DATE: April 11, 1996

HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 2723 (PCB AP 96-156)

RELATING TO: Reducing the Cost of Government - Governmental Operations

SPONSOR(S): Committee on Appropriations

STATUTE(S) AFFECTED: Chapters 20, 113, 117, 120, 121, 397, 413, 284, 252, 216, 514, 575,

570, 578, 205, 768, 828, 877, Florida Statutes

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) APPROPRIATIONS YEAS 37 NAYS 0

(2)

(3)

(4)

(5)

I. SUMMARY:

This bill amends statutes relating to state agencies in order to implement budget cuts and facilitate the privatization and transfer of certain government functions that are included in the 1996-1997 General Appropriations Act. Since these changes are of a recurring nature, changes to the law are necessary.

Specifically, the bill makes the following changes:

- ♦ Transfers responsibility for children's mental health and substance abuse programs form the Alcohol, Drug Abuse, and Mental Health Program Office to the Children and Families Program Office.
- Provides for outsourcing the maintenance and management of facilities in at least two HRS districts.
- Privatizes the Notary Public function.
- Allows agencies to reduce administrative costs by recording testimony in administrative hearings through the use of videotape.
- Changes the membership criteria for blind vending facility operators to prohibit membership in the Florida Retirement System for all new operators on or after July 1, 1996. All operators prior to that date would have the option to remain in the system or opt out. The funding for the operators would be subject to the amount appropriated plus their net profits.
- Modifies employer contribution rates for the various classes and subclasses of membership in the Florida Retirement System (FRS).
- ♦ Provides for increases in FRS contribution rates as required by law, based on the 1995 valuation of the system and changes in the actuarial assumptions for salary increases and payroll growth.

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Provides for corresponding decreases in FRS contribution rates as permitted by law, based on the 1995 valuation of the system and changes in the actuarial assumptions for salary increases and payroll growth.

- Codifies contribution rates which took effect on January 1, 1996, and which should have been published in the 1995 Florida Statutes, but were inadvertently omitted by the statute editors.
- ♦ Changes the contribution rate cycle to correspond with the FRS plan year.
- Repeals s. 121.057, F.S. The text of this statute was section 4 of 1995 CS/HB 1505 (chapter 95-338, Laws of Florida), which provided a directive to the statute editors calling for the adjustment of contribution rates for specified classes and subclasses of the Florida Retirement System. (These rate adjustments were not made, and the directive was inappropriately published as s. 121.057, F.S.) These changes are needed to correctly accomplish the new proposed contribution rates.
- ◆ Provides for reappropriation of unexpended and unobligated funds for the Department of Revenue as performance based budgeting incentives.
- Changes the funding source for the Civil Air Patrol.
- Continues state agency funding for employees worker's compensation benefits.
- Makes the swimming pool inspection program self supporting.
- ♦ Repeals the Certified Seed and the State Meat Inspection programs in the Department of Agriculture.
- ♦ Eliminates the requirement for local governments which are not participants in the Casualty Insurance Risk Management Trust Fund to submit notices of tort claims to the Department of Insurance.
- ♦ Transfers the Crash Data Program from the Department of Highway Safety to the Department of Transportation.
- Authorizes the sale of the Orlando Regional Service Center and provides for the distribution of proceeds to the professions which contributed to the purchase and renovation of the property.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Children's Mental Health and Substance Abuse Programs. Currently mental health and substance abuse programs for children and adults are administered through the Alcohol, Drug Abuse and Mental Health program office. HRS currently provides physical plant operation of many of the facilities that it owns or leases.

Notaries Public.-- Chapter 117, F.S., governs fees for notary publics. Presently section 113.01, F.S., provides that no fee shall be required for the issuance of a commission as a notary public to a veteran who served during wartime or who has a disability rating of at least 50%. Notaries are currently required to pay a \$25.00 application fee, a \$4.00

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education fee, and a \$10.00 commission fee. In addition, notaries are currently required to obtain a bond in the amount of \$5,000. The average premium for a \$5,000 bond is approximately \$40 for a four year term.

