

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 977 Retirement of Instructional Personnel and Administrative Personnel
SPONSOR(S): Fine
TIED BILLS: IDEN./SIM. BILLS: CS/SB 1240

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| 1) Oversight, Transparency & Administration Subcommittee | 12 Y, 0 N | Moore | Harrington |
| 2) Appropriations Committee | 27 Y, 0 N | Delaney | Leznoff |
| 3) Government Accountability Committee | | | |

SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multiple-employer, contributory plan that provides retirement income benefits for employees of the state and county government agencies, district school boards, state colleges, and universities and it also serves as the retirement plan for participating employees of the cities and independent hospitals and special districts that have elected to join the system. Members of the FRS have two plan options available for participation: the pension plan, which is a defined benefit plan, and the investment plan, which is a defined contribution plan.

In addition to the two primary plans, some eligible members have the choice of participating in optional retirement programs. All membership classes in the FRS Pension Plan may participate in the Deferred Retirement Option Program (DROP), which allows a member to retire without terminating employment; a member who enters DROP may extend employment for an additional five years. Certain instructional personnel may participate in DROP for up to three years beyond the initial five-year period. While in DROP, the member's retirement benefits accumulate and earn interest compounded monthly.

The bill provides that effective July 1, 2018, instructional personnel who are authorized to extend DROP participation beyond the 60-month period must have a termination date that is the last day of the last calendar month of the school year within the DROP extension granted by the employer. For those employees who have already extended DROP on or before July 1, 2018, the member's DROP participation may be extended through the last day of the last calendar month of that school year. The employer must notify the division of the change in termination date and the additional period of DROP participation for the affected instructional personnel.

In addition, administrative personnel in grades K-12 who have a DROP termination date on or after July 1, 2018, may be authorized to extend DROP participation beyond the initial 60 calendar month period if the administrative personnel's termination date is before the end of the school year. Such administrative personnel may have DROP participation extended until the last day of the last calendar month of the school year in which their original DROP termination date occurred.

The bill has no fiscal impact on state or local government. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹

The FRS is a multiple-employer, contributory plan² governed by the Florida Retirement System Act.³ As of June 30, 2017, the FRS provides retirement income benefits to 637,643 active members,⁴ 406,374 retired members and beneficiaries, and 32,233 members of the Deferred Retirement Option Program (DROP).⁵ It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 173 cities and 266 independent hospitals and special districts that have elected to join the system.⁶

The membership of the FRS is divided into five membership classes:⁷

- Regular Class⁸ consists of 555,716 members (87.15 percent of the membership);
- Special Risk Class⁹ includes 71,612 members (11.23 percent);
- Special Risk Administrative Support Class¹⁰ has 93 members (.01 percent);
- Elected Officers' Class¹¹ has 2,167 members (0.34 percent); and
- Senior Management Service Class¹² has 8,028 members (1.27 percent).

Each class is funded separately based upon the costs attributable to the members of that class.

¹ *Florida Retirement System Pension Plan And Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2017*, at 33. A copy of the report can be found online at:

http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports (last visited January 19, 2018) [hereinafter *Annual Report*].

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class members or 6 percent for Special Risk Class members. Members were again required to contribute to the system after June 30, 2011.

³ Chapter 121, F.S.

⁴ As of June 30, 2017, the FRS Pension Plan, which is a defined benefit plan, had 520,014 members, and the investment plan, which is a defined contribution plan, had 117,629 members. *Annual Report*, *supra* note 1, at 144.

⁵ *Id.*

⁶ Florida Retirement System Participating Employers for Plan Year 2017-18, prepared by the Department of Management Services, Division of Retirement, Revised February 2017, at 8. A copy of the document can be found online at:

<https://www.rol.frs.state.fl.us/forms/part-emp.pdf> (last visited January 19, 2018).

⁷ *Annual Report*, *supra* note 1, at 147.

⁸ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁹ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics, and emergency technicians, among others. Section 121.0515, F.S.

¹⁰ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the FRS. Section 121.0515(8), F.S.

¹¹ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

¹² The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

Members of the FRS have two primary plan options available for participation:

- The pension plan, which is a defined benefit plan; and
- The investment plan, which is a defined contribution plan.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

FRS Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹³ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁴

A member vests immediately in all employee contributions paid to the investment plan.¹⁵ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁶ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁷

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers. The amount of money contributed to each member's account varies by class as follows:

| Membership Class | Percentage of Gross Compensation |
|---|---|
| Regular Class | 6.30% |
| Special Risk Class | 14.00% |
| Special Risk Administrative Support Class | 7.95% |
| Elected Officers' Class | |
| • Justices and Judges | 13.23% |
| • County Elected Officers | 11.34% |
| • Others | 9.38% |
| Senior Management Service Class | 7.67% |

FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement (division).¹⁸ Investment management is handled by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁹ For members initially enrolled on or after July

¹³ Section 121.4501(8), F.S.

