

1                   A bill to be entitled  
2           An act relating to Special Risk Class retirement benefits;  
3           amending s. 121.091, F.S.; prohibiting certain members of  
4           the Special Risk Class from being reemployed or  
5           contracting with the same employing agency from which the  
6           member retired; extending the period of time during which  
7           certain Special Risk Class members may participate in the  
8           Florida Retirement System Deferred Retirement Option  
9           program; providing legislative findings with respect to  
10          the state's interest in protecting the public's safety and  
11          welfare by extending retirement benefits for certain  
12          officers and funding increased retirement benefits in an  
13          actuarially sound manner; providing a declaration of  
14          important state interest; providing an effective date.

15  
16          WHEREAS, one of the most fundamental mechanisms for  
17          ensuring the safety and welfare of the public is through the  
18          state's law enforcement agencies and correctional institutions,  
19          and

20          WHEREAS, law enforcement agencies and correctional  
21          institutions throughout this state and the nation are  
22          experiencing great difficulty in recruiting and retaining well-  
23          qualified law enforcement and correctional officers, and

24          WHEREAS, this need is projected to become more critical in  
25          the future, and

26          WHEREAS, the most critical need is to recruit and retain  
27          line officers who have daily and direct contact with the  
28          criminal element, and

29 WHEREAS, because such work is physically demanding and  
 30 arduous and often requires extraordinary agility and mental  
 31 acuity that can diminish with age, persons employed in these  
 32 positions are classified as special risk and able to retire at  
 33 an earlier age, and

34 WHEREAS, one mechanism for retaining qualified officers is  
 35 to extend the amount of time that such officers can remain in  
 36 the Deferred Retirement Option Program (DROP) if such officers  
 37 can demonstrate that they retain the necessary physical and  
 38 mental capacity to continue to competently perform their job  
 39 duties, NOW, THEREFORE,

40

41 Be It Enacted by the Legislature of the State of Florida:

42

43 Section 1. Paragraph (f) is added to subsection (9) of  
 44 section 121.091, Florida Statutes, and paragraphs (a) and (b) of  
 45 subsection (13) of that section are amended, to read:

46 121.091 Benefits payable under the system.--Benefits may  
 47 not be paid under this section unless the member has terminated  
 48 employment as provided in s. 121.021(39)(a) or begun  
 49 participation in the Deferred Retirement Option Program as  
 50 provided in subsection (13), and a proper application has been  
 51 filed in the manner prescribed by the department. The department  
 52 may cancel an application for retirement benefits when the  
 53 member or beneficiary fails to timely provide the information  
 54 and documents required by this chapter and the department's  
 55 rules. The department shall adopt rules establishing procedures  
 56 for application for retirement benefits and for the cancellation

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57 of such application when the required information or documents  
58 are not received.

59 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

60 (f) Notwithstanding any other provision in this section, a  
61 member of the Special Risk Class who is employed as a law  
62 enforcement officer, correctional officer, or community-based  
63 correctional probation officer, as described in s. 121.0515(2),  
64 who has a rank or the equivalent rank of captain or below, and  
65 who participated in DROP for up to 36 calendar months beyond the  
66 60-month period, at the conclusion of his or her participation  
67 in DROP, may not be employed, reemployed, or retained in a  
68 contractual capacity by the same employing agency from which the  
69 member retired; however, the member may be retained by the  
70 employing agency as a part-time or auxiliary law enforcement  
71 officer, as those terms are defined in s. 943.10, if the member  
72 is serving on a voluntary basis and receives no more than \$1 per  
73 calendar year in remuneration for services rendered directly for  
74 the employing agency. Any person who is reemployed or retained  
75 in a contractual capacity in violation of this paragraph shall  
76 void his or her application for retirement benefits. Any person  
77 who violates this paragraph and any employing agency that  
78 knowingly employs or contracts with such person in violation of  
79 this paragraph is jointly and severally liable for reimbursement  
80 to the Florida Retirement System Trust Fund for any retirement  
81 benefits improperly paid during the reemployment or contractual  
82 period. This paragraph does not apply to a retiree who is  
83 elected to an office or appointed to an office by the Governor  
84 or by the Governor and Cabinet.

85 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and  
86 subject to this section, the Deferred Retirement Option Program,  
87 hereinafter referred to as DROP, is a program under which an  
88 eligible member of the Florida Retirement System may elect to  
89 participate, deferring receipt of retirement benefits while  
90 continuing employment with his or her Florida Retirement System  
91 employer. The deferred monthly benefits shall accrue in the  
92 Florida Retirement System on behalf of the participant, plus  
93 interest compounded monthly, for the specified period of the  
94 DROP participation, as provided in paragraph (c). Upon  
95 termination of employment, the participant shall receive the  
96 total DROP benefits and begin to receive the previously  
97 determined normal retirement benefits. Participation in the DROP  
98 does not guarantee employment for the specified period of DROP.  
99 Participation in DROP by an eligible member beyond the initial  
100 60-month period as authorized in this subsection shall be on an  
101 annual contractual basis for all participants.

