

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

BILL: SB 108

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Florida Retirement System

DATE: January 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ryon	Ryon	MS	Pre-meeting
2.			GO	
3.			AP	

I. Summary:

SB 108 will allow qualifying members of the Florida Retirement System to purchase credit for their prior military wartime service under more favorable conditions. Specifically, the bill will enhance the retirement benefits available to such members by enabling them to purchase up to 4 years of military wartime service under a previous repurchase formula discontinued by the Legislature in 1985. The bill will likely have a significant fiscal impact to the Florida Retirement System Trust Fund.

The bill contains a statement of public necessity as required by the State Constitution.

II. Present Situation:

Under the Florida Retirement System (FRS) members are authorized to purchase credit for certain other types of service to increase their retirement benefits. The cost for additional credit depends on the type of service claimed. Section 121.111, F.S., establishes general requirements governing the purchase of credit for military service. Currently, there are three primary methods by which military service may be claimed:

Wartime Military Service – If an FRS member was first employed in a covered position before January 1, 1987, the member may purchase credit for up to 4 years of active duty wartime service with the United States Armed Forces or allied forces. The period of military service must fall within the definition of “wartime” period as established in s. 1.01(14), F.S.¹ If one or more days of any period of active military service occurred during the dates identified as “wartime,” the member may claim credit for the entire period (not to exceed 4 years). The formula for

¹ This section provides that in order to receive benefits as a “wartime veteran” a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or a veteran must have served during one of the following conflicts: Spanish-American War, Mexican Border Period, World War I, World War II, Korean War, Vietnam War, Persian Gulf War, Operation Enduring Freedom, or Operation Iraqi Freedom.

purchasing credit under this provision is 4 percent of the member's first year's salary under the FRS for each year of service, plus annual interest (4 percent prior to 1975, and 6.5 percent thereafter) from the first year of covered employment for each year of service credit.

Military Leave of Absence – A military leave of absence occurs when a member leaves covered employment to serve in the military. To receive service credit under this provision the member must be honorably discharged and entitled to return to work under the provisions of the Uniformed Services Employment and Reemployment Act. After the member returns to covered employment, he or she may receive credit for up to 5 years of active military service. If the military leave of absence occurs on or after December 3, 1974, the employer is responsible for payment of all employer contributions required during the period of absence.

Out-of-State Public/Federal Service – Under s. 121.1115, F.S., FRS members may elect to purchase credit for up to 5 years of out-of-state public employment. The service claimed must have been for periods of public employment in another state or for the federal government (including military service not otherwise creditable under the FRS). The formula for purchasing credit under this provision is 20 percent of the member's first year's salary under the FRS (a minimum of \$12,000), plus annual interest (6.5 percent) from the first year of covered employment for each year of service credit.

The 1985 Legislature amended ch. 121, F.S., to provide that any member whose initial employment under FRS was on or after January 1, 1987, could no longer purchase active military service as creditable service. The rationale underlying this action was that the formula that determined the cost of purchasing this service did not fund the cost of the increased retirement benefit provided by including military service. Pursuant to Article X, Section 14 of the Florida Constitution, and ch. 112, F.S., retirement benefit improvements must be funded on an actuarially sound basis. Another consideration in the Legislature's decision to discontinue this repurchase option was a series of federal court rulings which increased the likelihood that the FRS would be required to subsidize both wartime and peacetime military service if either category was awarded.

In 1997, the Legislature revisited this issue and amended s. 121.1115, F.S., to allow FRS members to purchase their military service as out-of-state public service. The out-of-state cost formula is such that the purchase price covers the actuarial impact to the FRS of any service purchased under this provision, thereby transferring the cost from the retirement system to those members purchasing out-of-state service. However, the cost to purchase military service under the out-of-state provision is considerably higher than the cost to claim the service under the "wartime" provision.

III. Effect of Proposed Changes:

The bill amends s. 121.111(2), F.S., to permit the purchase of wartime service as additional years of employment for members of the FRS employed after January 1, 1987. The bill effectively allows members to purchase up to 4 years of military service under the more favorable repurchase conditions of the "wartime" provision rather than the out-of-state provision. This would enable qualifying members to repurchase military service under the formula discontinued

by the Legislature in 1985. The intent of this bill is to allow affected members to purchase their military service under the less costly "wartime" provisions.

The bill also updates references to the Federal Uniformed Services Employment and Reemployment Rights Act and contains a statement of public necessity as required by the State Constitution.

The bill provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill will likely require counties and municipalities to implement an increase in the retirement contribution rates paid by these entities. To the extent this bill requires cities and counties to spend money or take action that requires the expenditure of money, the mandates provision of Art. VII, s. 18 of the State Constitution may apply. If those constitutional provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (included in section 3 of the bill), and one of the following relevant exceptions must be met:

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the memberships of each house of the Legislature.

This bill contains a statement indicating that the bill fulfills an important state interest and the bill applies to similarly situated persons (all employers who participate in the FRS), so it appears that this exception would apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill does not provide for the proper funding of this increased benefit and therefore does not comply with Article X, Section 18, of the Florida Constitution, requiring that any purchase in benefits must be funded on a sound actuarial basis.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill will enable an indeterminate number of qualifying FRS members to purchase up to 4 years of prior wartime military service under more favorable conditions.

C. Government Sector Impact:

The bill will require payroll contribution rate increases by the state and participating local entities to fully fund the benefit. In the absence of an actuarial impact analysis of this proposal, the fiscal impact of the bill is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 121.111, 121.052.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.