

STORAGE NAME: h2723z.ap  
DATE: June 12, 1996

**\*\*AS PASSED BY THE LEGISLATURE\*\***  
**CHAPTER #: 96-423, Laws of Florida**

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

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

**RELATING TO:** Governmental Operations

**SPONSOR(S):** Committee on Appropriations

**STATUTE(S) AFFECTED:** Chapters 110, 120, 121, 252, 334, 369, 403, 413, 440, 443, Florida Statutes

**COMPANION BILL(S):**

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

- (1) APPROPRIATIONS YEAS 37 NAYS 0
- (2)
- (3)
- (4)
- (5)

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**I. SUMMARY:**

This bill amends statutes relating to state agencies in order to implement budget reductions and facilitate the transfer of certain government functions that are included in the FY 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:

- ◆ 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 current operators would have the option to remain in the system or opt out. The retirement 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 adjustments to FRS contribution rates as required by law, based on the 1995 actuarial valuation of the system.
- ◆ 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 Correctional Education Program instructional personnel salaries to be set by the Department of Corrections, subject to the approval of the Department of Management Services.
- ◆ Provides that the workers' compensation Special Disability Trust Fund assessment rate in effect on January 1, 1995, shall remain in effect until June 30, 1997.
- ◆ Changes the funding source for the Civil Air Patrol.
- ◆ 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.
- ◆ Provides for the transfer of the contractual administration related to the Youth Conservation Corp from the Department of Environmental Protection to the Department of Transportation.
- ◆ Changes the Unemployment Compensation benefit calculation method so that benefits will be based on earnings in high quarter instead of number of weeks worked.

## II. SUBSTANTIVE ANALYSIS:

### A. PRESENT SITUATION:

**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.

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

**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.

**Correctional Education Program instructional personnel salaries.**--In 1995, the legislature abolished the Correctional Education School Authority (CESA) and replaced it with the Correctional Education Program (CIP) within the Department of Corrections. The salaries of the teaching positions within the program were left under the approval of the State Board of Education. Additionally, the Departments of Corrections and Management Services were directed to determine if those teaching positions could be transferred to the state career service system. That study has been completed and the process of transferring the positions is underway, but before the transfer can be completed the law must be changed to accommodate the fact that the Department of Management Services will be the approving authority.

**Workers' Compensation Special Disability Trust Fund assessment.**--Current law which limits the special disability trust fund assessment to the rate in effect on January 1, 1995 is due for repeal on July 1, 1996.

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

**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.

**Youth Conservation Corps.**--The Department of Transportation currently transfers, through a contract maintenance category, \$1.2 million to the Department of Environmental Protection (DEP) for routine highway maintenance to be performed by the Youth Conservation Corp (YCC). The DEP, through the secretary's appointment of a director of the Office of Civilian Conservation, establishes the rules and responsibilities of the YCC which are listed in s. 369.105, F.S.

**Unemployment Compensation Benefit Calculation Method.**--Section 443.091, F.S. provides that the method for calculating unemployment compensation benefits is based on average weekly wage and weeks worked.

**B. EFFECT OF PROPOSED CHANGES:**

See Section-By-Section Analysis

**C. SECTION-BY-SECTION ANALYSIS:**

Sections 1 & 2. Amend 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. Provide that if the agency intends to preserve the proceeding by use of a video camera, it must assure that the video system will reliably preserve the testimony, provide reasonable notice to any other party to the proceeding, and allow the party to record the proceeding stenographically at its own expense. Provide that a party requesting a copy of the proceeding from the agency shall receive either a transcript or a videotape, depending on the method of preservation. Require the Administration Commission to adopt model rules for the use of video cameras to preserve testimony in proceedings not conducted by an administrative law judge.

Section 3. Amends s. 121.051, F.S., relating to membership of blind vending operators in the Florida Retirement System.

Section 4. 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 5. 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 6. 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 and to publish rates to take effect on July 1, 1996.

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Section 7. 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 8. 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 9. Amends s. 413.051, F.S., relating to membership and payment of retirement contributions for blind vending facility operators.

Section 10. 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 11. Amends s. 110.205, F.S. to provide for the Department of Corrections to establish salaries for instructional personnel of the Correctional Education Program, subject to the approval of the Department of Management Services.

Section 12. Amends s. 440.49, F.S. to maintain until June 30, 1997, the workers' compensation Special Disability Trust Fund rate at the level in effect on January 1, 1995.

Section 13. Amends s. 252.55, F.S., to change the funding source for the Civil Air Patrol from General Revenue to the Emergency Management, Preparedness, and Assistance Trust Fund.

Section 14. 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.

Sections 15 & 16. Amend ss. 334.044 and 403.4132, F.S., to clarify the authority of the Department of Transportation to contract with non-profit youth employment programs for maintenance and litter pickup.

Section 17. Repeals s. 369.105, F.S., which established the Youth Conservation Corps in the Department of Environmental Protection.

Section 18. Creates s. 334.35, F.S., which establishes the Youth Conservation Corps in the Department of Transportation.

Section 19. Amends s. 443.036, F.S., to provide a definition for "high quarter" as related to unemployment compensation benefit calculation.

Sections 20 & 21. Amend ss. 443.091 and 443.111, F.S., to revise the unemployment compensation benefit calculation method so that benefits will be based on earnings in high quarter instead of number of weeks worked.

Section 22. 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:

	<b>1996-97</b>	<b>1997-98</b>	<b>1998-99</b>
	<b><u>(Fiscal Year)</u></b>	<b><u>(Fiscal Year)</u></b>	<b><u>(Fiscal Year)</u></b>

**Preservation of Testimony by Videotape**

Insurance Commissioner's Regulatory TF	(56,765)	(56,765)	(56,765)
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**Retirement Contribution Rate**

**Savings**

	(12,177,000)	(12,908,000)	(13,683,000)
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**Civil Air Patrol**

General Revenue Fund	(55,000)	(55,000)	(55,000)
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Emergency Management Preparedness, and Assistance Trust Fund	55,000	55,000	55,000
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**Close DBPR Regional Service Center**

Professional Regulation TF	(180,145)	(180,145)	(180,145)
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**Youth Conservation Corps**

DEP - Grants and Donations TF	(1,616,694)	(1,616,694)	(1,616,694)
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FTE	(1)	(1)	(1)
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DOT will contract directly with the provider of services rather than having the funds flow through DEP.

**Unemployment Compensation Benefit Calculation**

Employment Security Administration TF	(703,665)	(703,665)	(703,665)
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FTE	(19)	(19)	(19)
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3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

See 2 above

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

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

	<u>7/96 - 6/97</u> <u>(Fiscal Year)</u>	<u>7/97 - 6/98</u> <u>(Fiscal Year)</u>	<u>7/98 - 6/99</u> <u>(Fiscal Year)</u>
Local	(31,724,000)	(33,627,000)	(35,645,000)

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 Conference Committee report includes \$376,621 in General Revenue funds in the Department of Labor and Employment Security 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 be paid 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.

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

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.
- ◆ 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.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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VII. SIGNATURES:

**COMMITTEE ON APPROPRIATIONS:**

Prepared by:

Staff Director:

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Cynthia Kelly

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David K. Coburn

**FINAL ANALYSIS PREPARED BY COMMITTEE ON APPROPRIATIONS:**

Prepared by:

Staff Director:

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Cynthia Kelly

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David K. Coburn