

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 803 Special Risk Class
SPONSOR(S): Aloupis
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 574, SB 1190

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee		Moore	Harrington
2) Appropriations Committee			
3) State Affairs 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. As of June 30, 2018, the FRS had 643,333 active members, 415,800 annuitants, 16,032 disabled retirees, and 33,432 active participants of the Deferred Retirement Option Program. As of June 30, 2018, the FRS consisted of 1,002 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College System institutions, and state universities, and also includes the 173 cities and 267 special districts that have elected to join the system.

The 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. The Special Risk Class consists of state and local government employees who meet the criteria for special risk membership. In general, the Special Risk Class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet the statutory criteria.

The bill adds to the Special Risk Class of the FRS certain employees of Florida State Hospital, the Northeast Florida State Hospital, the North Florida Evaluation and Treatment Center, and the Sunland Center at Marianna and at Chattahoochee, including the Developmental Disabilities Defendant Program. To be eligible for Special Risk Class membership, the employee must be a member of the FRS, spend at least 65 percent of his or her time performing duties that involve contact with patients or inmates at one of these facilities, and be employed in one of the job classes specified in the bill.

The bill will likely have a significant fiscal impact to the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Retirement System (FRS)

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 multi-employer, contributory plan governed by the Florida Retirement System Act.² As of June 30, 2018, the FRS had 643,333 active members, 415,800 annuitants, 16,032 disabled retirees, and 33,432 active participants of the Deferred Retirement Option Program (DROP).³ As of June 30, 2018, the FRS consisted of 1,002 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College System institutions, and state universities, and also includes the 173 cities and 267 special districts that have elected to join the system.⁴

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

- The Regular Class⁵ consists of 551,997 active members and 7,349 in renewed membership;
- The Special Risk Class⁶ includes 72,642 active members and 976 in renewed membership;
- The Special Risk Administrative Support Class⁷ has 87 active members;
- The Elected Officers' Class⁸ has 2,050 active members and 120 in renewed membership; and
- The Senior Management Service Class⁹ has 7,881 active members and 207 in renewed membership.¹⁰

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

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

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

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

¹ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, (FRS CAFR) at 35, available at https://www.rol.frs.state.fl.us/forms/2017-18_CAFR.pdf. (Last visited March 1, 2019.)

² Chapter 121, F.S.

³ *Id.* at 160.

⁴ *Id.* at 196.

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ 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.

⁷ 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.

⁸ 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.

⁹ 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.

¹⁰ *Supra*, note 1 at 163.

The Special Risk Class of the FRS

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 the statutory criteria.¹¹

When originally establishing the Special Risk Class of membership in the FRS, the Legislature recognized that persons employed in certain categories of positions:

are required to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other membership classes and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom.¹²

Compared to Regular Class members, a person who is a member in the Special Risk Class earns a higher annual service accrual rate, may retire at an earlier age and is eligible to receive higher disability and death benefits. As a result, the contribution rates to fund the normal cost of the Special Risk benefits are higher than the contribution rates to fund the normal cost of the Regular Class benefits. Similarly, the contribution rates to fund the unfunded liabilities of the Special Risk Class are higher than those contribution rates for the Regular Class.

Mental Health Treatment Facilities

The Department of Children and Families (DCF) runs three mental health treatment facilities: the Florida State Hospital (FSH); the Northeast Florida State Hospital (NEFSH) and the North Florida Evaluation and Treatment Center (NFETC). FSH provides civil and forensic services, the NEFSH provides only civil services, and the NFETC only provides forensic services.

FSH, located in Chattahoochee, Florida, is a state psychiatric hospital that provides civil and forensic services.¹³ The hospital's civil services program aims to provide people who have severe and persistent mental illness in successfully functioning in valued roles and environments of their choosing. The program is comprised of the following three units with a total of 490 beds:

- Civil Admission, which evaluates and provides psychiatric services primarily for newly admitted acutely ill male and female civil residents between the ages of 18 and 64;
- The Civil Transition Program, which serves civil residents and individuals previously in a forensic setting who no longer need that level of security and with court approval, may reside in a less restrictive civil environment; and
- Specialty Care, which serves a diverse population of individuals requiring mental health treatment and services, including civil and forensic step downs.¹⁴

The hospital's forensic services program evaluates and treats persons with felony charges who have been adjudicated incompetent to stand trial or not guilty by reason of insanity. The program is comprised of the following two units:

- Forensic Admission, which is a maximum security facility that assesses new admissions, provides short-term treatment and competency restoration for defendants found incompetent to

¹¹ See 121.0515, F.S.

¹² Section 121.0515(1), F.S.

¹³ See DCF, *FSH Services/Programs*, <http://www.myflfamilies.com/service-programs/mental-health/fsh/services-programs> (last visited Mar. 21, 2019).

