

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 Governmental Oversight and Accountability

BILL: SB 60

INTRODUCER: Senator McClain

SUBJECT: Criminal Conflict and Civil Regional Counsel Membership in the Senior Management Service Class

DATE: December 8, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	<u> </u>	<u> </u>	<u>ACJ</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 60 modifies the Florida Retirement System by reclassifying the district assistant regional counsel supervisor positions employed by criminal conflict and civil regional counsel offices to the Senior Management Service Class (SMSC), from the Regular Class of the Florida Retirement System (FRS). For an affected employee filling this position who participates in the pension plan of the FRS, this re-classification means that the employee will earn 2.0 percent service credit for each year of service rather than 1.6 percent service credit. For an employee filling this position who participates in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 12.67 percent of salary rather than 11.30 percent of salary.¹

Any employee who is shifted from the Regular Class to the SMSC is permitted to upgrade retirement credit for service in the same position. Although the bill permits this upgrade retroactive to February 1, 1987 (the date that the SMSC was created in the FRS), the positions upgraded have only existed since the creation of the regional offices in 2007. The upgraded service credit may not be purchased by the member's employer.

It is estimated that the bill will increase the personnel costs incurred by the five offices of the criminal conflict and civil regional counsel by roughly \$1,195,096 annually. This cost is based on Fiscal Year 2025-2026 employer contribution rates and salaries earned by incumbent employees and is subject to change.

The bill appropriates \$950,000 from the General Revenue Fund to the affected officers for Fiscal Year 2026-2027 to pay for these increased retirement benefits. Because the full cost of this

¹ Florida Retirement System, Uniform FRS Contribution Rates Effective July 1, 2025 to June 30, 2026, https://frs.fl.gov/forms/2025-26_contributions_components.pdf (last visited Nov. 3, 2025).

change in retirement system classes will not be covered by this appropriation, the offices may need to allocate current resources to fund the excess costs related to this change.

The bill takes effect on July 1, 2026.

II. Present Situation:

The 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.² The FRS is a contributory system, with active members contributing three percent of their salaries.³

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

- The Regular Class⁴ consists of 562,840 active members and 9,932 in renewed membership;
- The Special Risk Class⁵ includes 79,529 active members and 1,379 in renewed membership;
- The Special Risk Administrative Support Class⁶ has 97 active members and 3 in renewed membership;
- The Elected Officers' Class⁷ has 2,148 active members and 105 in renewed membership; and
- The Senior Management Service Class (SMSC)⁸ has 7,871 active members and 253 in renewed membership.⁹

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

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

² Florida Department of Management Services, *System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year 2023-2024*, at 33 (Dec. 13, 2024), https://frs.fl.gov/forms/2023-24_ACFR.pdf (2023-2024 Report)(last visited November 3, 2025).

³ 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. Between 1975 and 2011, the FRS was a non-contributory system. 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. *See* s. 121.71, F.S.

⁴ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁵ 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.

⁶ 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.

⁷ 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.

⁸ 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.

⁹ Florida Department of Management Services, Division of Retirement, *FRS Membership Data as of June 30, 2025*, https://frs.fl.gov/forms/active_data.pdf (last visited Dec. 1, 2025).

Pension Plan

The Pension Plan is administered by the secretary of the Department of Management Services through the Division of Retirement.¹⁰ The State Board of Administration handles investment of the funds of the Pension Plan.¹¹

Any member initially enrolled in the Pension Plan before July 1, 2011, vests after completing six years of service with an FRS employer.¹² For members initially enrolled on or after July 1, 2011, the member vests after eight years of creditable service.¹³ Benefits payable under the Pension Plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.¹⁴ For most current members of the Pension Plan (including members in the Regular Class and the SMSC), normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.¹⁵ Members initially enrolled in the Pension Plan on or after July 1, 2011, have longer service requirements—such members in the Regular Class or the SMSC must complete 33 years of service or attain age 65.¹⁶

The Regular Class and the SMSC share the same normal retirement dates, average final compensation calculation, and disability/survivor benefits. However, the Regular Class service credit provides a 1.6 percent accrual value for each year of creditable service, while the SMSC earns a 2.0 percent accrual value each year.¹⁷

Section 121.055 (1)(j), F.S., authorizes a member of the SMSC to upgrade service credit in the same position from Regular Class accrual value to the SMSC accrual value. Generally, the service credit may be purchased by the employer on behalf of the member.