Preservation of testimony by videotape. Currently, agencies are required to record administrative hearing testimony by the use of court reporters. Through the use of videotape, certain agencies would be able to reduce administrative costs.

Blind Vending Operators.-- Blind vending facility operators are currently members of the Florida Retirement System and presently considered as employees of the system.

The Florida Retirement System.--The FRS is a noncontributory, defined benefit pension plan in which all state, county, and school district employees and many municipal and special district employees participate.

Funding of the FRS.-- System funding comes exclusively from employer contributions set by law as a fixed percentage of payroll (with different percentages applicable to various membership classes and subclasses of employees within the FRS). Under the State Constitution (Art. X, s. 14) and its implementing statute (chapter 112, part VII, F.S.), the FRS must be funded on a sound actuarial basis. This is an expression of the policy that FRS contributions should cover anticipated costs of benefits to avoid passing to future generations of taxpayers the cost of funding past and current retirees' benefits. To assure that public systems meet this goal, contributions to the retirement system must be sufficient to meet normal costs of the retirement system over a 30-year amortization schedule, which was established for the FRS in 1977.

Required system oversight.--Florida law also provides for biennial valuations to monitor the adequacy of the system's funding and to ensure that the amortization schedule is being met and normal costs are being covered (s. 121.031, F.S.).

As a further safeguard, the Auditor General must conduct periodic performance audits of the FRS and the actuarial valuations performed thereon. The Auditor General's objectives are threefold: To determine if the valuation was made using generally accepted actuarial procedures; to review assumptions used in the valuation to assess their reasonableness and effect on the valuation's results; and to determine if progress has been made in improving the funding status of the Florida Retirement System. (These duties have been taken over by the Office of Program Policy Analysis and Governmental Accountability, or OPPAGA.)

1995 FRS valuation and review.--The most recent actuarial valuation of the FRS was conducted by Milliman & Robertson, Inc., consulting actuaries for the system. M&R's actuarial report documents the results of M&R's 1995 valuation of the FRS. In brief, the actuaries found that the asset-to-liability ratio has improved since the 1993 valuation, due primarily to better-than-expected investment experience and implementation of some cost-saving plan changes. With some qualifications, the actuaries recommended that contribution rates for most membership classes could be slightly decreased without posing a risk to the actuarial soundness of the system. (If, on the other hand, the Legislature chooses to maintain such rates at *current levels*, the unfunded actuarial liability could be paid off more quickly.)

According to the 1995 FRS valuation, the rates for the ESCOC Subclass for Legislators, State Attorneys, and Cabinet members *must* be increased by 0.17 percent to keep the

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plan actuarially sound. All other rates may be reduced by small amounts, if the Legislature so chooses.

Actuarial assumption changes.-- The major actuarial assumptions used in determining the retirement contribution rates are investment return, salary increases and payroll growth. Currently these assumptions are 8.00%, 7.50% and 7.00%, respectively.

Codification of contribution rate adjustments.--In 1995, the Legislature enacted chapters 95-277, 95-285, and 95-388, Laws of Florida all three of which called for changes in the contribution rates for the various FRS classes and subclasses of membership. Due to a procedural "glitch," the adjustments called for in these enactments were never made to the contribution rates codified in ss. 121.052, 121.055, and 121.071, F.S. In lieu thereof, the "boilerplate" section from chapter 95-338, Laws of Florida, was inappropriately codified as s. 121.057, F.S. (The corresponding sections from the other two chapter laws were not published.) As a result, it is not possible to find the current FRS contribution rates in the Florida Statutes. This bill corrects that problem.

DOR Incentives for Performance Based Program Budgeting.--In Fiscal Year 1994-95 the Department of Revenue implemented performance based program budgeting for the General Tax Administration Program. An assessment of performance measures showed that for a total 19 measures, they exceeded standards for 8, were below for 5, and substantially met 5.

