

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7173 PCB SAC 14-02 Florida Retirement System

SPONSOR(S): State Affairs Committee, Boyd

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee	11 Y, 6 N	Harrington	Camechis
1) Appropriations Committee		Delaney	Leznoff

SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multiple-employer, contributory plan that provides retirement income benefits to 621,774 active members, 347,962 retired members and beneficiaries, and 38,724 members of the Deferred Retirement Option Program. It is the primary retirement plan for employees of the state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 186 cities and 267 independent hospitals and special districts that have elected to join the system.

Members of the FRS have two 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. In addition to the two primary plans, some eligible members have the choice of participating in optional retirement plans, which include the Senior Management Service Optional Annuity Program, State Community College System Optional Retirement Program, and the State University System Optional Retirement Program.

This bill makes the following changes to the FRS, effective July 1, 2015:

- Increases the vesting period for members enrolled in the pension plan from eight years to 10 years;
- Increases the disability vesting period for all new enrollees from eight years to 10 years;
- Prohibits members initially enrolled in a position covered by the Elected Officers' Class or Senior Management Service Class from participating in the pension plan and requires participation in the investment plan;
- Changes the default from the pension plan to the investment plan for members who do not affirmatively choose a plan;
- Extends the time period for member's to make a plan selection from the last day of the fifth month after the month of hire to the last day of the eighth month after the month of hire;
- Closes the Senior Management Service Optional Annuity Program to new participants; and
- Prohibits elected officials from joining the Senior Management Service Class in lieu of participation in the Elected Officers' Class.

The bill makes changes to the FRS; however, benefits of current members and retirees are not affected by changes in this bill. Rather, changes included in the bill only pertain to members initially enrolled in the system on or after July 1, 2015.

The bill provides that a proper and legitimate state purpose is served, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

Based on the results of special actuarial studies performed by the Milliman actuarial and consulting firm in 2013, the bill will have no fiscal impact on state or local governments for fiscal year 2014-15. It has a projected positive fiscal impact in fiscal year 2015-16 of \$500,000 and a projected negative fiscal impact of \$900,000 for all participating entities in fiscal year 2016-17. In fiscal year 2017-18, the bill is projected to have a positive fiscal impact with savings continuing to increase each subsequent year over the period covered by the study for a projected total cumulative savings of \$28.6 billion. See Fiscal Comments section for further discussion.

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 governed by the Florida Retirement System Act.² The FRS, which is a multiple-employer, contributory plan,³ provides retirement income benefits to 621,774 active members,⁴ 347,962 retired members and beneficiaries, and 38,724 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, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 186 cities and 267 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 536,506 members (86.3 percent of the membership);
- Special Risk Class⁹ includes 68,800 members (11.1 percent);
- Special Risk Administrative Support Class¹⁰ has 58 members (.009 percent);
- Elected Officers' Class¹¹ has 2,094 members (0.35 percent); and
- Senior Management Service Class¹² has 7,450 members (1.2 percent).

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 benefit plan, also known as the pension plan; and
- The defined contribution plan, also known as the investment plan.

¹ *The Florida Retirement System Annual Report*, July 1, 2012 – June 30, 2013, at 18. A copy of the report can be found online at: http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports (last visited March 21, 2014).

² Chapter 121, F.S.

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. Employees were again required to contribute to the system after June 30, 2011.

⁴ As of June 30, 2013, the FRS defined benefit plan, also known as the pension plan, had 514,436 members, and the defined contribution plan, also known as the investment plan, had 107,338 members. *Supra* at FN 1.

⁵ *Id.* at 10.

⁶ Florida Retirement System Participating Employers for Plan Year 2013-14, prepared by the Department of Management Services, Division of Retirement, Revised January 2014, at 8. A copy of the document can be found online at: http://www.dms.myflorida.com/workforce_operations/retirement/publications (last visited March 21, 2014).

⁷ *Supra* at FN 1.

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 Florida Retirement System. 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.

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 FRS Pension Plan. The earliest that any member could participate in the investment plan was July 1, 2002.