Investment Plan

In 2000, the Public Employee Optional Retirement Program (investment plan) was created as a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan. The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁸ The Board of Trustees of the SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁹

¹⁰ Section 121.025, F.S.

¹¹ Section 215.44, F.S.

¹² Section 121.021(45)(a), F.S.

¹³ Section 121.021(45)(b), F.S.

¹⁴ Section 121.091, F.S.

¹⁵ Section 121.021(29)(a)1., F.S.

¹⁶ Sections 121.021(29)(a)2. and (b)2., F.S.

¹⁷ Section 121.091, F.S.

¹⁸ Section 121.4501(8), F.S.

¹⁹ FLA CONST. art. IV, s. 4.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings.²⁰ Benefits are provided through employee-directed investments offered by approved investment providers.²¹

A member vests immediately in all employee contributions paid to the investment plan.²² With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.²³ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.²⁴ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.²⁵ An FRS member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.²⁶

The table below shows the allocation of contributions made into the FRS for members of the investment plan participating in the Regular Class and SMSC. The contributions, which include the employee's three percent contribution, are based on a percentage of the member's gross compensation for the month.²⁷

Allocation of Contributions	Regular Class	Senior Management Service Class
Investment Account	11.30%	12.67%
Disability	0.25%	0.26%
In line of duty death	0.05%	0.05%
Administrative Assessments	0.06%	0.06%
Total	11.66%	13.04%

Offices of the Public Defender

In an effort to meet its responsibility to provide counsel to indigent defendants, as guaranteed under the Sixth Amendment of the United States Constitution, and as applied to the states in *Gideon v. Wainwright*,²⁸ the Legislature first established the office of the Public Defender in

²⁰ Section 121.4501, F.S.

²¹ Section 121.4501(8)(a), F.S.

²² Section 121.4501(6)(a), F.S.

²³ 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, then 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.

²⁴ Section 121.591, F.S.

²⁵ See s. 121.4501(16), F.S.

²⁶ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date.

Section 121.091(4)(f), F.S.

²⁷ Florida Department of Management Services, *2023-2024 Report*, 186-187 (Dec. 13, 2024), https://frs.fl.gov/forms/2023-24_ACFR.pdf (last visited November 3, 2025).

²⁸ *Gideon v. Wainwright*, 372 U.S. 335 (1963).

1963.²⁹ Subsequently, the Legislature approved a proposal to amend the Florida Constitution to elevate the Office of Public Defender to the level of a constitutional officer, which was approved by the electorate and adopted in 1972.³⁰ The public defender in each circuit is primarily responsible for representing indigent defendants who have been charged or arrested for an enumerated list of criminal offenses and in a limited number of civil proceedings.³¹ Since 2001, participation in the SMSC of the FRS is compulsory for assistant public defenders.³² Similarly, assistant state attorneys, assistant statewide prosecutors, assistant capital collateral regional counsel, and assistant attorneys general are compulsory members of the SMSC.³³

Criminal Conflict and Civil Regional Counsel

In 2007, the Legislature established five offices of criminal conflict and civil regional counsel.³⁴ When an Office of the Public Defender determines it has a conflict in representing an indigent defendant, the office of criminal conflict and civil regional counsel will be appointed to represent the defendant.³⁵ The office of criminal conflict and civil regional counsel has primary responsibility for representing persons entitled to court-appointed counsel under the Federal or State Constitution or as authorized by law in civil proceedings, such as proceedings to terminate parental rights.³⁶

Each regional counsel is recommended by the Supreme Court Judicial Nominating Commission (JNC) for appointment to a 4-year term of service.³⁷ The Governor may re-appoint the regional counsel after his or her initial term; choose a different nominee, if provided by the JNC; or request that the JNC provide a new list of three nominees and choose from this list.³⁸ The appointment is subject to Senate confirmation.³⁹ Regional counsels serve on a full-time basis and may not engage in the private practice of law while holding office.⁴⁰ Each office of criminal conflict and regional counsel is housed, for administrative purposes, in the Justice Administrative Commission (Commission). The regional counsel and the offices are not subject to control, supervision, or direction of the Commission in the performance of their duties.⁴¹ However, the employees of the offices are governed by the classification plan and the salary and benefits plan for the Commission.⁴² As of July 1, 2020, participation in the SMSC was made compulsory for each appointed criminal conflict and civil regional counsel, each district's assistant regional counsel chiefs, its administrative directors, and its chief investigators.⁴³

²⁹ See ch. 63-409, enacting s. 27.50, F.S. (1963).

