

# 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: SB 1442  
 SPONSOR: Senator Sebesta  
 SUBJECT: Retirement Disability/Other States  
 DATE: January 26, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill provides that a Florida Retirement System member (employee) whose employer requires that he or she work full time outside the State of Florida (but inside the United States), may submit as proof of disability medical certification from two physicians licensed in the state where the member works. Current law requires that the employee provide such certification from two Florida-licensed physicians regardless of the employee’s assigned work location.<sup>1</sup>

This bill substantially amends section 121.091, Florida Statutes.

**II. Present Situation:**

The Florida Retirement System (FRS) was created in December 1970 to consolidate then-existing state-administered retirement systems for state and county officers and employees, teachers, judges, and Highway Patrol officers. Today the FRS is the fourth largest public retirement system in the United States, covering over 620,000 active employees, over 200,000 annuitants (retirees and their surviving beneficiaries), and about 27,000 participants of the Deferred Retirement Option Program (DROP). As of June 30, 2003, state employees (including university employees) represent less than 23 percent of the FRS membership. Remaining members are employed by local agencies, including all counties (23.3%), district school boards (47.7%), and community colleges (2.8%), as well as cities and special districts (3.5%) that have opted to join the FRS. The FRS is administered by the Division of Retirement (division) of the Department of Management Services.

The active membership of the FRS is divided into five membership classes: The Regular Class, the Special Risk Class, the Special Risk Administrative Support Class, the Elected Officers’

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<sup>1</sup> Section 121.091(4)(c), F.S.

Class, and the Senior Management Service Class. Each class is separately funded based upon the costs attributable to the members of that class.

The FRS Pension Plan provides disability benefits for its active members who are totally and permanently disabled from useful employment. Similarly, members who have transferred to or enrolled in the FRS Investment Plan may be eligible for disability retirement benefits under s. 121.591(2), F.S.

Under s. 121.091(4), F.S., any member of the FRS who is totally and permanently disabled due to any condition or impairment of health caused by an injury or illness is entitled to disability benefits. If the injury or illness arises out of and in the actual performance of duty required by his job, the member is entitled to in-line-of-duty disability benefits. A FRS member is eligible for in-line-of-duty disability benefits from his or her first day on the job. In contrast, an FRS member must have from 5 to 10 years of creditable service before becoming disabled in order to receive disability retirement benefits for any disability which occurs other than in the line of duty.<sup>2</sup>

Currently, the law requires that a member who applies for FRS disability retirement benefits must submit certain documentation, including a medical certification of total and permanent disability prepared by two physicians who are licensed in the State of Florida.<sup>3</sup> Once the required information is received by the division, the member is generally notified within 30 days whether the disability claim has been approved or denied. If the member's application for regular or in-line-of-duty disability benefits is denied, the member may appeal the division's decision before the State Retirement Commission within 21 days of receipt of the denial letter. Decisions of the State Retirement Commission are considered final agency action. However, the commission's decision can be appealed through the District Court of Appeal.

There are approximately 1,000 FRS members whose FRS employment requires that they work outside the State of Florida, but inside the United States. All FRS members who have covered employment are eligible to apply for disability retirement benefits regardless of the state in which they work or live. The mandatory use of Florida-licensed physicians is inconvenient and impractical for employees that work in other states, and creates additional delays and travel costs associated with the disability determination process.

Currently, the Department of Revenue has 221 employees permanently assigned to work full-time in eight states other than Florida and they do not reside in Florida. According to the Department of Revenue, employees applying for disability must travel at their own expense to obtain the disability certifications in Florida. Since the Florida physician is generally unfamiliar with the employee and their medical history, the physician must obtain reports and conduct multiple tests which generally cannot be accomplished in one trip.

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<sup>2</sup> Under current law, any member with less than 5 years of creditable service on July 1, 1980, or any person who joins the FRS on or after that date must complete 10 years of creditable service to qualify for disability benefits for a disability that is not job-related. Otherwise, 5 years of creditable service is required to qualify for a non-duty disability benefit. Effective July 1, 2001, the 10-year service requirement was reduced to 8 years.

<sup>3</sup> Section 121.091(4), F.S. (2003).

**III. Effect of Proposed Changes:**

**Section 1.** Authorizes a member that works full-time outside of Florida, but within the United States, to provide certification by two licensed physicians of the state where the member works rather than requiring certification by two Florida-licensed physicians.

**Section 2.** Provides that this 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:**

It is estimated that few state employees who are assigned to work outside of the State of Florida will require certification by out-of-state licensed physicians. The bill would benefit these employees by eliminating the inconvenience and travel expenses associated with obtaining certification from Florida-licensed physicians.

**C. Government Sector Impact:**

The use of out-of-state physicians for the certification of total and permanent disability by employees working full-time in another state should result in the resolution of such disability determinations in a more timely and cost-efficient manner.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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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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