

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill expands the Special Risk Class of the Florida Retirement System to include certain ocean water rescue lifeguards.

B. EFFECT OF PROPOSED CHANGES:

Florida Retirement System

Chapter 121, F.S., is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.¹

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 158 cities and 192 independent special districts that have elected to join the system.²

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for over: 600,000 active members, 252,000 retirees and surviving beneficiaries, and 31,000 Deferred Retirement Option Program participants.³ Members of the FRS belong to one of five membership classes:

1. Regular Class ⁴	583,213 members	87.73% of membership
2. Special Risk Class ⁵	72,078 members	10.84% of membership
3. Special Risk Administrative Support Class ⁶	74 members	0.01% of membership
4. Elected Officers' Class ⁷	2,195 members	0.33% of membership
5. Senior Management Service Class ⁸	7,259 members	1.09% of membership ⁹

Each class is funded separately through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, F.S.¹⁰

The Special Risk Class and its expansion

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,¹¹ may need to retire at an earlier age with less service than other types of employees.¹² As such, members of the Special Risk Class can retire at age 55 or with 25 years of

¹ Section 121.025, F.S.

² FL. Dept. of Mgmt. Svcs., *Florida Division of Retirement Main Page* (visited Feb. 12, 2007) <www.frs.state.fl.us>

³ *Id.*

⁴ Section 121.021(12), F.S.

⁵ Section 121.0515, F.S.

⁶ Section 121.0515(7), F.S.

⁷ Section 121.052, F.S.

⁸ Section 121.055, F.S.

⁹ Dept. of Mgmt. Svcs HB 205 (2007) Substantive Bill Analysis at 2 and 3. (Jan. 23, 2007) (on file with the dept. and the Committee on State Affairs) [hereafter referred to as DMS Analysis].

¹⁰ *See, e.g.*, s. 121.055(3)(a)1., F.S.

¹¹ Section 125.0515(1), F.S. (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity)

¹² *Id.*

creditable service.¹³ Members of the Special Risk Class also earn a higher normal retirement benefit of three percent of the member's average final compensation.¹⁴ These increased benefits are funded through higher employer contribution rates: 19.76 percent of gross compensation, effective July 1, 2006, and 21.96 percent, effective July 1, 2007.¹⁵

The only employees originally in the Special Risk Class were law enforcement officers, correctional officers, and firefighters.¹⁶ Starting in 1999, however, the Legislature started expanding the membership to include:

1999	Emergency medical technicians and paramedics ¹⁷
2000	Community-based correctional probation officers ¹⁸
2000	Twenty-four types of employees of correctional or forensic facilities or institutions ¹⁹
2001	Youth custody officers ²⁰
2005	Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline ²¹

Proposed Changes

This bill continues the expansion of the Special Risk Class by adding any member who is employed as an ocean water rescue lifeguard who fulfills the following criteria:

- Certified as an emergency medical technician or paramedic;²²
- Maintains compliance with the United States Lifesaving Association's Fulltime Open Water Lifeguard training standards;²³
- Works directly under the supervision of a fire rescue department or be supervised by a medical director;
- Has primary duties and responsibilities must include maintaining open water life safety and on-the-scene emergency rescue and response to emergencies in the water and on oceanfront beaches; and
- Works for an employer who is advanced certified by the United States Lifesaving Association.²⁴

¹³ Section 121.021(29), F.S., defines normal retirement date, which contrasts with members of the Regular Class who can retire at age 62 or with 30 years of creditable service.

¹⁴ Section 121.091(1)(a)2.h., F.S. (compared with 1.60 percent to 1.68 percent for Regular Class members).

¹⁵ Section 121.71(3), F.S. (compared with 8.69 percent, effective July 1, 2006, and 9.55 percent effective July 1, 2007, for Regular Class members).

¹⁶ Ch. 78-308, L.O.F.; codified as s. 121.0515, F.S.

¹⁷ Ch. 99-392, L.O.F., s. 23.

¹⁸ Ch. 2000-169, L.O.F., s. 29.

