

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 239 Florida Retirement System

SPONSOR(S): Appropriations Committee and Constitutional Rights, Rule of Law & Government Operations Subcommittee, Busatta Cabrera, Casello, and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 7024

FINAL HOUSE FLOOR ACTION: 112 Y's

0 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/CS/HB 239 passed the House on May 5, 2023, as CS/SB 7024, as amended by the conference committee. The bill conforms the law to the House proposed 2023-2024 General Appropriations Act (GAA) as retirement contributions are included in the GAA.

The Florida Retirement System (FRS) is a multiple-employer, contributory plan that provides retirement income benefits for employees of state and county government agencies, district school boards, state colleges and universities. It also serves as the retirement plan for employees of the cities, special districts, and independent hospitals 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. The FRS Deferred Retirement Option Program (DROP) allows eligible pension plan members to participate in the program and defer receipt of retirement benefits while continuing employment with his or her FRS employer.

The Department of Management Services must compile an annual actuarial valuation of the FRS and report the results to the Legislature by December 31 of each year. Thereafter, the Legislature uses the results of the actuarial valuation to establish uniform employer contribution rates during the next legislative session to ensure the FRS is funded in a sound actuarial manner.

The bill:

- Increases the employer-funded allocations to investment plan accounts by 2 percent for each membership class.
- Increases the monthly retiree health insurance subsidy from \$5 to \$7.50 for each year of service.
- Restores the pre-2011 normal retirement age and years of service for Special Risk Class members.
- Revises DROP by removing age restrictive entry windows to enter DROP for all members that have met normal retirement requirements, increasing the amount of time all eligible members can participate in DROP, and increasing the amount of monthly interest applied to a member's DROP account.
- Adjusts the employer contribution rates for the FRS based on certain actuarial studies.
- Increases allocations for member disability coverage and line-of-duty death benefits.
- Declares that the act fulfills an important state interest.

The application of the rates will have a significant fiscal impact to funds appropriated by the Legislature associated with employee salaries and benefits. Provisions of the bill relating to employer retirement contribution rates will increase the amounts FRS employers must pay for employee retirement benefits. See Fiscal Comments.

The bill was approved by the Governor on June 5, 2023, ch. 2023-193, L.O.F., and became effective on that date except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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. The FRS was amended in 1998 to add the Deferred Retirement Option Program (DROP) under the defined benefit plan and

amended in 2000 to provide a defined contribution plan alternative to the defined benefit plan for FRS members effective July 1, 2002.¹

The FRS is a multiple-employer, contributory plan² governed by the Florida Retirement System Act.³ As of June 30, 2022, the FRS provides retirement income benefits to 629,073 active members,⁴ 448,846 retired members and beneficiaries, and 28,827 members in DROP.⁵ It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and state universities. The FRS also serves as the retirement plan for the employees of the 180 cities, 153 special districts, and two independent hospitals that have elected to join the system.⁶

The FRS is a low-cost system compared to other retirement systems. The cost to administer the FRS in 2022 was \$19 per active member and annuitant compared to the peer average of \$115 for other similar pension systems. Further, the number of staff to administer the FRS is 1.3 positions per 10,000 members versus an average of 3.4 per 10,000 members of other similar retirement systems.⁷

Membership of the FRS is divided into the following membership classes:⁸

- Regular Class⁹ consists of 537,128 members (85.38 percent of the total 2022 FRS membership). This class is for all members who are not assigned to another class.
- Special Risk Class¹⁰ includes 72,925 members (11.59 percent). This class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency medical technicians, among others.
- Special Risk Administrative Support Class¹¹ has 104 members (0.017 percent). This class is for former Special Risk Class members who provide administrative support within an FRS special risk employing agency. Members of this class must maintain the certification required for their former Special Risk Class position and be subject to recall into those positions if needed.
- Elected Officers' Class¹² has 2,095 members (0.33 percent). This 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.
- Senior Management Service Class¹³ has 7,875 members (1.24 percent). This 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 Class designation.