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

A member vests immediately in all employee contributions paid to the investment plan.¹³ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁴ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁵

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

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 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%
Special Risk Class	3.00%
Special Risk Administrative Support Class	1.60%
Elected Officer's 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 62.²² For members in the Special Risk and Special Risk Administrative Support

¹³ Section 121.4501(6)(a), F.S.

¹⁴ 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.

¹⁵ Section 121.591, F.S.

¹⁶ Section 121.4501(8), F.S.

¹⁷ Section 4, Art. IV, Fla. Const.

¹⁸ Section 121.025, F.S.

¹⁹ Section 121.021(45)(a), F.S.

²⁰ Section 121.021(45)(b), F.S.

²¹ Section 121.091, F.S.

Classes, normal retirement is the earliest of 25 years of service or age 55.²³ 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 60.²⁴

Default and Second Election

A new enrollee has until the last business day of the fifth month following the employee's month of hire to make a plan selection. If the member fails to make a selection, the member defaults to participation in the pension plan.²⁵

After the initial election or default election to participate in either the pension plan or investment plan, a member has one opportunity, at the member's discretion and prior to termination or retirement, to choose to move from the pension plan to the investment plan or from the investment plan to the pension plan.²⁶

Disability and Death Benefits

Disability retirement benefits are provided for both in-line-of-duty and regular disability. Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability,²⁷ 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 a 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. 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.²⁸

If the member is terminated by reason of death prior to becoming vested in the FRS, the member's beneficiary is only entitled to the member's accumulated contributions.²⁹ Under the pension plan, if the member has vested at the time of his or her death, the member's joint annuitant³⁰ is entitled to receive the optional form³¹ of payment for the annuitant's lifetime.³² If the designated beneficiary does not qualify as a joint annuitant, the member's beneficiary is only entitled to the return of the member's personal contributions, if any.³³ If the member dies in the line of duty, the surviving spouse of the member is entitled to receive a monthly benefit equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime.³⁴ Members in the investment plan are not entitled to these death benefits; instead, the member's beneficiary is entitled to the balance of the member's investment plan account, provided the member has met the one-year vesting requirement.³⁵

²² Section 121.021(29)(a)1., F.S.

²³ Section 121.021(29)(b)1., F.S.

²⁴ Sections 121.021(29)(a)2. and (b)2., F.S.

²⁵ Section 121.4501(4), F.S.

²⁶ Section 121.4501(4)(g), F.S.

²⁷ See s. 121.4501(16), F.S.

²⁸ Section 121.091(4)(f), F.S.

²⁹ For purposes of disbursement of benefits, a member is considered retired as of the date of the death.

³⁰ A joint annuitant is considered to be the member's spouse, natural or legally adopted child who is either under age 25 or is physically or mentally disabled and incapable of self-support (regardless of age), or any person who is financially dependent upon the member for one-half or more of his or her support and is the member's parent, grandparent, or person for whom the member is the legal guardian. Section 121.021(28), F.S.

³¹ Under the pension plan, a member has a choice of payment options. If the member dies prior to retirement, the member's joint annuitant is entitled to select either to receive the member's contributions or a reduced monthly benefit payment for life.

³² Section 121.091(7)(b)1., F.S.

³³ Section 121.091(7)(b)2., F.S.

³⁴ Section 121.091(7)(d)1., F.S. If the surviving spouse dies, or if the member is not married, the monthly payment that would have otherwise gone to the surviving spouse must be paid for the use and benefit of the member's child or children that are under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Section 121.091(7)(d)2. and 3., F.S.

³⁵ See s. 121.591(3)(b), F.S.

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.³⁶ While in DROP, the member's retirement benefits accumulate and earn interest compounded monthly.³⁷

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.³⁸

Health Insurance Subsidy

Upon the conclusion of DROP, or upon service retirement or disability retirement, a retiree is eligible to receive the Health Insurance Subsidy (HIS), which assists retired members in paying for the costs of health insurance.³⁹ Eligible retirees receive \$5 per month for each year of creditable service used to calculate the retirement benefit. The HIS payment must be at least \$30, but not more than \$150 per month.⁴⁰

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;⁴¹
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;⁴² and
- Members of a Florida college may elect to enroll in the State Community College System Optional Retirement Program.⁴³

Contribution Rates

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. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.⁴⁴ The rate is determined annually based on an actuarial study by DMS that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

The following are the current employer contribution rates for each class:⁴⁵

Membership Class	Effective July 1, 2013
Regular Class	3.53%

³⁶ Section 121.091(13)(a) and (b), F.S. Instructional personnel may extend employment for an additional eight years under certain circumstances.