102 (a) Eligibility of member to participate in DROP.--All  
103 active Florida Retirement System members in a regularly  
104 established position, and all active members of the Teachers'  
105 Retirement System established in chapter 238 or the State and  
106 County Officers' and Employees' Retirement System established in  
107 chapter 122, which are consolidated within the Florida  
108 Retirement System under s. 121.011, are eligible to elect  
109 participation in DROP if:

110 1. The member is not a renewed member under s. 121.122 or  
111 a member of the State Community College System Optional  
112 Retirement Program under s. 121.051, the Senior Management

113 Service Optional Annuity Program under s. 121.055, or the  
114 optional retirement program for the State University System  
115 under s. 121.35.

116 2. Except as provided in subparagraph 6., election to  
117 participate is made within 12 months immediately following the  
118 date on which the member first reaches normal retirement date,  
119 or, for a member who reaches normal retirement date based on  
120 service before he or she reaches age 62, or age 55 for Special  
121 Risk Class members, election to participate may be deferred to  
122 the 12 months immediately following the date the member attains  
123 age 57, or age 52 for Special Risk Class members. A member who  
124 delays DROP participation during the 12-month period immediately  
125 following his or her maximum DROP deferral date, except as  
126 provided in subparagraph 6., loses a month of DROP participation  
127 for each month delayed. A member who fails to make an election  
128 within the 12-month limitation period forfeits all rights to  
129 participate in DROP. The member shall advise his or her employer  
130 and the division in writing of the date DROP begins. The  
131 beginning date may be subsequent to the 12-month election period  
132 but must be within the original 60-month participation period  
133 provided in subparagraph (b)1. When establishing eligibility of  
134 the member to participate in DROP, the member may elect to  
135 include or exclude any optional service credit purchased by the  
136 member from the total service used to establish the normal  
137 retirement date. A member who has dual normal retirement dates  
138 is eligible to elect to participate in DROP after attaining  
139 normal retirement date in either class.

140           3. The employer of a member electing to participate in  
141 DROP, or employers if dually employed, shall acknowledge in  
142 writing to the division the date the member's participation in  
143 DROP begins and the date the member's employment and DROP  
144 participation will terminate.

145           4. Simultaneous employment of a participant by additional  
146 Florida Retirement System employers subsequent to the  
147 commencement of participation in DROP is permissible if such  
148 employers acknowledge in writing a DROP termination date no  
149 later than the participant's existing termination date or the  
150 maximum participation period provided in paragraph (b)  
151 ~~subparagraph (b)1~~.

152           5. A DROP participant may change employers while  
153 participating in DROP, subject to the following:

154           a. A change of employment must take place without a break  
155 in service so that the member receives salary for each month of  
156 continuous DROP participation. If a member receives no salary  
157 during a month, DROP participation shall cease unless the  
158 employer verifies a continuation of the employment relationship  
159 for such participant pursuant to s. 121.021(39)(b).

160           b. Such participant and new employer shall notify the  
161 division of the identity of the new employer on forms required  
162 by the division.

163           c. The new employer shall acknowledge, in writing, the  
164 participant's DROP termination date, which may be extended but  
165 not beyond the maximum participation period provided in  
166 paragraph (b) ~~subparagraph (b)1~~, shall acknowledge liability  
167 for any additional retirement contributions and interest

168 required if the participant fails to timely terminate  
169 employment, and is subject to the adjustment required in sub-  
170 subparagraph (c)5.d.

171 6. Effective July 1, 2001, for instructional personnel as  
172 defined in s. 1012.01(2), election to participate in DROP may be  
173 made at any time following the date on which the member first  
174 reaches normal retirement date. The member shall advise his or  
175 her employer and the division in writing of the date on which  
176 DROP begins. When establishing eligibility of the member to  
177 participate in DROP for the 60-month participation period  
178 provided in subparagraph (b)1., the member may elect to include  
179 or exclude any optional service credit purchased by the member  
180 from the total service used to establish the normal retirement  
181 date. A member who has dual normal retirement dates is eligible  
182 to elect to participate in either class.

183 (b) Participation in DROP.--

184 1. An eligible member may elect to participate in DROP for  
185 a period not to exceed a maximum of 60 calendar months.