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

Total FRS Membership by Plan¹⁴			
	2021	2022	Percent Change
Investment Plan	176,577	184,923	5%
Pension Plan	458,689	444,150	-3%
Total Membership	635,266	629,073	-1%

Total FRS Membership by Source¹⁵	
	2022

¹ DMS Florida Retirement System Pension Plan And Other State Administered Systems Comprehensive Annual Comprehensive Financial Report Fiscal Year Ended June 30, 2022, at p. 35. A copy of the report can be found online at: http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports [hereinafter *Annual Report*] (Last visited Mar. 22, 2023).

¹⁴ *Annual Report*, *supra* note 1, at 260.

¹⁵ *Annual Report*, *supra* note 1, at 261.

School Districts	302,399
Counties	151,223
State	90,754
State Universities	27,994
Others	36,491
State Colleges	20,212

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.¹⁶ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁷ A member vests immediately in all employee contributions paid to the investment plan.¹⁸ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁹ Vested benefits are payable upon termination of employment with the FRS employer or death, as a lump-sum distribution, direct rollover distribution, or periodic distribution.²⁰

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:²¹

⁴ As of June 30, 2022, the FRS Pension Plan, which is a defined benefit plan, had 444,150 members, and the investment plan, which is a defined contribution plan, had 184,923 members. *Annual Report*, *supra* note 1, at p. 260.

⁵ *Id.*

⁶ *Id.*, at 298.

⁷ Email from Jeff Ivey, Deputy Chief of Staff, Department of Management Services, RE: 2022 CEM Slides (Mar. 13, 2023).

⁸ *Annual Report*, *supra* note 1, at 263.

⁹ S. 121.021(12), F.S.

¹⁰ S. 121.0515, F.S.

¹¹ 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.

¹² S. 121.052, F.S.

¹³ S. 121.055, F.S.

¹⁴ *Annual Report*, *supra* note 1, at 260.

¹⁵ *Annual Report*, *supra* note 1, at 261.

¹⁶ S. 121.4501(8), F.S.

¹⁷ Art. IV, section 4(e), Fla. Const.

¹⁸ S. 121.4501(6)(a), F.S.

¹⁹ 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.

²⁰ S. 121.591, F.S.

²¹ S. 121.72(6), F.S.

Membership Class	Percentage of Gross Compensation ¹
Regular Class	9.30%
Special Risk Class	17.00%
Special Risk Administrative Support Class	10.95%
Elected Officers' Class	
• Justices and Judges	16.23%
• County Elected Officers	14.34%
• Others	12.38%
Senior Management Service Class	10.67%

¹Includes the 3 percent employee contribution.

The above table reflects the rates in effect since July 1, 2022. Between July 1, 2022, through June 30, 2022, the Percentage of Gross Compensation was 3 percent less for each class.²² The additional 3 percent for each class was provided in the 2022 Legislative Session.²³

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).²⁴ 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.²⁵ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.²⁶ A member vests immediately in all employee contributions paid to the pension plan.

For non-special risk members of the pension plan initially enrolled before July 1, 2011, normal retirement is the earlier of 30 years of service or age 62.²⁷ For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earlier of 25 years of service or age 55.²⁸ 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 60.²⁹

Deferred Retirement Option Program

DROP³⁰ allows eligible members³¹ of the FRS Pension Plan to participate in the program and defer receipt of retirement benefits while continuing employment with his or her FRS employer. The deferred monthly benefits accrue, plus interest, in the FRS on behalf of the employee, including interest, for the period of time the member participates in DROP. For members whose DROP participation begins on or after July 1, 2011, the interest that is applied accrues at an effective annual rate of 1.3 percent, compounded monthly, on the prior month's accumulated ending balance.³² Prior to July 1, 2011, the annual rate applied was 6.5 percent. Upon termination of the employment, the member receives the total DROP benefits and begins to receive the previously determined normal retirement amounts.³³

²² S. 121.72(5), F.S.

²³ Ch. 2022-159, Laws of Fla.

²⁴ S. 121.025, F.S.

²⁵ S. 121.021(45)(a), F.S.

²⁶ S. 121.021(45)(b), F.S.

²⁷ S. 121.021(29)(a)1., F.S.

²⁸ S. 121.021(29)(b)1., F.S.

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

³⁰ S. 121.091(13), F.S.

³¹ S. 121.091(13)(a), F.S.

³² S. 121.091(13)(c), F.S.

