

**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.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 858

INTRODUCER: Senator Gruters

SUBJECT: Cost-of-living Adjustment for Special Risk Class Retirees

DATE: February 7, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	<b>Pre-meeting</b>
2.			AEG	
3.			AP	

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**I. Summary:**

SB 858 amends s. 121.101(4), F.S., to base the annual cost-of-living adjustment (COLA) for a Florida Retirement System (FRS) Pension Plan retiree who was a member of the Special Risk Class on June 30, 2011, and on the date of retirement, on the member's total service credit earned as of June 30, 2020 (rather than the member's full service). This COLA adjustment for eligible retirees will be applied prospectively for retirement payments beginning on or after July 1, 2020.

An actuarial study has been completed to determine the amount of additional funding necessary to meet the requirements under Article X, Section 14 of the State Constitution and Part VII, chapter 112, F.S., that retirement benefit enhancements are funded on a concurrent and actuarially sound basis. Based on an actuarial study<sup>1</sup> of the impact of the bill, the annual retirement contributions system-wide will need to be increased by \$54 million<sup>2</sup> to meet the concurrent funding requirement. The bill does not include the necessary adjustments to FRS contributions to fund the enhanced benefits.

The bill provides a determination that the bill fulfills an important state interest.

The bill takes effect July 1, 2020.

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<sup>1</sup> Letter to Mr. David DiSalvo, Re: Special Actuarial Study of Modified COLA Rate for Certain Tier 1 Special Risk Class Members and Beneficiaries, dated January 31, 2020 (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>2</sup> *Id.* at Table 2-1.

## II. Present Situation:

### The Florida Retirement System

#### *Overview*

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.<sup>3</sup> The FRS is a contributory system, with active members contributing three percent of their salaries.<sup>4</sup>

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2019, the FRS had 647,942 active members, 424,895 annuitants, 15,783 disabled retirees, and 32,670 active participants of the Deferred Retirement Option Program (DROP).<sup>5</sup> As of June 30, 2019, the FRS consisted of 976 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 176 cities and 136 special districts that have elected to join the system.<sup>6</sup>

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

- The Regular Class<sup>7</sup> consists of 554,631 active members and 7,629 in renewed membership;
- The Special Risk Class<sup>8</sup> includes 74,274 active members and 1,112 in renewed membership;
- The Special Risk Administrative Support Class<sup>9</sup> has 100 active members and 1 in renewed membership;
- The Elected Officers' Class<sup>10</sup> has 2,088 active members and 112 in renewed membership; and

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<sup>3</sup> Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 35. Available online at: [https://www.rol.frs.state.fl.us/forms/2018-19\\_CAFR.pdf](https://www.rol.frs.state.fl.us/forms/2018-19_CAFR.pdf). (last visited January 13, 2020).

<sup>4</sup> Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

<sup>5</sup> Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 158.

<sup>6</sup> *Id.* at 193.

<sup>7</sup> The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>8</sup> 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.

<sup>9</sup> 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 Florida Retirement System. Section 121.0515(8), F.S.

<sup>10</sup> 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.

- The Senior Management Service Class<sup>11</sup> has 7,767 active members and 214 in renewed membership.<sup>12</sup>

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.

### ***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, correctional and forensic medical care who meet statutory criteria for membership as set forth in section 121.0515, F.S.

### ***Cost of living adjustments to retirement benefits***

Under current law, the COLA is 3 percent for retirees and beneficiaries with an effective retirement date prior to July 1, 2011. Retirements effective on and after July 1, 2011, receive an individually determined COLA calculated as 3 percent multiplied by the quotient of the sum of the member's service credit earned prior to July 1, 2011, divided by the sum of the member's total service credit earned. Pension Plan members initially enrolled on or after July 1, 2011, have a post-retirement COLA equal to zero.

When the FRS was created COLA was variable, tied to the consumer price index with a 3 percent cap each year. There have been a period of special adjustments without impacting the increase in general for all FRS retirees and surviving beneficiaries, until the 1987 Florida Legislature changed the COLA to a fixed 3 percent of the June benefit unless the retiree was not retired for at least 12 calendar months in which case the first COLA was a prorated portion of 3 percent based on the number of months retired prior to the first July after retirement.

### **Funding for Benefit Enhancements**

#### ***Article X, Section 14, of the State Constitution***

Since 1976, the State 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

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<sup>11</sup> 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.

<sup>12</sup> All figures are from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019, at p. 161.

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 Chapter 112, F.S.***

Article X, Section 14, of the State Constitution is implemented by statute under part VII of chapter 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:**

**Section 1** amends s. 121.101, F.S., to base the annual cost-of-living adjustment (COLA) for a Florida Retirement System (FRS) Pension Plan retiree who was a member of the Special Risk Class on June 30, 2011, and on the date of retirement, on the member’s total service credit earned as of June 30, 2020 (rather than the member’s full service). This COLA adjustment for eligible retirees will be applied prospectively for retirement payments beginning on or after July 1, 2020.

**Section 2** provides a declaration that the bill fulfills an important state interest.

The bill takes effect July 1, 2020.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the State Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the expenditure is required to comply with a law that applies to all persons similarly situated....”

This bill includes legislative findings that the bill fulfills important state interests, and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, community colleges, counties, and municipalities.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

Since 1976, Article X, Section 14, of the State 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.

An actuarial study has been completed to comply with Article X, section 14 of the State Constitution, but the bill does not provides the adjustment to contribution rates necessary to fund the cost of the retirement benefit enhancements.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Based on an actuarial study<sup>13</sup> of the impact of similar changes with a 2 percent minimum COLA, the annual retirement contributions system-wide will be increased by \$54 million<sup>14</sup> to meet the concurrent funding requirement beginning July 1, 2020.

The Department of Management Services will incur some costs to modify the benefits calculation programs.

**VI. Technical Deficiencies:**

None.

<sup>13</sup> Letter to Mr. David DiSalvo, *supra* note 1.

<sup>14</sup> *Id.* at Table 2-1 (page (2 of 2)).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 121.101 of the Florida Statutes.

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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