

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: SB 1684

INTRODUCER: Senator Lawson

SUBJECT: Special Risk Class/Agency Employees

DATE: April 4, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	<b>Favorable</b>
2.	_____	_____	GO	_____
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill expands the membership of the Florida Retirement System (FRS) Special Risk Class to include members who are employed in certain positions by the Department of Corrections (DOC), the Department of Children and Family Services (DCF), the Agency for Persons with Disabilities (APD), or the Department of Agriculture and Consumer Services (DACs). To qualify for Special Risk Class membership, these employees must spend at least 75 percent of their time performing duties that involve contact with patients or inmates in a correctional or forensic facility after October 1, 2007. Eligible members would earn a higher accrual value for retirement service credit for their Special Risk Class service while their employers would be required to pay a higher contribution rate to fund this increased benefit under the bill.

This bill substantially amends sections 121.021 and 121.0515, Florida Statutes.

**II. Present Situation:**

**Profile of the Florida Retirement System (FRS) and the Special Risk Class<sup>1</sup>**

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 almost 665,000 active employees, over 252,000 annuitants (retirees and their surviving beneficiaries), and more than 31,500 participants of the Deferred Retirement Option Program (DROP). As of June 30, 2006, state employees (including university employees) represent 21.27

<sup>1</sup> Information in the “Present Situation” and “Government Sector Impact” sections of this analysis is from the Department of Management Services’ analysis of the bill.

percent of the FRS membership. Remaining members are employed by local agencies, including all counties, district school boards, and community colleges, as well as cities and special districts 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 FRS 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, 2006, with 72,078 active members in the Special Risk Class and 74 members in the Special Risk Administrative Support Class, special risk employees made up nearly 11 percent of the active FRS membership.

In creating the Special Risk Class of membership within the FRS, 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 might 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 compared to other members with normal retirement after 30 years of service or at age 62 and vested.

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

- A Special Risk Class member earns retirement credit at the rate of 3 percent of average final compensation (AFC) for each year of service, as opposed to the 1.60 percent to 1.68 percent credit per year of service earned by a Regular Class member.
- 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.
- A Special Risk Class member who is totally and permanently disabled in the line of duty qualifies for a 65 percent minimum option 1 benefit payment compared to a Regular Class member similarly disabled who qualifies for a 42 percent minimum option 1 benefit payment.

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2006-07 plan year under the FRS, the retirement portion of the employer contribution rate for the Special Risk Class is 19.76 percent — more than double the

8.69 percent retirement contribution rate for the Regular Class.<sup>2</sup> When a membership group moves from the Regular Class to the Special Risk Class, the monthly employer contributions for those employees increase by over 2.25 times.

*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, correctional probation officers, emergency medical technicians, paramedics, youth custody officers, and specified forensic and health care workers, and who meet the criteria set forth in s. 121.0515, F.S. Specified professional health care and forensic positions in the Department of Corrections and the Department of Children and Families were included in the Special Risk Class effective January 1, 2001. To qualify for special risk membership, the members filling these state positions must spend at least 75 percent of their time performing duties involving inmate or patient contact.

### **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 ch. 112, F.S.**

Article X, Section 14, of the Florida Constitution is implemented by statute under part VII of ch. 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.”

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

The bill would expand the membership of the Florida Retirement System (FRS) Special Risk Class effective October 1, 2007, to include DOC, DCF, APD, and DACS employees who are in 58 specified positions. Of the positions, 55 are designated by class code and 3 are SES positions with no class code specified. To be eligible for inclusion in the Special Risk Class, these employees must spend at least 75 percent of their time performing duties involving contact with patients or inmates in a correctional or forensic facility. The positions included can be loosely grouped in the following areas:

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<sup>2</sup> Under the FRS Investment Plan, the amount contributed to an individual member account increases from 9 percent to 20 percent when the member moves from the Regular Class to the Special Risk Class.

- Automotive equipment superintendent
- Behavioral program employees
- Carpenters
- Health-related and health support employees
- Classroom teachers and vocational instructors
- Construction project consultants
- Electricians and electronic technicians
- Counselors and human services workers
- Inmate work crew leaders
- Maintenance employees
- Rehabilitation-related employees
- Wellness education employees

Affected members would prospectively earn a higher accrual value for retirement service credit for their Special Risk Class service and their employers would pay a higher contribution rate to fund these higher benefits. Currently, all 2,431 such positions are covered by the Regular Class and earn an accrual value of 1.60 percent to 1.68 percent of their average final compensation (AFC)<sup>3</sup> for each year of creditable service. As members of the Special Risk Class, the accrual value for each year of service would increase to 3.00 percent of AFC and the vested member would be eligible for unreduced 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). The employer contribution rate would increase from 8.69 percent to 19.76 percent.

The bill provides a statement of legislative intent and a determination and declaration that it fulfills an important state interest. It has an effective date of October 1, 2007, which is when the affected employees would become members of the Special Risk Class.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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<sup>3</sup> “Average final compensation” or “AFC” means the average of the member’s highest 5 years of salary.

**D. Other Constitutional Issues:**

According to the DMS, the bill complies with the requirements of Article X, Section 14 of the Florida Constitution and the provisions of Ch. 112, Part VII, F.S., relating to the actuarial statement of fiscal soundness.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None, except for a positive impact to employees who become members of the Special Risk Class.

**C. Government Sector Impact:**

As of March 16, 2007, the estimated combined annual prospective increase in employer contributions from the four affected agencies was \$8,196,793.

The table below reflects the estimated annual increase in employer contributions based upon the current impacted position information provided by the agencies and the current contribution rates in effect for fiscal year 2006-2007. Future payroll growth and future changes in employer contribution rates were not factored into the estimate. Also, the estimate does not include positions that are currently occupied by DROP participants or renewed members and that would later be eligible for Special Risk Class under the bill's provisions.

Agency	Number of Positions	Annual Salary	Current Employer Contributions (currently 8.69% for Regular Class)	Proposed Employer Contributions (currently 19.76% for Special Risk Class)	Fiscal Impact of Change to Special Risk Class
DOC	1404	\$42,151,821	\$3,662,993	\$8,329,200	\$4,666,207
DCF	741	\$20,038,412	\$1,741,338	\$3,959,590	\$2,218,252
ADP	265	\$11,307,622	\$982,632	\$2,234,386	\$1,251,754
DACS	21	\$547,241	\$47,555	\$108,135	\$60,580
<b>Total</b>	<b>2431</b>	<b>\$74,045,096</b>	<b>\$6,434,518</b>	<b>\$14,631,311</b>	<b>\$8,196,793</b>

The Special Risk Class membership proposed by this bill is prospective only, so the cost of the improved benefits would be primarily funded through the higher Special Risk Class contribution rates and compounded investment returns on those contributions. Any fiscal impact resulting from changing demographics or experience of the Special Risk

Class due to this change would be reflected in the contribution rates recommended by future valuations of the FRS and impact all employers with Special Risk Class members.

The table only includes those class codes that have been specified as newly eligible for membership in the Special Risk Class. DCF has noted that it has 162.5 positions that are very similar to the listed positions but are not included in the bill. Examples are Senior Physicians and Mental Health Program Analysts. Similarly, DOC indicates that it employs 118 “Academic Teachers” under class code 8093 who would not be eligible for membership in the Special Risk Class because only “Classroom Teachers” under class code 4147 are listed. It is not known whether those omissions were intentional.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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