³³ *Id.*

Current law provides eligibility windows during which a member may enter DROP. Eligibility differs by membership class, hire date, and either satisfaction of service-only criteria or age-plus-service³⁴ criteria. Generally, the law requires an FRS Pension Plan member to elect to participate in DROP within a certain time period or lose the opportunity for DROP participation.

The below charts show the DROP entry window for each scenario.³⁵

Current Law - Years of Service Criteria Only Eligibility Window for Non-Special Risk Members			
Enrollment Date	Window Opens	Open Window Start	Window Closes
Before July 1, 2011 (Tier I)	30 Years of Service	Age 57	Age 58
On or After July 1, 2011 (Tier II)	33 Years of Service	Age 60	Age 61
Current Law - Years of Service Criteria Only Eligibility Window for Special Risk			
Enrollment Date	Window Opens	Open Window Start	Window Closes
Before July 1, 2011 (Tier I)	25 Years of Service	Age 52	Age 53
On or After July 1, 2011 (Tier II)	30 Years of Service	Age 55	Age 56

such as
elect to
DROP
date on
member first reaches normal retirement.³⁶

Current Law - Age-Plus-Service Criteria Only Eligibility Window for Non-Special Risk Members		
Enrollment Date	Window Opens	Window Closes
Before July 1, 2011 (Tier I)	Age 62 and 6 Years of Service	After 12 months
On or After July 1, 2011 (Tier II)	Age 65 and 8 Years of Service	After 12 months
Current Law - Age-Plus-Service Criteria Only Eligibility Window for Special Risk		
Enrollment Date	Window Opens	Window Closes
Before July 1, 2011 (Tier I)	Age 55 and 6 Years of Service	After 12 months
On or After July 1, 2011 (Tier II)	Age 60 and 8 Years of Service	After 12 months

Instructional personnel, classroom teachers, may participate in at any time following the which the

Generally, FRS Pension Plan members may elect to participate in DROP for a period not to exceed a maximum of 60 calendar months.³⁷ However, instructional personnel employed by the Florida School for the Deaf and the Blind, instructional personnel in grades K-12, and personnel employed by a developmental research school may participate in DROP for up to 36 calendar months beyond the 60-month period.³⁸ Additionally, the Legislature modified DROP in the 2022 Legislative Session to allow law enforcement officers³⁹ in the Special Risk Class to extend DROP participation 36 calendar months beyond the 60-month period if DROP entry is on or before June 30, 2028.⁴⁰

Member Disability Coverage and Line-of-Duty Death Benefits

³⁴ S. 121.021(45), F.S.

³⁵ S. 121.091(13)(a)1., F.S.

³⁶ S. 121.091(13)(a)6., F.S.

³⁷ S. 121.091(13)(b)1.a., F.S.

³⁸ *Id.*

³⁹ Defined in s. 1012.01(3), F.S.

⁴⁰ S. 121.091(13)(b)1.c., F.S.

Current law sets the rates that are applied to each investment plan member's gross compensation for each calendar month. For line-of-duty death benefits, the amount is transferred from the FRS Contributions Clearing Trust Fund to the survivor benefit account of the FRS Trust Fund.⁴¹ For disability coverage, the amount is transferred from the FRS Contributions Clearing Trust Fund to the disability account of the FRS Trust Fund.⁴²

Retiree Health Insurance Subsidy

Current law, provides for a retiree health insurance subsidy⁴³ paid from the Retiree Health Insurance Subsidy Trust Fund to eligible retirees of the FRS. The amount of the monthly subsidy is \$5 for each year of service in the FRS, but not less than \$30 nor more than \$150.

The subsidy is funded through a contribution by employers participating in the FRS. The current contribution is 1.66 percent of the employer's monthly payroll. The contribution is paid to DMS for deposit in the Retiree Health Insurance Subsidy Trust Fund. The program is funded on a "pay-as-you-go" basis rather than on an actuarial basis. This means the revenues and expenditures of the trust fund are designed to match each other on an annual basis, with minimal reserves accumulated.

Members of the pension plan and investment plan qualify for the subsidy; however, members of the university, community college, and senior management optional retirement programs are not eligible.