186 a. ~~However,~~ Members who are instructional personnel  
187 employed by the Florida School for the Deaf and the Blind and  
188 authorized by the Board of Trustees of the Florida School for  
189 the Deaf and the Blind, who are instructional personnel as  
190 defined in s. 1012.01(2)(a)-(d) in grades K-12 and authorized by  
191 the district school superintendent, or who are instructional  
192 personnel as defined in s. 1012.01(2)(a) employed by a  
193 developmental research school and authorized by the school's  
194 director, or if the school has no director, by the school's

195 principal, may participate in DROP for up to 36 calendar months  
 196 beyond the 60-month period.

197 b. Special Risk Class members who are employed as law  
 198 enforcement officers, correctional officers, or community-based  
 199 correctional probation officers, as described in s. 121.0515(2),  
 200 with a rank or the equivalent rank of captain or below, may  
 201 participate in DROP for up to 36 calendar months beyond the 60-  
 202 month period.

203 2. Upon deciding to participate in DROP, the member shall  
 204 submit, on forms required by the division:

205 a. A written election to participate in DROP;

206 b. Selection of DROP participation and termination dates  
 207 that satisfy the limitations stated in paragraph (a) and  
 208 subparagraph 1. The termination date must be in a binding letter  
 209 of resignation to the employer establishing a deferred  
 210 termination date. The member may change the termination date  
 211 within the limitations of subparagraph 1., but only with the  
 212 written approval of the employer;

213 c. A properly completed DROP application for service  
 214 retirement as provided in this section; and

215 d. Any other information required by the division.

216 3. The DROP participant is a retiree under the Florida  
 217 Retirement System for all purposes, except for paragraph (5) (f)  
 218 and subsection (9) and ss. 112.3173, 112.363, 121.053, and  
 219 121.122. DROP participation is final and may not be canceled by  
 220 the participant after the first payment is credited during the  
 221 DROP participation period. However, participation in DROP does  
 222 not alter the participant's employment status, and the member is

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223 not deemed retired from employment until his or her deferred  
224 resignation is effective and termination occurs as defined in s.  
225 121.021.

226 4. Elected officers are eligible to participate in DROP  
227 subject to the following:

228 a. An elected officer who reaches normal retirement date  
229 during a term of office may defer the election to participate  
230 until the next succeeding term in that office. An elected  
231 officer who exercises this option may participate in DROP for up  
232 to 60 calendar months or no longer than the succeeding term of  
233 office, whichever is less.

234 b. An elected or a nonelected participant may run for a  
235 term of office while participating in DROP and, if elected,  
236 extend the DROP termination date accordingly; however, if such  
237 additional term of office exceeds the 60-month limitation  
238 established in subparagraph 1., and the officer does not resign  
239 from office within such 60-month limitation, the retirement and  
240 the participant's DROP is null and void as provided in sub-  
241 subparagraph (c)5.d.

242 c. An elected officer who is dually employed and elects to  
243 participate in DROP must terminate all employment relationships  
244 as provided in s. 121.021(39) for the nonelected position within  
245 the original 60-month period or maximum participation period as  
246 provided in subparagraph 1. For DROP participation ending:

247 (I) Before July 1, 2010, the officer may continue  
248 employment as an elected officer as provided in s. 121.053. The  
249 elected officer shall be enrolled as a renewed member in the  
250 Elected Officers' Class or the Regular Class, as provided in ss.

251 121.053 and 121.122, on the first day of the month after  
 252 termination of employment in the nonelected position and  
 253 termination of DROP. Distribution of the DROP benefits shall be  
 254 made as provided in paragraph (c).

255 (II) On or after July 1, 2010, the officer may continue  
 256 employment as an elected officer but must defer termination as  
 257 provided in s. 121.053.

258 Section 2. The Legislature finds and declares that  
 259 ensuring the availability of experienced law enforcement,  
 260 correctional, and community-based correctional probation  
 261 officers to protect the safety and welfare of the public is an  
 262 important state interest. Providing such officers who are  
 263 members of the Florida Retirement System with an opportunity to  
 264 extend their employment as law enforcement officers,  
 265 correctional officers, or community-based correctional probation  
 266 officers by increasing the maximum participation period in the  
 267 Deferred Retirement Option Program will help serve that  
 268 interest. Funding for such retirement benefits must be made,  
 269 administered, and funded in an actuarially sound manner as  
 270 required by s. 14, Art. X of the State Constitution and part VII  
 271 of chapter 112, Florida Statutes. Therefore, the Legislature  
 272 determines and declares that the amendment of s. 121.091,  
 273 Florida Statutes, by this act fulfills an important state  
 274 interest.

275 Section 3. This act shall take effect upon becoming a law.