³⁷ 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 was reduced to 1.3 percent.

³⁸ See s. 121.4501(2)(k) and (4)(f), F.S.

³⁹ Sections 112.363(1) and (2), F.S.

⁴⁰ Section 112.363(3)(e), F.S.

⁴¹ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

⁴² Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

⁴³ If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

⁴⁴ Section 121.70(1), F.S.

⁴⁵ Section 121.71(4), F.S.

Membership Class	Effective July 1, 2013
Special Risk Class	11.00%
Special Risk Administrative Support Class	4.17%
Elected Officer's Support Class <ul style="list-style-type: none"> Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders Justices and Judges County Officers 	6.52% 10.05% 8.44%
Senior Management Service Class	4.81%

Regardless of employee class, all employees contribute 3 percent of their compensation towards retirement.⁴⁶

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.⁴⁷

Effect of the Bill

The bill makes changes to the FRS; however, benefits of current members and retirees are not affected by changes in this bill. In addition, employees initially enrolled in the FRS before July 1, 2015, will not have their retirement choices affected.

Effective July 1, 2015, the bill makes the following changes to the FRS:

- Increases the vesting period for members newly enrolled in the pension plan from eight years to 10 years;
- Increases the disability vesting period for all new enrollees from eight years to 10 years;
- Prohibits members initially enrolled in a position covered by the Elected Officers' Class or Senior Management Service Class from participating in the pension plan and requires participation in the investment plan;
- Changes the default from the pension plan to the investment plan for members who do not affirmatively choose a plan;
- Extends the time period for member's to make a plan selection from the last day of the fifth month after the month of hire to the last day of the eighth month after the month of hire;
- Closes the Senior Management Service Optional Annuity Program to new participants; and
- Prohibits elected officials from joining the Senior Management Service Class in lieu of participation in the Elected Officers' Class.

Elected Officers' Class and Senior Management Service Class

The bill provides that members initially enrolled in the FRS on or after July 1, 2015, in a position covered by the Elected Officers' Class or Senior Management Service Class may not participate in the pension plan. Instead of having a choice between two plans, such members must participate in the investment plan and may not utilize a second election option to become a member of the pension plan. Investment plan membership continues even if subsequent employment results in the member becoming covered by another membership class.

For a member initially enrolled in the FRS on or after July 1, 2015, in a position covered by another class, the member may choose to participate in the pension plan or the investment plan. If the member chooses to participate in the pension plan and subsequently participates in a position covered by the Elected Officers' Class or Senior Management Service Class, the member may continue to participate in the pension plan. Therefore, the prohibition against participation in the pension plan only affects

⁴⁶ Section 121.71(3), F.S.

⁴⁷ See ss. 121.4503 and 121.72(1), F.S.

members initially enrolling in the FRS on or after July 1, 2015, in positions covered by the Elected Officers' Class or Senior Management Service Class.

Default

Members initially enrolled on or after July 1, 2015, have until the last day of the eighth month after hire to choose between participation in the investment plan or pension plan, except that members of the Elected Officers' Class and Senior Management Service Class may not participate in the pension plan. If the member does not make a selection, the member will default to the investment plan.

Vesting

For members initially enrolled in the FRS Pension Plan on or after July 1, 2015, the bill extends the vesting period from eight years to 10 years of creditable service. The vesting period for members of the investment plan remains at one year of creditable service.

The bill also extends the disability vesting period for non-duty disability from eight years to 10 years for all members initially enrolled in the FRS on or after July 1, 2015.

Optional Retirement Programs

The bill closes the Senior Management Service Optional Annuity Program to new members on July 1, 2015. Any member may elect to participate in the annuity program before July 1, 2015, and members currently enrolled in the annuity program may continue to participate in that program. However, no new members may join the program on or after July 1, 2015.

