrative	5.30	8.71	3.41
Senior Management	4.80	8.16	3.36
Elected-Local	10.60	14.02	3.42
Elected-State	8.15	11.28	3.13
Justices/Judges	14.60	17.44	2.84
IFAS	6.96	13.83	6.87
DROP	8.00	8.00	0

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.

Community College Optional Retirement Plan
Community colleges and state universities have separate optional annuity programs for their participants separate and apart from the pension choice option authorized in Part II of ch. 121, F.S. Universities received statutory authorization to replicate the distribution options from their accounts in 2002; a similar provision was not extended to community colleges. The amendments adopted in the bill to ss. 121051, 121.4501, and 1012.875, F.S., align these changes to those given the universities. Essentially the enrollment periods are extended from 60 to 90 days and participants are permitted to receive full cash, or full or partial roll-over of their account balances in addition to an annuitized benefit.

Presumptive Eligibility for PEORP
The bill amends s. 121.4501, F.S., to provide that district school board instructional personnel availing themselves of the reemployment provisions in s. 121.091, F.S., shall be considered compulsory members of PEORP and shall have their second career benefit determined through part II of ch. 121, F.S.

Effective Dates
The bill establishes split effective date of July 1, 2003 and June 1, 2003 for the DROP sections of the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill provides a statement of important state interest pursuant to Art. VII, s.18, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article X, s. 14 of the State Constitution provides that benefits to members or beneficiaries of a public retirement or pension system must be prefunded in a sound actuarial manner. 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 FY 2003-2004.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None. The FRS is a noncontributory plan in which the employer pays all costs. The financial effect of the extended participation in DROP, and the presumptive eligibility for PEORP, is discussed below.

C. Government Sector Impact:

The bill permits the reemployment or retention of instructional personnel under circumstances favorable to both the employee and employer. The impacts from these changes can be estimated more accurately in direction than in magnitude since so much of the effect rests on a voluntary action of the departing or returning employee to stay in the active workforce.

The retention of personnel in DROP for another three years' duration will increase payroll costs to the employer since the DROP payroll contribution rate is greater than the normal cost rate for active employees in the Regular Class. Since DROP employees will be at the upper end of the salary scale the cumulative effect will be to make these employees relatively more expensive to the payroll than their replacements. Moreover, while employees will have the benefit of receiving as many as eleven additional pension checks due to the forgiveness of the 12-month suspense period prior to reemployment, that also makes their pension life expectancy in the FRS eleven months longer. Any sustained return to the workforce under this provision may produce incrementally higher retirement costs that will be measured in subsequent plan valuations.

Each participant in DROP receives $74,406 in proceeds for each $1000 of initial monthly pension benefit for a 60-month participation. That benefit will increase proportionally with the addition of another three years' participation and the additive effects of compound interest. DROP pays a fixed rate of interest of 6.50 percent. The 10-year Treasury Bill is paying less than 4.00 percent. In a sustained low-interest rate environment the cumulative effect of this fixed DROP rate and the inability of the FRS to meet its expected 8 percent rate of return will produce additional negative cash flow on the FRS Trust Fund.

The use of earned sick leave is partially a function of age. A workforce policy which targets older workers for employment will have to contend with increased use of leave simply as a normal function of aging. This loss of productive attendance will have to be assessed by the employer in its use of these provisions and in its use of substitute personnel. In addition, the employer must assess the effect of the use of such targeted workforce additions on its other benefit plans. Employers across the nation have to contend with escalating health insurance costs as children of World War II-era parents begin their departure from the active workforce. There will be some additional expense to be borne by the employer for the claims experience of these renewed employees. For employees without affordable or accessible post-retirement insurance coverage, however, such a reemployment opportunity will permit them to shelter the burden of this premium by seeking coverage in their employer's benefit plan.

The compulsory eligibility of renewed members in the Public Employees' Optional Retirement Program will nominally increase employer payroll costs since that fixed contribution rate is higher than the subsidized defined benefit rate. Over time the normalized rates for both plan will converge as the defined benefit plan approaches normal cost. There will always be a tendency for the defined benefit rates to vary with investment performance because the plan, as a percent-of-final pay plan, guarantees a benefit result. Such is not the case with the defined contribution option as the participant, not the plan, assumes all of the investment risk. Another distinguishing feature is that the defined benefit choice for the renewed participant requires new vesting at a six-year interval while PEORP provides a one-year level. For the employer needing this source of employment to achieve compliance with a constitutional workforce ratio, the defined benefit alternative may be more cost and managerial advantageous in the near term; for the employee, the reverse is the case.

Beginning in 2002, FRS payroll contribution rates must be set annually by general law. The failure to enact legislation defaults the rates to normal cost. Such rates, unsubsidized by surplus pension assets, range from about 25 to 50 percent higher than the rates in this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Because DROP is a contract between the hiring authority and the participant it will be necessary to have this section of the bill become effective as soon as possible. This will give affected employers time to notice participants who may be planning to terminate.

VIII. Amendments:

None.