¹⁴ *Id.*

stand trial, and behavior stabilization for persons committed as not guilty by reason of insanity; and

- Forensic Central, which provides longer-term treatment and serves a seriously and persistently mentally ill population who are incompetent to proceed or not guilty by reason of insanity.¹⁵

NEFSH, located in Macclenny, Florida, is a state psychiatric hospital that provides civil services.¹⁶ The facility operates 633 beds and is the largest state-owned provider of psychiatric care and treatment to civilly committed individuals in Florida. Referrals are based upon community and regional priorities for admission.

NFETC, located in Gainesville, Florida, is an evaluation and treatment center for people with mental illnesses who are involved in the criminal justice system.¹⁷ The center has 193 beds open for the evaluation and treatment of residents who have major mental disorders. These residents are either incompetent to proceed to trial or have been judged to be not guilty by reason of insanity.

The Agency for Persons with Disabilities (APD) operates the Sunland Center in Marianna, the Developmental Disabilities Defendant Program (DDDP) in Chattahoochee, and the Tacachale facility in Gainesville. The DDDP is a 146 bed, co-ed, secure facility located on the grounds of FSH in Chattahoochee, Florida. DDDP is the state's only admission facility for individuals charged with a felony crime and found to be incompetent to proceed to trial based on a developmental or intellectual disability.¹⁸

Effect of the Bill

The bill adds to the Special Risk Class of the FRS certain employees of FSH, NEFSH, NFETC, and the Sunland Center at Marianna and at Chattahoochee, including the DDDP.

To be eligible for Special Risk Class membership, the employee must be a member of the FRS, spend at least 65 percent of his or her time performing duties that involve contact with patients or inmates at one of these facilities, and be employed in one of the following job classes:

- Abuse registry counselor (class code 5961).
- Barber/beautician (class codes 6201, 6205, and 6206).
- Behavioral program associate (class codes 5750 and 5762).
- Behavioral program specialist (class codes 5751 and 5763).
- Certified radiologic technologist (class codes 5523, 5524, 5527, and 5528).
- Chaplain (class codes 5819 and 5820).
- Child protective investigator (class code 8371).
- Child protective field support consultant (class code 8374).
- Children, youth, and families counselor (class code 5954).
- Classroom teacher (class codes 4144 and 4147).
- Custodial worker (class codes 6511 and 6526).
- Dental assistant (class codes 5632 and 5633).
- Dental hygienist (class code 5641).
- Dental technician (class code 5644).
- Dietetic technician (class code 5594).
- Direct services aide (class code 5702).
- Education and training specialist (class code 1328).

¹⁵ *Id.*

¹⁶ DCF, *State Mental Health Treatment Facilities: Northeast Florida State Hospital*, <http://www.dcf.state.fl.us/service-programs/mental-health/nefsh/about.shtml> (last visited Mar. 21, 2019).

¹⁷ DCF, *State Mental Health Treatment Facilities: North Florida Evaluation and Treatment Center*, <http://www.dcf.state.fl.us/service-programs/mental-health/nfetc/about.shtml> (last visited Mar. 21, 2019).

¹⁸ APD, *About Sunland Center in Mariana*, <http://apd.myflorida.com/sunland/about.htm> (last visited Mar. 21, 2019).

- Food control specialist (class code 6217).
- Food support worker (class code 6213).
- Health support aide (class codes 5504 and 5505).
- Human services counselor (class codes 5934, 5936, 5937, 5940, and 5941).
- Human services program specialist (class code 5877).
- Human services worker (class codes 5706, 5709, 5781, and 5784).
- Librarian (class code 4315).
- Librarian specialist (class codes 4318 and 4319).
- Licensed practical nurse (class code 5599).
- Pharmacy technician (class codes 5500 and 5501).
- Rehabilitation therapist (class codes 5562 and 5563).
- Residential unit specialist (class code 5736).
- Senior chaplain (class code 5823).
- Senior licensed practical nurse (class codes 5597 and 5600)
- Social services counselor (class codes 5953 and 5960).
- Storekeeper (class codes 0918, 0921, and 0922).
- Teacher aide (class codes 4133 and 4142).
- Therapy aide (class codes 5556 and 5557).
- Training specialist (class codes 1322 and 1324).
- Unit treatment and rehab specialist (class codes 5776 and 5791).
- Vocational instructor (class codes 1309, 1310, 1311, 1312, 1313, and 1315).
- Volunteer services center specialist (class code 6000).
- Volunteer services specialist (class code 5997).

B. SECTION DIRECTORY:

Section 1. amends s. 121.0515, F.S., relating to the special risk class.

Section 2. provides that the act fulfills an important state interest.

Section 3. provides an effective date of January 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DCF and APD will incur higher retirement contributions to fund these enhanced benefits for employees moving from the Regular Class to the Special Risk Class of the FRS as specified in the bill. Because an actuarial study has not been completed to calculate the increased costs for these benefit improvements, the rate changes are unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

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." 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

Not applicable.