Elected Officials

The bill prohibits elected officials from joining the Senior Management Service Class in lieu of participating in the Elected Officers' Class. Because the Senior Management Service Optional Annuity Program will not be offered on or after July 1, 2015, elected officers will no longer be able to switch service classes for the purpose of participating in the optional annuity program. Instead, elected officials can participate in the FRS or withdraw from the system.⁴⁸

Important State Interest

The bill provides a statement of important state interest. It provides that a proper and legitimate state purpose is served, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

B. SECTION DIRECTORY:

Section 1 amends s. 121.021, F.S., revising the definition of "vested" or "vesting"; providing that a member initially enrolled in the FRS Pension Plan after a certain date is vested after 10 years of creditable service.

Section 2 amends s. 121.051, F.S., providing for compulsory membership in the FRS Investment Plan for employees in the Elected Officers' Class or the Senior Management Service Class initially enrolled on or after a specified date; conforming cross-references to changes made by the act.

Section 3 amends s. 121.052, F.S., prohibiting members of the Elected Officers' Class from joining the Senior Management Service Class on a specified date.

Section 4 amends s. 121.055, F.S., prohibiting an elected official eligible for membership in the Elected Officers' Class from enrolling in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program; closing the Senior Management Service Optional Annuity Program to new members after a specified date.

Section 5 amends s. 121.091, F.S., providing that certain members are entitled to a monthly disability benefit; revising provisions to conform to changes made by the act.

⁴⁸ Members of the Elected Officers' Class may withdraw from the FRS. Section 121.052(3), F.S.

Section 6 amends s. 121.4501, F.S., requiring certain employees initially enrolled in the FRS on or after a specified date to be compulsory members of the investment plan; revising the definition of “member” or “employee”; revising a provision relating to acknowledgment of an employee’s election to participate in the investment plan; placing certain employees in the pension plan from their date of hire until they are automatically enrolled in the investment plan or timely elect enrollment in the pension plan; providing certain members with a specified time to choose participation in the pension plan or investment plan; providing for the transfer of certain contributions; revising the education component; conforming provisions and cross-references to changes made by the act.

Section 7 amends s. 121.591, F.S., revising provisions relating to disability retirement benefits.

Sections 8 through 11 amend ss. 121.35, 238.072, 413.051, 1012.875, F.S., conforming cross references.

Section 12 provides that the act fulfills an important state interest.

Section 13 provides an effective date of July 1, 2014, unless otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

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:

During the 2013 Legislative Session, the Milliman actuarial and consulting firm conducted several actuarial studies at the request of the Speaker of the House of Representatives and the President of the Senate. The purpose of the studies was to determine the fiscal impact of requiring new enrollees who participate in the Elected Officers’ Class or Senior Management Service Class to participate in the investment plan, increasing the vesting period for the pension plan, and changing the default for employees who fail to make a plan selection. The studies provided a comparison between continuing the current plan and making the above changes to the FRS.

The relevant 2013 studies were compared to determine the projected fiscal impact of this bill, because no major changes have been made to the FRS since those studies were performed. However, this bill may not necessarily produce the same projected midterm and long term results as predicted in the relevant 2013 studies.

Based on the results of the comparison between the applicable studies, the bill is projected to have no fiscal impact in fiscal year 2014-15. The projected (costs)/savings for select subsequent years are summarized in the table below (in millions \$):

Employer Funded by State	FY 2014-15		FY 2015-16		FY 2016-17		FY 2017-18		FY 2018-19	
	GR	TF	GR	TF	GR	TF	GR	TF	GR	TF
State	-	-	0.1	0.1	(0.1)	(0.1)	1.0	0.9	1.9	1.9
School Boards	-	-	-	-	-	-	6.4	-	9.6	-
State Universities	-	-	-	-	-	-	1.1	-	1.7	-
State Colleges	-	-	-	-	-	-	0.5	-	0.8	-
Total	-	-	0.1	0.1	(0.1)	(0.1)	9.0	0.9	14.0	1.9
Employers Not Funded by State										
Counties	-	-	0.3	-	(0.6)	-	2.2	-	4.6	-
Cities/Other	-	-	-	-	(0.1)	-	0.7	-	1.1	-
Subtotal			0.3	-	(0.7)	-	2.9	-	5.7	-
Grand Total	-	-	0.4	0.1	(0.8)	(0.1)	11.9	0.9	19.7	1.9