Civil Air Patrol.--Section 252.55, F.S., appropriates \$50,000 annually from the General Revenue Fund to the Civil Air Patrol.

Salary Indemnification Costs/Worker's Compensation. Section 16 of Chapter 95-430, L.O.F., (the implementing bill) makes state agencies covered by the risk management program responsible for funding the first 10 weeks of salary indemnification costs for workers' compensation benefits for their employees from appropriations for salaries and benefits. It requires the Department of Insurance to pay claims but be reimbursed by agencies. It allows the Executive Office of the Governor to direct payment for a specific claim from the Florida Casualty Insurance Risk Management Trust Fund if an agency can prove it is not able to pay costs. It requires quarterly reports from the Division of Risk Management. Allows the Comptroller to transfer funds from an agency if the agency does not pay within 30 days.

Swimming Pool Inspection Program. The level of fees has not been able to meet the cost of providing the swimming pool inspection program. The department has been supplementing the cost of this from General Revenue for the last few years.

Certified Seed Program: The certified seed program, through inspection and certification activities, assures the availability of high quality, genetically pure seed, free of noxious and prohibited weed seed contamination for agricultural industry use. Responsibility for this program is being transferred to the private sector.

Meat Inspection Program: Federal law allows participation in the federal/ state cooperative meat inspection program as long as states maintain the state program at least at the level equal to the USDA program. The 1995 General Appropriations act cut the state meat inspection program by approximately 25% as a precursor to transferring the entire program over to the federal government. The program is currently under funded and in jeopardy of falling below federal requirements.

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Eliminate Notice of Tort Actions against counties to Department of Insurance: Currently, a claim against the state or one of its agencies or subdivisions must be presented in writing to that agency and the Department of Insurance, pursuant to s. 768.28, F.S. This results in a claimant sending notice of the claim even though the claim may be against a county which is not in the state's risk management program. This requires the Division of Risk Management to maintain an extensive database and files, which results in costs to maintain the records. Since the department retains only the initial notice of the claim, there is no value to this function. The department does not receive additional information or have knowledge of the outcome of the claim.

Crash Data Unit: Currently the Department of Highway Safety and Motor Vehicles (DHSMV) operates a Crash Data Unit (35 FTE and \$755,713 Trust). This unit is responsible for maintaining and reporting data to individuals, corporations and the federal government on traffic related crashes and their statistics. One of the major users of the information collected by this unit is the Department of Transportation (DOT). The DOT uses this information to aid in identifying areas of the State Highway System that are in need of safety enhancements.

Orlando Regional Service Center: In 1991, the DBPR purchased the Orlando Regional Service Center (RSC) at a cost of \$1.9 million. Costs of renovations were over \$1.5 million, for a total investment of \$3.4 million. The RSC is currently used for examinations, training, and agency meetings. The facility is also available for rent by non-governmental parties when available. The department indicated that the facility is too large for many examinations, too small for some, and not cost-effective. Concerns have been raised regarding the usefulness of the center since many of the boards are unable to administer examinations and provide training.

B. EFFECT OF PROPOSED CHANGES:

See Section-By-Section Analysis

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends Chapter 20.19, F.S., to transfers responsibility for administration of children's mental health and substance abuse services from the Alcohol, Drug Abuse and Mental Health (ADM) program office to the Children and Families (C & F) program office. Also, this section requires HRS to develop a competitive proposal, in consultation with the Department of Management Services, for outsourcing the physical plant operation of facilities owned or leased by the department in at least two service districts. This section also provides that after one year of implementation the department is to assess the outsourcing effort and report to the Speaker of the House, President of the Senate, chairs of the legislative appropriations committees, minority leaders of both houses and the Governor.

Section 2. Amends Chapter 397.821, F.S., to add the Assistant Secretary for Children and Families as a recipient of recommendations from the Juvenile substance abuse impairment prevention and early intervention councils. This conforms Chapter 397, F.S., to the transfer of children's mental health and substance abuse services from ADM to C & F.