³⁰ See art. V, § 18, Fla. Const.

³¹ See s. 27.51(1), F.S.

³² Section 121.055(1)(h)2., F.S.

³³ *Id.*

³⁴ Section 27.511(1), F.S.

³⁵ Section 27.511(5), F.S.

³⁶ Section 27.511(5) and (6), F.S. See also, Office of Criminal Conflict and Civil Regional Counsel, Fifth District, *About the Office of Criminal Conflict and Civil Regional Counsel*, <https://www.rc5state.com/about.php> (last visited Nov. 4, 2025).

³⁷ Section 27.511(3)(a), F.S.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Section 27.511(4), F.S.

⁴¹ Section 27.511(2), F.S.

⁴² *Id.*

⁴³ Section 121.055(1)(m), F.S.

As of June 30, 2025, the Justice Administrative Commission reported 64 assistant regional counsel supervisor positions within the offices of criminal conflict and civil regional counsel. While 64 positions will be reclassified into the SMSC, only 61 of the incumbent employees will be eligible for membership in the SMSC, because three incumbent employees participate in DROP (which does not have a differentiated employer contribution rate for the different classifications).⁴⁴

III. Effect of Proposed Changes:

Section 1 amends s. 121.055, F.S., to reclassify the positions of assistant regional counsel supervisors of the criminal conflict and civil regional counsel offices as compulsory members of the Senior Management Service Class (rather than the Regular Class) of the Florida Retirement System (FRS). For each employee who participates in the pension plan of the FRS, this shift means the employee earns 2.0 percent service credit for each year of service, rather than a 1.6 percent service credit. For an employee who participates in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 12.67 percent of salary rather than 11.3 percent of salary. The eligible employees will also be permitted to purchase (at their own expense) upgraded services retroactive to October 1, 2007, for their service in their eligible position. There are currently 64 authorized assistant regional counsel supervisor positions among the five offices of criminal conflict and civil regional counsel that will be reclassified for membership in the SMSC.

Section 2 provides, beginning in the 2026-2027 fiscal year, a \$950,000 recurring appropriation from the General Revenue Fund to the offices of the criminal conflict and civil regional counsel for the purpose of paying retirement benefits for specified positions within those offices.

Section 3 provides that the bill takes effect on July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require municipalities and counties to spend funds, reduce the authority of municipalities or counties to raise revenue, or reduce the percentage of state tax shared with municipalities and counties.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴⁴ Florida Department of Management Services, *Senate Bill 60 Agency Bill Analysis* at 3 (Oct. 13, 2024) (on file with the Senate Committee on Governmental Oversight and Accountability).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The specified members of the Office of Criminal Conflict and Civil Regional Counsel will receive a greater retirement benefit as a result of their participation as compulsory members of the SMSC in the FRS.

C. Government Sector Impact:

The Department of Management Services estimates that the additional annual employer-paid contributions for the reclassification of district assistant regional counsel supervisors from membership in the Regular Class to membership in the SMSC would have been \$1,195,096 for Fiscal Year 2024-2025. These funds will be deposited into the FRS Trust Fund to be used to fund benefits upon each member's retirement. Of these funds, \$950,000 in recurring funds is appropriated from the General Revenue Fund in section 2 of the bill, but the Office of Criminal Conflict and Civil Regional Counsel will be required to also fund the balance of \$245,096 in FY 2026-2027.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The legislature may wish to specify the class code for those positions that will be reclassified as compulsory membership in the SMSC. This could prevent confusion for the implementing authorities and clarify the requirements for the reclassification.

Since 2001, s. 121.055(1)(h)2., F.S., has provided for compulsory participation in the Senior Management Class for assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsel. Membership in the Senior Management Class was extended to assistant attorneys general in 2002. These positions do not require any supervisory role. The 284 attorneys who serve in the Offices of Criminal Conflict and Civil Regional Counsel serve in substantially similar roles as, if not as an actual replacement for (in the case of a conflict in cases initially referred to the office of the public defender) those attorneys who have been classified for membership in the SMSC in s. 121.055, F.S.

VIII. Statutes Affected:

This bill substantially amends s. 121.055 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.

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