Actuarial Study - Contribution Rates

Section 121.031, F.S., requires DMS to compile an annual actuarial study of the FRS, the results of which must be reported to the Legislature by December 31 of each year.⁴⁴ Thereafter, the Legislature uses the report to establish the uniform contribution rates in law during the next regular legislative session. The employer contribution rate is the same percentage regardless of whether the member participates in the pension plan or the investment plan.⁴⁵ The rate is determined annually based on the actuarial study by DMS that calculates the necessary level of funding to support all of the benefit obligations under the plan. FRS employers are responsible for contributing a set percentage of the member's monthly compensation to the division to be distributed into the FRS Contributions Clearing Trust Fund.

Effect of the Bill

FRS Investment Plan

The bill increases the employer-funded allocations to investment plan accounts by 2 percent for each membership class in the investment plan. The revised contribution percentages, by class, are as follows:

Membership Class	Percentage of Gross Compensation¹
Regular Class	11.30%
Special Risk Class	19.00%
Special Risk Administrative Support Class	12.95%
Elected Officers Class <ul style="list-style-type: none"> • Justices and Judges • County Elected Officers • Others 	18.23%
	16.34%
	14.38%
Senior Management Service Class	12.67%

¹Includes the 3 percent employee contribution.

⁴¹ S. 121.735, F.S.
⁴² S. 121.73, F.S.
⁴³ S. 112.363, F.S.
⁴⁴ S. 121.031(3), F.S.
⁴⁵ S. 121.70(1), F.S.

FRS Pension Plan – Special Risk Years of Service

The bill revises the FRS normal retirement date for Special Risk Class members initially enrolled on or after July 1, 2011, to be consistent with the normal retirement date for Special Risk Class members initially enrolled before July 1, 2011. In other words, normal retirement for members of the Special Risk Class will be the earlier of 25 years of creditable service, or age 55, instead of 30 years of creditable service, or age 60, assuming vesting requirements have been met. Accordingly, members of the Special Risk Class initially enrolled on or after July 1, 2011, will be eligible to retire or enter DROP five years earlier.

Deferred Retirement Option Program

The bill modifies DROP by:

- Eliminating the restrictive entry window for eligible FRS members to participate in DROP for all retirement classes. In effect, this will allow entry into DROP for eligible members at any age as long as years of service or age and vesting requirements are met;
- Extending the maximum amount of time a qualified FRS member may participate in DROP from 60 calendar months to 96 calendar months for all classes;
- Extending the maximum amount of time for certain instructional personnel to participate in DROP from 96 calendar months to 120 calendar months until June 30, 2029; and
- Increasing the interest rate applied to a member's accrued monthly benefit each month from 1.3 percent to 4 percent.

Member Disability Coverage and Line-of-duty Death Benefits

The bill increases the allocations for disability coverage and for line-of-duty death benefits. The increases are included in the actuarial studies for the proposed modifications to the FRS. The increases provide sufficient authority to transfer funds into the survivor benefit account and the disability account of the FRS Trust Fund.

Retiree Health Insurance Subsidy

The bill increases the monthly retiree health insurance subsidy from \$5 to \$7.50 for each year of service. The maximum benefit is adjusted from \$150 to \$225 per month and the minimum benefit is adjusted from \$30 to \$45 per month. To account for the increased benefit, the employer-paid contribution to the Retiree Health Insurance Trust Fund is increased from 1.66 percent of gross compensation to 2.0 percent of gross compensation for each member of the FRS.

Employer Contribution Rates

The bill revises the employer contribution rates to fund the normal costs and the unfunded actuarial liability of the FRS based on the annual actuarial study and the actuarial studies relating to the modifications to the FRS included in the bill.

Important State Interest

The bill declares it fulfills an important state interest and provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits managed, administered, and funded in an actuarially sound manner.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill revises the employer contribution rates to adequately fund the FRS as determined by the July 1, 2022, annual valuation. The bill also includes the rates necessary to fund the program for each modification to the FRS included in the bill.⁴⁶ The proposed employer contributions for Fiscal Year (FY) 2023-2024 compared to the rates currently in effect, are contained in the below table.⁴⁷