Section 3. Deletes a reference in Chapter 397, F.S., to the ADM program office. This conforms Chapter 397, F.S., to the transfer of children's mental health and substance abuse services from ADM to C & F.

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Section 4 & 5. Provides requirements for submitting documents to the Secretary of State's office in software or hardcopy format. Provides for \$10 fee for the issuance of a Notary Commission. Provides that no commission fee shall be required by a veteran who served during a time of war and who has be rated by the United States Government or United states Department of Veterans Affairs as having a disability rating of 50% or more. Provides an increase in the bond required to be posted in order to execute the duties of the office from \$5,000 to \$10,000. Requires that surety companies who provide notary services for the state must pay an annual fee of \$250 to the Department of State.

Section 6. Amends s. 120.57, F.S., to authorize agencies to preserve testimony of formal and informal proceedings by use of a video camera in lieu of a court reporter. Provides that if the agency intends to preserve the proceeding by use of a video camera, it shall provide reasonable notice to any other party to the proceeding and allows the party to record the proceeding stenographically at its own expense. Provides that a party requesting a copy of the proceeding from the agency shall receive either a stenographic transcript or a videotape, depending on the method of preservation. Replaces the term "transcript" with "copy of the proceeding" to reflect the authority for agencies to videotape.

Section 7. Amends s. 120.53, F.S., to replace the term "transcript" with "copy of the proceeding" relative to bid protest hearings.

Section 8. Amends s. 120.54, F.S., to conform the agency rulemaking and adoption procedures to the videotape authorization.

Section 9. Amends s. 120.62, F.S., to provide the videotape option for the recording of oral statements in agency investigations.

Section 10. Amends s. 121.051, F.S., relating to membership of blind vending operators in the Florida Retirement System.

Section 11. Amends s. 121.052(7)(a), F.S., relating to the Elected State and County Officers' Class, to codify FRS contribution rates which took effect on January 1, 1996, and to publish rates to take effect on July 1, 1996.

Section 12. Amends s. 121.055, F.S., relating to the Senior Management Service Class, to codify FRS contribution rates which took effect on January 1, 1996, and to publish rates to take effect on July 1, 1996.

Section 13. Amends s. 121.071, F.S., relating to contributions for the Regular Class, the Special Risk Class, and the Special Risk Administrative Support Class, to codify FRS contribution rates which took effect on January 1, 1996.

Section 14. Repeals s. 121.057, F.S., as created by chapter 95-338, Laws of Florida, relating to contribution rate adjustments (inappropriately published in the Florida Statutes).

Section 15. Amends s. 121.40, F.S., relating to contributions for the Institute of Food and Agricultural Sciences (IFAS) trust fund to reflect the rate to take effect on July 1, 1996.

Section 16. Amends s. 413.051, F.S., relating to membership and payment of retirement contributions for blind vending facility operators.

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Section 17. Provides directory language to statutory revision on how to implement retirement contribution rate changes when more than one bill passes into law and to reflect the reason for the rate reductions in this act.

Section 18. Amends 216.301, F.S., to require the Executive Office of the Governor to certify forward 50 percent of the unexpended and unobligated funds appropriated to the Department of Revenue for Fiscal Year 1995-1996 based on the department's overall performance under performance based program budgeting.

Section 19. Amends s. 252.55, F.S., to change the funding source for the Civil Air Patrol to the Emergency Management, Preparedness, and Assistance Trust Fund.

Section 20. Creates s. 284.45, F.S., to make state agencies covered by the risk management program responsible for funding the first 10 weeks of salary indemnification costs for employees' workers' compensation benefits from appropriations for salaries and benefits. Defines "salary indemnification costs." Requires the Department of Insurance to pay claims and then to be reimbursed by agencies. Allows the Executive Office of the Governor to direct payment for a specific claim from the Florida Casualty Insurance Risk Management Trust Fund if an agency can prove it is not able to pay costs. Requires quarterly reports from the Division of Risk Management. Allows the Comptroller to transfer funds from an agency if the agency does not pay within 30 days.

