

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 483 CS Florida Retirement System
SPONSOR(S): Hays and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 688

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Governmental Operations Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Williamson</u>	<u>Everhart</u>
2) <u>Local Government Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Fiscal Council</u>	<u></u>	<u></u>	<u></u>
4) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to Florida government employees. The active membership of the FRS is divided into five membership classes, one of which is the Senior Management Service Class.

The bill provides a six month window (January 1, 2006 – June 30, 2006) for a Senior Management Service Class employee who has withdrawn from the FRS to have one opportunity to elect to participate in either the FRS defined benefit plan or defined contribution plan (Public Employee Optional Retirement Program or PEORP). If an employee chooses to transfer to PEORP, the membership is prospective from that election. Alternatively, if the employee chooses to transfer to the FRS defined benefit plan, the employee will receive service credit for prior service based upon the time during which the employee had withdrawn from the system, but only upon payment to the FRS Trust Fund of an amount representing the actuarial accrued liability for the affected period of service.

The bill also extends participation in the Deferred Retirement Option Program from 60 months to 96 months for a member who is employed as faculty or staff at a state university while also being employed as a teacher at the developmental research school of that state university, provided the member has received proper authorization.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – The bill provides an additional opportunity for local government employees, in the Senior Management Service Class, who have withdrawn from the FRS to have one opportunity to transfer back to the FRS defined benefit plan or defined contribution plan.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to more than 630,000 active and 226,000 retired members and beneficiaries of its more than 800 government employers.¹ The active membership of the FRS is divided into five membership classes: Regular Class; Special Risk Class; Special Risk Administrative Support Class; Elected Officers' Class; and Senior Management Service Class. Each class is separately funded based upon the costs attributable to the members of that class.

Senior Management Service Class

The Senior Management Service Class includes any member who holds a position in the Senior Management Service of the State of Florida, certain positions included in the class by law,² as well as additional managerial and policymaking positions included in the class as designated by specified employer groups as permitted by law.³ In addition, elected officers may elect to participate in the Senior Management Service Class rather than the Elected Officers' Class. Contribution rates for the Senior Management Service Class are 11.64 percent versus 9.98 percent for the Regular Class.

Members of the Senior Management Service Class may withdraw from the FRS, and the decision is irrevocable for as long as the employee holds the position. Those members are not eligible to participate in the Senior Management Service Optional Annuity Program.⁴

Defined Benefit Plan and Defined Contribution Plan

The default choice in the FRS is a defined benefit, or percent of final pay pension arrangement, in which a final benefit is calculated on the basis of service, retirement class factor, and the average of the best five years' salary. Since 2001, the FRS has permitted employees to select a defined contribution

¹ Department of Management Services 2005 Substantive Bill Analysis, HB 483, February 21, 2005, at 2.

² By law, participation in the Senior Management Service Class is compulsory for each university president in the State University System and each community college president in the State Community College System; for the manager of each participating city or county; for all appointed district school superintendents; for the Adjutant General, Assistant Adjutant General-Army, Assistant Adjutant General-Air, State Quartermaster, Director of Military Personnel, Director of Administration of the Department of Military Affairs; for the State Courts Administrator and the Deputy State Courts Administrators, the Clerk of the Supreme Court, the Marshal of the Supreme Court, the Executive Director of the Justice Administrative Commission, the Capital Collateral Regional Counsels, the clerks of the district courts of appeals, the marshals of the district courts of appeals, and the trial court administrator in each judicial circuit; for any judge of compensation claims with the Office of the Judges of Compensation Claims within the Department of Labor and Employment Security.

³ Subject to meeting specified criteria, by law, limited numbers of additional managerial or policymaking positions may be designated for inclusion in the Senior Management Service Class by local government agencies, the Florida Legislature, the Auditor General's Office, the Commission on Ethics, the Executive Service of the State University System, the State Board of Administration, the Department of Military Affairs, and Offices of the State Attorney and Public Defender.

⁴ Section 121.055, F.S.

alternative in which employees own and actively manage the contributions to their individual account. Both choices are accompanied by equivalent disability benefits for service and non-service related illness or injury. Retirees from either plan are also permitted to receive a contribution from a separate account to subsidize payment of health insurance premiums.

The United States Internal Revenue Service prohibits any person from participating in two retirement plans at the same time for the same work experience.