Membership Class	"Blended" Normal Costs		Unfunded Actuarial Liability		Combined Contribution Rates	
	7/1/2022	7/1/2023	7/1/2022	7/1/2023	7/1/2022	7/1/2023
Regular Class	5.96%	6.73%	4.23%	4.78%	10.19%	11.51%
Special Risk Class	16.44%	18.66%	9.67%	11.95%	26.11%	30.61%
Special Risk Administrative Class	10.77%	11.54%	26.16%	26.22%	36.93%	37.76%
Elected Officer Class						
Leg/Gov/SAs/PDs	9.31%	10.45%	56.76%	50.21%	66.07%	60.66%
Judges	14.41%	14.90%	27.64%	27.93%	42.05%	42.83%
County Officers	11.30%	12.39%	43.98%	44.23%	55.28%	56.62%
Senior Management	7.70%	8.56%	22.15%	23.90%	29.85%	32.46%
DROP	7.79%	8.49%	9.15%	10.64%	16.94%	19.13%

The revised employer contribution will have a significant fiscal impact on funds paid into the FRS Trust Fund. The total combined employer contributions estimated to be paid into the FRS Trust Fund in FY 2023-2024 will increase by approximately \$713.3 million above the contributions paid in FY 2022-2023. The estimated increase in contributions by employer contribution group for FY 2023-2024 are as follows:

⁴⁶ Actuarial studies were performed by the Milliman actuarial and consulting firm through DMS. A study for projected blended Fiscal Year 2023-2024 statutory rates reflecting an increase in FRS Investment Plan employer contribution rates was requested by the Governor's Office. The study requested an analysis of three different scenarios including an additional 3 percent, 4 percent, and 5 percent. The 2 percent rate included in the bill is a prorated amount based on that study. Additionally, the President of the Senate requested a study to determine the rates needed for K-12 instructional personnel to participate in DROP for a total of 10 years. The remaining modifications to the FRS included in the bill were requested in a study by the Speaker of the House of Representatives.

⁴⁷ The Milliman studies requested by the Speaker of the House of Representative and the Governor's Office include updates to the rates related to indirect costs to the FRS based on modifications to posttraumatic stress disorder counseling for specified classes and modifications to additional benefits for firefighters.

2022 actuarial valuation for normal cost and unfunded actuarial liability for FY 2023-2024:

Employer Contribution Group	Estimated Increase in Contributions
State Agencies	\$48.0 Million
School Boards	\$114.3 Million
State Universities	\$31.2 Million
Colleges	\$9.1 Million
Counties	\$126.6 Million
Other	\$21.4 Million
Total:	\$350.6 Million

Cost Reflecting 2.00 percent employer increase for the FRS Investment Plan:

Employer Contribution Group	Estimated Increase in Contributions
State Agencies	\$23.4 Million
School Boards	\$76.9 Million
State Universities	\$8.8 Million
Colleges	\$5.7 Million
Counties	\$53.0 Million
Other	\$11.3 Million
Total:	\$179.1 Million

Cost

for 10-year
DROP

participation for K-12 instructional personnel:

Employer Contribution Group	Estimated Increase in Contributions
State Agencies	\$0.5 Million
School Boards	\$2.3 Million
State Universities	\$0.5 Million
Colleges	\$0.2 Million
Counties	\$0.9 Million
Other	\$0.3 Million
Total:	\$4.6 Million

Cost for DROP modifications and special risk age and years of service:

Employer Contribution Group	Estimated Increase in Contributions
State Agencies	\$31.1 Million
School Boards	\$20.2 Million
State Universities	\$4.2 Million
Colleges	\$1.5 Million
Counties	\$111.0 Million
Other	\$11.1 Million
Total:	\$179.0 Million

The total combined employer contributions estimated to be paid into the FRS Trust Fund in FY 2023-2024:

Employer Contribution Group	Estimated Increase In Contributions
State Agencies	\$103.0 Million
School Boards	\$213.7 Million
State Universities	\$44.7 Million
Colleges	\$16.5 Million
Counties	\$291.5 Million
Other	\$44.0 Million
Total:	\$713.3 Million

The modifications to the health insurance subsidy will increase the revenues deposited into the Retiree Health Insurance Subsidy Trust Fund by approximately \$139.3 million annually. The estimated increase in contributions by employer group for FY 2023-2024:

Employer Contribution Group	Estimated Increase in Contributions
State Agencies	\$16.6 Million
School Boards	\$54.3 Million
State Universities	\$18.7 Million
Colleges	\$4.3 Million
Counties	\$37.3 Million
Other	\$7.9 Million
Total:	\$139.3 Million