Section 21. Amends s. 514.033, F.S., to change the fees for the review of applications and plans to construct, develop or modify a public swimming pool or bathing place.

The fee schedule would be changed as follows:	From	То
Original construction or development plan approval-	\$150-\$275	\$275-\$500
Modification of original construction	\$ 85-\$100	\$100-\$150
Initial operating permit	\$100-\$125	\$125-\$250
Added review of variance applications-	\$0	\$240-\$400
The fee schedule for operating permits for pools		
or bathing places which have aggregate gallonage:		
Up to 25,000 gallons	\$25	\$75-\$125
In excess of 25,000 gallons	\$75	\$160-\$265
Except for a pool inspected		
pursuant to s. 514.0115(2)(b)	\$25	\$75

Section 22. Repeals Chapter 575, F.S., relating to the Certified Seed Program, a function that has been taken over by the private sector.

Section 23, 24, 25 and 26. Amends s. 570.44, 570.45, 578.13 and 578.30, F.S., to delete references to the provisions of Chapter 575, F.S., which were repealed in section 22.

Section 27. Repeals Sections 585.71 through 585.93, F.S., relating to the meat inspection program in the Department of Agriculture and Consumer Services. This section also deletes all references to the state meat inspection program in other sections of the Florida Statutes.

Section 28. Repeals s. 205.1951, F.S., related to the meat inspection program.

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Sections 29 and 30. Amends s. 570.50 and 570.51, F.S., to delete references to Chapter 585, F.S., portions of which are deleted by section 27 of this bill.

Section 31 Amends s. 768.28, F.S., to limit the claims which must be presented in writing to the Department of Insurance to those affecting the state or one of its agencies covered by the Florida Casualty Insurance Risk Management Trust Fund.

Section 32. Repeals ss. 828.22 through 828.25, F.S., which relate to the handling of animals before slaughter. These sections were repealed in conjunction with the repeal of the state meat inspection program.

Section 33 and 34. Amends ss. 877.05 and 877.06, F.S., to delete references to state meat inspection program.

Section 35. The Crash Data Unit in DHSMV is moved in total through a type two transfer to the DOT. The unit will serve the same function, but will be funded from the State Transportation Trust Fund rather than the DHSMV Highway Safety Operating Trust Fund.

Section 36. Authorizes the Department of Business & Professional Regulation, with technical assistance and staff support of the Department of Management Services, to sell the regional service center in Orlando. Proceeds from the sale shall be deposited in the Professional Regulation Trust Fund and distributed to the accounts of the professions, based on each profession's pro rata share of the costs of the original purchase and renovation of the real estate.

Section 37. Provides that, except as otherwise provided herein, the act shall take effect July 1, 1996.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

The following chart illustrates the savings with the new retirement contribution rates to become effective on July 1, 1996.

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<u>(</u>	1996-97 <i>Fiscal Year)(l</i>	1997-98 Fiscal Year)(I	1998-99 Fiscal Year)
Retirement Contribution Rate Savings		(37,369,000)	
Privatization of Notary Public Functio General Revenue FTE	n (184,314) (7)	(184,314) (7)	(184,314) (7)
Certified Seed Program General Inspection Trust Fund FTE	(183,815) (6)	(183,815) (6)	(183,815) (6)
State Meat Inspection General Revenue Contracts and Grants Trust Fund Total FTE	(<u>1,511,278)</u>	(1,511,278) (<u>1,511,278)</u> (3,022,556) (78)	(<u>1,511,278)</u>
Civil Air Patrol General Revenue Fund Emergency Management Preparedness, and Assistance Trust Fund	(55,000) 55,000	(55,000) 55,000	(55,000) 55,000
Preservation of Testimony by Videota Insurance Commissioner's Regulatory T	•	(56,765)	(56,765)
Eliminate Notice of Tort Action Against Casualty Insurance TF FTE	st Counties to (19,853) (1)	•	
Close DBPR Regional Service Center: Professional Regulation TF	(180,145)	(180,145)	(180,145)
Crash Data Program Transfer:		SMV Op. TF	(755 712)
DOT STTF NET IMPACT	,	(755,713) <u>755,713</u> 0	,

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

See 2 above

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B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

The following chart illustrates the savings with the new retirement contribution rates to become effective on July 1, 1996.

