

Research Report

February 1998



Retirement Provision for Elected Officials Should Be Reformed

Imagine that a certain Florida legislator assumed office in January 1980 with no prior service in the Florida Retirement System. After eight years the legislator left office and was entitled to a state pension as follows:

Annual retirement benefit at age 62:
8 years x 3.00% = 24% of Average Final Compensation
24% x \$25,668 = **\$6,160 per year pension**

However, suppose this former legislator was employed in a Senior Management Service position with a state agency and retired at age 62 after five years of service at an average annual salary of \$75,000. Under current law the legislator's benefits would be calculated as follows:

8 yrs x 3.00% = 24%
5 yrs x 2.0% = 10%
Total Percentage value - 34%
AFC - \$65,000
Annual Benefit - \$22,100 per year pension

The reality of officials profiting from the high annual accrual value of their elected service by leaving office and taking high-paying jobs with state or local government agencies has prompted calls for reform from the public at large and some legislators themselves (notably Representative Stan Bainter and others). This research report reviews the present situation regarding retirement benefits for elected state and county officers and highlights recommendations to close the loophole (and potential for abuse) in the elected officials retirement benefits law. Most of the information presented is from the Florida Division of Retirement's A Retirement Guide for the Elected State and County Officers' Class, 1995, from a 1997 Legislative Bill Analysis for House Bill 1045 and from interviews with officials of the Florida Division of Retirement.

Present Situation

Currently, any employee -- full time or part time -- working in an established position with a participating state or local government agency is a member of the Florida

Retirement System (FRS) as listed in Table One. The Elected State and County Officers' Class (ESCOC) is one of five membership classes of the FRS. Membership in ESCOC includes the following offices:

- ◆ Governor, Lt. Governor
- ◆ Cabinet Officer, Legislator
- ◆ Supreme Court Justice
- ◆ District Court of Appeals Judge
- ◆ Circuit Judge
- ◆ County Judge
- ◆ State Attorney
- ◆ Public Defender
- ◆ Elected County Officer
- ◆ Certain Municipal and Special District Officers

Table One
Florida Retirement System Information

Membership Class	Persons Eligible To Participate	Employer Retirement Contribution Rate	Vesting Period	Accrual Value per Year of Service
Elected State and County Officers' Class	Justices and Judges	29.55%	8 years	3.33%
	Governor, Lt. Governor, Cabinet, Legislators, State Attorneys, Public Defenders.	23.07%		3.00%
		27.33%		3.00%
	County and certain Municipal and Special District Officers			
Senior Management Service Class ¹	For members who are filling senior level management positions authorized to be eligible for the SMSC by statute	21.58%	7 yrs.	2.00%
Special Risk Class	For members who are employed as law enforcement officers,	26.44%	10 yrs.	3.00%

	firefighters, or correctional officers and meet the qualifying criteria			
Special Risk Administrative Support Class	For former Special Risk Class members who provide administrative support to special risk members within an FRS special risk employing agency.	17.20%	10 yrs.	1.60%
Regular Class	For members who do not qualify for membership in any other class	16.77%	10 years	1.60%

Source: Florida Division of Retirement, 1997

1. In addition to managers classified as Senior Management Service, this class also includes local senior managers such as community college presidents, legislative managers such as managerial staff of the Legislature, State University System managers, State Board of Administration Managers, and Judicial Branch employees.

Retirement benefits are calculated using years of service, accrual value for each year of service, and average final compensation. Years of service is multiplied by the applicable accrual value to derive a percentage value for each period of service. Percentage values for each period of service are added together to get a total percentage value, which is multiplied by the Average Final Compensation (AFC) -- the average of the highest five years of salary -- to determine the annual retirement benefit.

The ESCOC is a separate class of membership in the FRS for elected state and county officers. Members of this class are vested for benefits after eight years of service. The accrual value per year of service is 3.0% (except 3.3% for justices and judges). The reduced vesting period and higher accrual value provided to ESCOC members were considered fair when created because many elected officials do not serve full time, earn low salaries and/or do not serve a lifetime career. The 3.3% value per year of creditable service gained by judges is a holdover provision from the old Judicial Retirement System which was "grandfathered in" as an incentive for judges to join when the ESCOC was established by law under the FRS in 1972.

The FRS includes a portability provision that applies to all of its membership classes so that an employee who changes classes or positions during his or her career is allowed to combine all service with participating agencies in the ESCOC, Regular, Special Risk, Special Risk Administrative Support or Senior Management Service classes as well as

service earned in one of the closed retirement systems (Teachers' Retirement System, State and County Officers and Employees' Retirement System, Judicial System, or Highway Patrol System). This portability is very desirable and generally produces a fair benefit for the employee, the state and the taxpayers.

There are, however, circumstances where elected officials -- especially legislators -- receive a windfall when they take high-paying government jobs after leaving elected office. If a former elected official remains in such a high-paying job for just five years after leaving office, his or her retirement benefit can be more than five times what it would be if the retirement benefit was based only on his or her salary as an elected official.

Recommended Revision

Florida TaxWatch has long recommended revision of current law to eliminate unintended windfalls to former legislators and others. Under this revision, elected officials who initially earn ESCOC service on or after July 1, 1998, when such service is followed by other creditable service, would be subject to dual calculation of retirement benefits. The portion of their retirement benefit represented by ESCOC service earned on or after July 1, 1998 would be calculated using the service and average final compensation attributable to that service. Benefit amounts from these separate calculations would be added together and paid as one benefit. If there is less than five years of service for either portion of the benefit, the AFC for that portion of the benefit would be the average of the total years of compensation for that service.

The following shows retirement benefits before and after the proposed revision for the former legislator cited on page one who retired from the state job that she took after retiring from the Legislature.

Under Current Law

Percentage value - .3400

AFC - \$65,000

Annual Benefit: \$22,100

Under Proposed Legislation with Dual Benefit Calculation

Legislative Portion:

Percentage Value - .2400

AFC - \$25,668

Legislative benefit - \$6160

Senior Management Class Portion:

Percentage Value - .1000

AFC - \$65,000

Senior Management Class Benefit - \$6,500

Combined Annual Benefit: \$12,660.32

Appendix "A" compares the two options described in this report. Florida TaxWatch finds that the revision described above provides a more equitable distribution of retirement benefits and effectively closes a loophole in the current law that could be misused. Moreover, this revision would be more equitable to all parties involved: the retiring employee, the state, other pensioners and their families and the taxpayers of Florida.

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