Employer Funded by State	FY 2019-20		FY 2024-25		FY 2029-30		FY 2034-35		FY 2039-40	
	GR	TF	GR	TF	GR	TF	GR	TF	GR	TF
State	3.4	3.4	14.8	14.8	35.6	35.5	75.9	75.9	178.1	178.1
School Boards	17.1	-	68.4	-	168.6	-	372.2	-	877.5	-
State Universities	3.0	-	13.8	-	39.2	-	89.8	-	208.3	-
State Colleges	1.4	-	5.8	-	14.5	-	32.0	-	74.5	-
Total	24.9	3.4	102.8	14.8	257.9	35.5	569.9	75.9	1,338.4	178.1
Employers Not Funded by State										
Counties	8.5	-	41.2	-	106.0	-	244.7	-	604.6	-
Cities/Other	2.0	-	8.5	-	21.8	-	48.2	-	113.2	-
Subtotal	10.5	-	49.7	-	127.8	-	292.9	-	717.8	-
Grand Total	35.4	3.4	152.5	14.8	385.7	35.5	862.8	75.9	2,056.2	178.1

The comparison of the actuarial studies projects increasing savings over the long-term for a total cumulative savings of \$28.6 billion. However, the actuary cautioned that projections become increasing unreliable, particularly after the fifth year. Variances from plan assumptions invariably occur which may become magnified over time. Nonetheless, the rates produced by the comparative analysis to the baseline plan, using the same assumptions, yield the above theoretical savings.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Art. VII, s. 18, of the State Constitution may apply because this bill requires cities and counties to spend money or take action that requires the expenditure of money; however, an exception applies as the Legislature has determined that this bill satisfies an important state interest. In addition, similarly situated persons are all required to comply.

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.

Contractual Obligations

Article I, s. 10 of the State Constitution prohibits any bill of attainder, ex post facto law, or law impairing the obligation of contracts from being passed by the Florida Legislature.

The Florida Statutes provide that the rights of members of the FRS are of a contractual nature, entered into between the member and the state, and such rights are legally enforceable as valid contractual rights and may not be abridged in any way.⁴⁹ This “preservation of rights” provision⁵⁰ was established by the Florida Legislature with an effective date of July 1, 1974.

The Florida Supreme Court has held that the Florida Legislature may only alter the benefits structure of the FRS prospectively.⁵¹ The prospective application would only alter future benefits. Those benefits previously earned or accrued by the member, under the previous benefit structure, remain untouched and the member continues to enjoy that level of benefit for the period of time up until the effective date of the proposed changes. Further, once the participating member reaches retirement status, the benefits under the terms of the FRS in effect at the time of the member’s retirement vest.⁵²

The Florida Supreme Court further held that the “preservation of rights” provision was not intended to bind future legislatures from prospectively altering benefits which accrue for future state service.⁵³ More recently, the Florida Supreme Court reaffirmed the previous holding, finding that the Legislature can alter the terms of the FRS, so long as the changes to the FRS are prospective.⁵⁴

This bill does not change any benefits that a member earned prior to July 1, 2015. In fact, members enrolled in the FRS before July 1, 2015, should experience no change in the benefits available under the FRS. The bill only changes the FRS system for new enrollees, enrolling in the system on or after July 1, 2015.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁴⁹ Section 121.011(3)(d), F.S.

⁵⁰ The “preservation of rights” provision vests all rights and benefits already earned under the present retirement plan so the legislature may now only alter the benefits prospectively. *Florida Sheriffs Association v. Department of Administration, Division of Retirement*, 408 So.2d 1033, 1037 (Fla. 1981).

⁵¹ *Id.* at 1035.

⁵² *Id.* at 1036.

⁵³ *Id.* at 1037.

⁵⁴ *Rick Scott, et al. v. George Williams, et al.*, 107 So.3d 379 (Fla. 2013).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.