	7/96 - 6/97 7/97 - 6/9		7/98 - 6/99	
_	(Fiscal Year)	(Fiscal Year)	(Fiscal Year)	
Local	(\$95,677,000)	(\$101,417,000)	(\$107,502,000)	

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

The House proposed budget includes \$376,621 in General Revenue funds to pay the retirement contributions for blind vending operators. This amount, however, is not sufficient to cover a full fiscal year. As has been done since 1992, the additional funds would come from the operators funds.

This bill has no fiscal consequences independent of the General Appropriations Act. Provisions herein merely conform to, and allow implementation of, budgetary decisions made by the Legislature in the General Appropriations Act. Any changes to budget reductions in the General Appropriations Act will be reflected in future versions of this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

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A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Actuarial valuations.--Many factors are considered in determining the level of incremental funding necessary to meet long-term plan funding requirements. First, overall plan liabilities - total potential liability for present and promised benefits as well as liability for past debts resulting from previous underfunding and actuarial losses -- must be determined. Potential liability for benefits is dependent upon projections of the number of employees who will actually receive benefits under the plan, the life expectancies of these employees, salaries, and other demographic factors. Offsetting the liabilities is the value of retirement fund assets and projections regarding the real rate of investment return on those assets. Basically, the difference between potential liabilities and the assets to date determine the amount of contributions required.

These projections constitute what are known as actuarial assumptions. Actuarial assumptions must be long-term projections, since meeting the 30-year amortization schedule is dependent upon them. However, since no projection will be accurate over a 30-year span, periodic actuarial valuations must be conducted to assess the degree to which actuarial assumptions are holding true with actual experience. When assumptions prove inaccurate (resulting in actuarial gains or losses), they must be revised and the whole system must be rebalanced to meet funding goals and cover the actuarial gains or losses -- requiring an increase or decrease in contribution rates.

1995 FRS valuation and review.--The most recent actuarial valuation of the FRS was conducted by Milliman & Robertson, Inc., consulting actuaries for the system. The actuarial report which documents the results of M&R's valuation of the FRS as of July 1, 1995, was published in November 1995. In brief, the actuaries found that:

♦ While system liabilities have risen since the last valuation (by \$8.3 billion), the assets have climbed farther (by \$9.9 billion), causing a reduction in the system's unfunded debt of \$1.6 billion.

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- ◆ Total membership in the system increased by 7.6 percent since the 1993 valuation (2.5 percent/active members and 5.1 percent/retirees).
- ♦ Factors contributing to changes in FRS assets, liabilities, and contribution rates between July 1, 1993, and July 1, 1995, include better-than-expected investment experience; lower-than-expected increase in liabilities (due primarily to lower-than-expected salary increases and some plan changes); and greater-than-expected drop in the system's unfunded liabilities (due primarily to investment experience and plan changes).

The actuaries recommended adoption of the following contribution rates: Regular Class, 16.77 percent; Special Risk Class, 26.44 percent; Special Risk Administrative Support Class, 17.20 percent; Senior Management Service Class, 21.58 percent, and the following subclasses of the Elected State and County Officers' Class (ESCOC): Judicial Subclass, 29.55 percent; Legislative-Attorney-Cabinet Subclass, 23.07 percent; and County Elected Officer Subclass, 27.33 percent.

VII.	SIGNATURES:		
	COMMITTEE ON APPROPRIATIONS: Prepared by:	Staff Director:	
	Cynthia Kelly	David K. Coburn	

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES: