

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1907                      Special Risk  
**SPONSOR(S):** Public Safety & Crime Prevention Committee  
**TIED BILLS:** None                      **IDEN./SIM. BILLS:** SB 1950

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Safety & Crime Prevention	15 Y, 0 N	Cole	De La Paz
2) _____			
3) _____			
4) _____			
5) _____			

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### SUMMARY ANALYSIS

HB 1907 would provide Florida Retirement System (FRS) special risk coverage from October 1, 2004 on, for members who are employed by a law enforcement agency or medical examiner's office whose primary duties and responsibilities include collecting, examining, preserving, documenting, preparing, or analyzing physical evidence or testimony, or both, as an expert witness in legal proceedings. The supervisor of any such employee would also be covered under the Special Risk Class by the enactment of this bill. The bill specifically excludes administrative support personnel in such agencies from eligibility for special risk coverage. In order to be moved into the Special Risk category the employee must work in a forensic discipline that is recognized by the International Association of Identification (IAI) and be eligible for active membership in the IAI.

There will be an approximately 11% increase in the employer contribution to the FRS for these employees. It is unknown how many employees this bill could affect at this time.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill creates a new category of special risk employees in the Florida Retirement System (FRS).

#### B. EFFECT OF PROPOSED CHANGES:

**Florida Retirement System (FRS) profile.** The 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 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' Class, and the Senior Management Service Class. Each class is separately funded based upon the costs attributable to the members of that class.

**Special Risk Class.—**The Special Risk Class of the Florida Retirement System consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S. As of June 30, 2003, with over 63,300 active members in the Special Risk Class and 106 members in the Special Risk Administrative Support Class, special risk employees made up nearly 11% of the active FRS membership.

In creating the Special Risk Class of membership within the Florida Retirement System, the Legislature recognized that persons employed in certain categories of law enforcement, firefighting, criminal detention, and emergency medical care positions must, as an essential function of their positions, perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity. The Legislature further found that as persons in such positions age, they may not be able to continue performing their duties without posing a risk to the health and safety of themselves, the public and their coworkers. In response, the Legislature established a special class to permit these employees to retire at an earlier age and with less service without suffering economic deprivation.

Special Risk Class membership differs from Regular Class membership in the following ways:

1. A Special Risk Class member earns retirement credit at the rate of 3% of average final compensation (AFC) for each year of service, as opposed to the 1.60%-to-1.68% credit per year of service earned by a Regular Class member.

2. A Special Risk Class member qualifies for normal retirement at an earlier age (age 55 vs. age 62) or with fewer years of service (25 years vs. 30 years) than a Regular Class member.
3. A Special Risk Class member who is totally and permanently disabled in the line of duty qualifies for a 65% minimum option 1 benefit payment compared to a Regular Class member similarly disabled who qualifies for a 42% minimum option 1 benefit payment.

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. Currently under the FRS Pension Plan and the FRS Investment Plan, the retirement portion of the employer contribution rate for the Special Risk Class is 17.32% — nearly three times the 6.18% retirement contribution rate for the Regular Class.<sup>1</sup> Thus when a membership group moves from the Regular Class to the Special Risk Class, the monthly employer contributions can almost triple for affected employees.

**Membership criteria.**—Under current law, FRS members must meet specified eligibility requirements to qualify for membership in the Special Risk Class. These requirements limit membership to persons who are employed as law enforcement officers, firefighters, correctional officers, emergency medical technicians or paramedics, specified forensic and health care workers, and youth custody officers, and who meet the criteria set forth in applicable s. 121.0515, F.S.

It is unknown how many members of the FRS would be eligible for the benefit improvement proposed under HB 1907.

**Article X, Section 14, of the Florida Constitution.**—Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

**Part VII of chapter 112, F.S.**—Article X, Section 14, of the Florida Constitution is implemented by statute under part VII of chapter 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act,” which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to “ ... prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”

**Local Government Mandates Provision.**—Article VII, Section 18, of the Florida Constitution effectively invalidates any law that would require counties or municipalities to spend funds or limit their ability to raise revenue or receive state tax revenue, unless certain conditions are met. First, the Legislature must have determined that the law fulfills an important state interest. The law must also meet one or more additional criteria, including that the “expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.”