¹⁴ Section 4(e), Art. IV, Fla. Const.

¹⁵ Section 121.4501(6)(a), F.S.

¹⁶ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.

¹⁷ Section 121.591, F.S.

¹⁸ Section 121.025, F.S.

¹⁹ Section 121.021(45)(a), F.S.

1, 2011, the member vests in the pension plan after eight years of creditable service.²⁰ A member vests immediately in all employee contributions paid to the pension plan.

Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final compensation.²¹ The accrual rate varies by class as follows:

| Membership Class | Accrual Rate |
|---|--|
| Regular Class | 1.60%, 1.63%, 1.65%, 1.68% ²² |
| Special Risk Class | 3.00% |
| Special Risk Administrative Support Class | 1.60%, 1.63%, 1.65%, 1.68% ²³ |
| Elected Officers' Class | |
| • Justices and Judges | 3.33% |
| • Others | 3.00% |
| Senior Management Service Class | 2.00% |

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.²⁴ For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²⁵ Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.²⁶

DROP

All membership classes in the FRS Pension Plan may participate in DROP, which allows a member to retire without terminating employment; a member who enters DROP may extend employment for an additional five years.²⁷ However, members who are instructional personnel employed by the Florida School for the Deaf and Blind and authorized by the Board of Trustees of the Florida School for the Deaf and Blind, who are instructional personnel as defined in s. 1012.01(2)(a)-(d), F.S., in grades K-12 and authorized by the district school superintendent, or who are instructional personnel as defined in s. 1012.01(2), F.S., employed by a developmental research school and authorized by the school's director, or if the school has no director, by the school's principal, may participate in DROP for up to three years beyond the initial five-year period.²⁸ While in DROP, the member's retirement benefits accumulate and earn interest compounded monthly.²⁹

Members in the FRS Investment Plan may not participate in DROP; investment plan members are considered retired from the FRS when the member takes a distribution from his or her account.³⁰

Effect of the Bill

The bill provides that effective July 1, 2018, instructional personnel who are authorized to extend DROP participation beyond the 60-month period must have a termination date that is the last day of the last calendar month of the school year within the DROP extension granted by the employer. For those employees who have already extended DROP on or before July 1, 2018, the member's DROP

²⁰ Section 121.021(45)(b), F.S.

²¹ Section 121.091, F.S.

²² Section 121.091(1)(a)1., F.S.

²³ Section 121.0515(8)(a), F.S.

²⁴ Section 121.021(29)(a)1., F.S.

²⁵ Section 121.021(29)(b)1., F.S.

²⁶ Section 121.021(29)(a)2. and (b)2., F.S.

²⁷ Section 121.091(13)(a) and (b), F.S.

²⁸ Section 121.091(13)(b), F.S.

²⁹ If DROP participation began prior to July 1, 2011, the effective annual interest rate was 6.5 percent. On or after July 1, 2011, the annual interest rate for DROP is 1.3 percent.

³⁰ See s. 121.4501(2)(k) and (4)(f), F.S.

participation may be extended through the last day of the last calendar month of that school year. The employer must notify the division of the change in termination date and the additional period of DROP participation for the affected instructional personnel.

In addition, administrative personnel in grades K-12 who have a DROP termination date on or after July 1, 2018, may be authorized to extend DROP participation beyond the initial 60 calendar month period if the administrative personnel's termination date is before the end of the school year. Such administrative personnel may have DROP participation extended until the last day of the last calendar month of the school year in which their original DROP termination date occurred.

B. SECTION DIRECTORY:

Section 1. amends s. 121.091, F.S., revising limitations on the maximum length of participation in DROP for certain instructional personnel and administrative personnel.

Section 2. provides a statement of important state interest.

Section 3. provides that the bill is effective on July 1, 2018.

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:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill authorizes certain school instructional personnel and administrative personnel to extend the length of their participation in DROP at the discretion of the employer. As such, any fiscal impact from the provisions of the bill will be dependent on decisions made by local employers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to

raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Actuarial Requirements

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida 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.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.