Deferred Retirement Option Program

A member of the FRS may participate in the Deferred Retirement Option Program (DROP), which allows the member to defer receipt of his or her retirement benefits while continuing employment with his or her FRS employer.⁵ The deferred monthly benefits accrue in the FRS Trust Fund, plus interest compounded monthly. Participation in DROP spans a 60-month period; however, teachers,⁶ including teachers at a developmental research school,⁷ may participate in DROP for up to 96 months. DROP was extended for classroom teachers, in 2003,⁸ in order to help alleviate the teacher shortage experienced by this state.

Effect of Bill

The bill provides a six month window (January 1, 2006 – June 30, 2006) for a Senior Management Service Class employee who has withdrawn from the FRS to have one opportunity to elect to participate in either the FRS defined benefit plan or defined contribution plan (Public Employee Optional Retirement Program or PEORP). If an employee chooses to transfer to PEORP, the membership is prospective from that election. Alternatively, if the employee chooses to transfer to the FRS defined benefit plan, the employee will receive service credit for prior service based upon the time during which the employee had withdrawn from the system, but only upon payment to the FRS Trust Fund of an amount representing the actuarial accrued liability for the affected period of service.

The actuarial accrued liability cost is calculated using the discount rate and other relevant actuarial assumptions that were used to value the FRS defined benefit plan liabilities in the most recent actuarial valuation. The calculation includes any service already maintained under the defined benefit plan in addition to the period of withdrawal. The actuarial accrued liability attributable to any service already maintained under the defined benefit plan must be applied as a credit to the total cost resulting from the calculation.

The Division of Retirement must ensure that the transfer sum is prepared using a formula and methodology certified by an actuary.

The bill also extends DROP from 60 months to 96 months for a member who is employed as faculty or staff at a state university while also being employed as a teacher at the developmental research school of that state university. The member must receive authorization from both the state university's board of trustees and the developmental research school's director, or principal if there is no director in order to extend his or her DROP participation.

C. SECTION DIRECTORY:

Section 1 amends s. 121.055, F.S., relating to the Senior Management Service Class.

Section 2 amends s. 121.091, F.S., relating to retirement benefits payable under the FRS.

Section 3 provides a July 1, 2005, effective date.

⁵ Section 121.091(13), F.S.

⁶ Section 121.091(13)(a) and (b), F.S.

⁷ Section 121.093(2), F.S.

⁸ Chapter 2003-260, L.O.F.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the employee elects the defined benefit plan, and contributions in the prior retirement plan are not sufficient to create a net zero fiscal impact on the state retirement plan when those funds are transferred to the state, the employee is responsible for paying the difference. The employee will be required to supplement the transferred funds with additional private funds unless such additional funds are paid by the employer on behalf of the employee.⁹

D. FISCAL COMMENTS:

Should a senior management class employee choose to move to the FRS defined benefit plan during the authorized period, there must be a net zero fiscal impact upon the FRS. If the funds transferred from the employee's prior retirement account are not sufficient to pay the amount due to the FRS to join the defined benefit plan, the employee must supplement the transferred funds with additional private funds.¹⁰

In addition, the extension of DROP to a limited number of members will have no fiscal impact on the FRS.¹¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

⁹ Senate Staff Analysis and Economic Impact Statement, CS/SB 688, March 9, 2005, at 3.

¹⁰ *Id.*

¹¹ Email from the Division of Retirement, April 1, 2005.

2. Other:

The bill appears to comply with the requirements of s. 14, Art. X of the State Constitution.

Article X, s. 14, Florida Constitution

Since 1976, the Florida Constitution has required that retirement benefit increases 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, s. 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."

B. RULE-MAKING AUTHORITY:

The bill authorizes a professor, or even a university administrator, to extend his or her DROP participation even if he or she only teaches one class at the developmental research school. This extension appears to contradict the original intent of extending DROP to classroom teachers, as there appears to be no shortage of faculty or staff at universities throughout the state.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 6, 2005, the Governmental Operations Committee adopted a strike-all amendment and reported the bill favorably with committee substitute (CS). The CS:

- Removes the definition of "enrolled actuary."
- Applies the reenrollment option to all Senior Management Service Class members who are not currently enrolled in FRS, not just local government employees.
- Provides that the calculation of the transfer is based on the amount representing the actuarial accrued liability instead of the present value.
- Extends participation in DROP to a member, who is employed as faculty or staff at a state university while also being employed as a teacher at the developmental research school of that state university, provided the member has received proper authorization.