FRS members who are employed by an FRS-covered law enforcement agency or medical examiner’s office and whose primary duties include “the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, as an expert witness in legal proceedings,” as well as members who are the direct supervisors, quality management supervisors, or command officers of one or more individuals with such responsibilities, would experience a potential

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<sup>1</sup> Under the FRS Investment Plan, the amount contributed to an individual member account increases from 9.25% to 21.33% when the member moves from the Regular Class to the Special Risk Class.

increase in their retirement benefits as a result of the passage of the bill. HB 1907 also states that the members must be in forensic discipline recognized by the International Association for Identification (IAI) and must qualify for active membership in the IAI. IAI recognizes the following forensic disciplines:

- Bloodstain Pattern Identification
- Crime Scene Investigation
- Firearms/Tool Mark Examination
- Footwear & Tire Tack Examination
- Forensic Art
- Forensic Laboratory Analysis
- Forensic Photography & Electronic Digital Imaging
- Innovative & General Techniques
- Latent Prints/Fingerprint Identification/AFIS
- Polygraph
- Questioned Documents
- Voice Identification/Acoustic Analysis
- Forensic Odontology
- Ten Print Fingerprint

The records database for members of the FRS Regular Class does not track job descriptions, position titles, or duties. Therefore, it is not possible to know how many members would be affected by the class change proposed by this bill, or what the resulting overall cost to state and local government employers might be.

Currently, under the FRS, such employees are members of the Regular Class where they earn retirement credit at the rate of 1.60% to 1.68% of their average final compensation (AFC)<sup>2</sup> for each year of service. As members of the Special Risk Class, the value for each year of service would almost double to 3.00% of AFC for each year of service and the vested member would be eligible for full benefits after 25 years of special risk service or at age 55, instead of being required to meet Regular Class normal retirement requirements (completing 30 years of service or attaining age 62).

To fund the lesser benefit afforded under the FRS Regular Class, employer contributions made on behalf of regular members are significantly lower than the rate required for members of the Special Risk Class. The chart below indicates the difference in the contribution rates<sup>3</sup> paid for the two classes in the past 5 years:

Year	Regular Class Contribution Rate	Special Risk Class Contribution Rate	Difference in Contribution Rates
2003/04	6.18%	17.32%	11.14%
2002/03	4.50%	14.75%	10.25%
2001/02	6.09%	17.23%	11.14%
2000/01	8.11%	19.25%	11.14%
1999/00	9.21%	20.22%	11.01%

C. SECTION DIRECTORY:

**Section 1:** Amends S. 121.0515 (2) relating to special risk membership in the Florida Retirement System.

**Section 2:** Relates to the bill fulfilling an important state interest.

**Section 3:** Provides an effective date.

<sup>2</sup> “Average final compensation” or “AFC” means the average of the member’s highest 5 years of salary.

<sup>3</sup> The rates shown in this chart are the actual rates paid by FRS employers and are offset using surplus actuarial assets.

## I. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None.
2. Expenditures:  
See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

Effective October 1, 2004, FRS employers would pay an increased retirement contribution rate for their FRS employees who are affected by this bill (the rate for the Special Risk class instead of the Regular Class rate). It is unknown at this time how many employees this change in retirement class might affect.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

While there is little firm data on the numbers of positions affected it is believed that some of these positions are employed by units of local government, principally counties. If the net additional payroll contribution rate adjustments exceed \$1.6 million on a statewide basis it could violate the municipal/county mandates provision of the Florida Constitution.

#### 2. Other:

HB 1907 fulfills the provisions of Article X, Section 14 of the Florida Constitution and part VII of chapter 112, F.S. relating to an important state interest and being funded in a sound actuarial manner.<sup>4</sup>

### B. RULE-MAKING AUTHORITY:

None.

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<sup>4</sup> Section 112.60-112.67, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.