¹⁹ *Id.* (The following employees must spend at least 75 percent of their time performing duties which involve contact with patients or inmates to qualify for the Special Risk Class: dietician; public health nutrition consultant; psychological specialist; psychologist; senior psychologist; regional mental health consultant; psychological services director-DRC; pharmacist; certain senior pharmacists; dentist; senior dentist; registered nurse; senior registered nurse; registered nurse specialist; clinical associate; advanced registered nurse practitioner; advanced registered nurse practitioner specialist; registered nurse supervisor; senior registered nurse supervisor; registered nursing consultant; quality management program supervisor; executive nursing director; speech and hearing therapist; and pharmacy manager).

²⁰ Ch. 2001-125, L.O.F., s. 43.

²¹ Ch. 2005-167, L.O.F., s. 1; codified as s. 121.0515(2)(h), F.S. (The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility; the forensic discipline must be recognized by the International Association for Identification and the member must qualify for active membership in the International Association for Identification).

²² As provided in s. 401.27, F.S.

²³ U.S. Lifesaving Association Guidelines for Open Water Lifeguard Agency Certification, p. 9 (May 2005), available at: http://www.usla.org/Train+Cert/USLA_Guidelines.pdf (last visited February 15, 2007).

²⁴ *Id.*

This expansion does not apply to administrative support personnel, including those who perform accounting, purchasing, legal, and personnel duties.

The Department of Management Services states the number of ocean water rescue lifeguards potentially affected by this bill is unknown;²⁵ however, the United States Lifesaving Association has estimated that this bill would affect approximately 153 ocean rescue professional lifeguards.²⁶

C. SECTION DIRECTORY:

Section 1 amends s.121.021, F.S., expanding the definition of Special Risk Class member.

Section 2 amends s. 121.0515, F.S., providing membership in the Special Risk Class for certain ocean water rescue lifeguards.

Section 3 provides a declaration of important state interest.

Section 4 provides an effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a fiscal impact on state government expenditures if there are any qualifying ocean water rescue lifeguards employed by state government or if the continued expansion of the Special Risk Class ultimately requires increased contribution rates for all employers with Special Risk Class members.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Affected local government FRS employers would pay an increased retirement contribution rate for their FRS members who are affected by this bill. The contribution rate would increase by 11.07 percent of payroll for affected positions based upon the 2006 - 2007 contribution rates.²⁷

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Department of Management Services provided the following fiscal note from the enrolled actuary regarding this bill:

²⁵ DMS Analysis at 1.

²⁶ Statewide Impact of Potentially Upgradeable FRS Ocean Lifeguard Years of Service Projected for Oct 2007, United States Lifesaving Association/Chiefs' Survey. (Feb. 2007) (on file with the committee)

²⁷ DMS Analysis at 5.

HB 205 would add an unknown number of additional positions to the Special Risk Class. The fiscal impact is primarily funded through the required employer contributions for members of the Special Risk Class. Any fiscal impact resulting from a change in class demographics or experience would be reflected in the employer contribution rates recommended by future valuations of the FRS.²⁸

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

The bill is expected, however, to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Because the bill provides that it fulfills an important state interest and the expenditures required by the bill appear to apply to all persons similarly situated, including state and local governments, the bill appears to satisfy the requirements of section 18, article VII of the State Constitution.

2. Other:

Article X, Section 14, Florida Constitution

Article X, section 14 of the State Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.²⁹

For Special Risk Class membership, the employers of the new special risk members will pay an increased contribution rate of 11.07 percent of pay (the difference between the Regular Class and Special Risk Class rates)³⁰ for each affected member. This increase in the required contribution rate appears to satisfy the requirements in article X, section 14 of the State Constitution and part VII of ch. 112, F.S.,³¹ to fund benefit increases to public retirement or pension systems. The Department of Management Services concurs that the bill complies with this constitutional requirement.³²

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

²⁸ DMS Analysis at 6.

²⁹ Part VII of Chapter 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of Article X, section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

³⁰ Section 121.71(3), F.S.

³¹ Ch. 112, part VII, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of article X section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

³² DMS Analysis at 6.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.