

By the Committee on Governmental Reform and Oversight and
Senator Williams

302-1644A-98

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; amending s. 121.021, F.S.; including
4 certain correctional probation officers within
5 the Special Risk Class; amending s. 121.0515,
6 F.S.; specifying criteria for inclusion of
7 correctional probation officers in the Special
8 Risk Class; providing for inclusion of
9 probation and parole circuit and deputy circuit
10 administrators in the Special Risk Class;
11 clarifying the procedure for designating
12 special risk membership in the system;
13 providing for the retention of special risk
14 membership for certain members transferred or
15 reassigned to other positions; authorizing
16 members of the Regular Class and the Special
17 Risk Administrative Support Class to reapply
18 for and be admitted as members of the Special
19 Risk Class; restoring special risk credit for
20 certain periods of employment; providing for
21 contributions; providing for an increased
22 employer contribution to fund benefits;
23 providing a finding of important state
24 interest; providing an effective date.

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

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28 Section 1. Paragraph (b) of subsection (15) of section
29 121.021, Florida Statutes, is amended to read:

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1 121.021 Definitions.--The following words and phrases
2 as used in this chapter have the respective meanings set forth
3 unless a different meaning is plainly required by the context:

4 (15)

5 (b) Effective October 1, 1978, "special risk member"
6 means a member of the Florida Retirement System who is
7 designated as a special risk member by the division in
8 accordance with s. 121.0515. Such member must be employed as
9 a law enforcement officer, a firefighter, or a correctional
10 officer and must meet certain other special criteria as set
11 forth in s. 121.0515. Effective January 1, 1999, the term
12 "special risk member" also includes any member who is employed
13 as a correctional probation officer and meets the special
14 criteria set forth in s. 121.0515(2)(d).

15 Section 2. Subsections (2), (3), and (7) of section
16 121.0515, Florida Statutes, are amended, present subsection
17 (8) of that section is renumbered as subsection (9) and
18 amended, and a new subsection (8) is added to that section to
19 read:

20 121.0515 Special risk membership; criteria;
21 designation and removal of classification; credits for past
22 service and prior service; retention of special risk normal
23 retirement date.--

24 (2) CRITERIA.--A member, to be designated as a special
25 risk member, must meet the following criteria:

26 (a) The member must be employed as a law enforcement
27 officer and be certified, or required to be certified, in
28 compliance with s. 943.1395; however, sheriffs and elected
29 police chiefs shall be excluded from meeting the certification
30 requirements of this paragraph. In addition, the member's
31 duties and responsibilities must include the pursuit,

1 apprehension, and arrest of law violators or suspected law
2 violators; or the member must be an active member of a bomb
3 disposal unit whose primary responsibility is the location,
4 handling, and disposal of explosive devices; or the member
5 must be the supervisor or command officer of a member or
6 members who have such responsibilities; provided, however,
7 administrative support personnel, including, but not limited
8 to, those whose primary duties and responsibilities are in
9 accounting, purchasing, legal, and personnel, shall not be
10 included;

11 (b) The member must be employed as a firefighter and
12 be certified, or required to be certified, in compliance with
13 s. 633.35 and be employed solely within the fire department of
14 the employer or agency of state government. In addition, the
15 member's duties and responsibilities must include on-the-scene
16 fighting of fires or direct supervision of firefighting units,
17 or the member must be the supervisor or command officer of a
18 member or members who have such responsibilities; provided,
19 however, administrative support personnel, including, but not
20 limited to, those whose primary duties and responsibilities
21 are in accounting, purchasing, legal, and personnel, shall not
22 be included; ~~or~~

23 (c) The member must be employed as a correctional
24 officer and be certified, or required to be certified, in
25 compliance with s. 943.1395. In addition, the member's
26 primary duties and responsibilities must be the custody, and
27 physical restraint when necessary, of prisoners or inmates
28 within a prison, jail, or other criminal detention facility,
29 or while on work detail outside the facility, or while being
30 transported; or the member must be the supervisor or command
31 officer of a member or members who have such responsibilities;

1 provided, however, administrative support personnel,
2 including, but not limited to, those whose primary duties and
3 responsibilities are in accounting, purchasing, legal, and
4 personnel, shall not be included; however, superintendents and
5 assistant superintendents shall participate in the Special
6 Risk Class, or—

7 (d) The member must be employed as a correctional
8 probation officer and be certified, or must be required to be
9 certified, in compliance with s. 943.1395. In addition, the
10 member's primary duties and responsibilities must be the
11 supervised custody, surveillance, control, investigation, and
12 counseling of assigned inmates, probationers, parolees, or
13 community controllees within institutions or the community; or
14 the member must be the supervisor of a member or members who
15 have such responsibilities; however, administrative support
16 personnel, including, but not limited to, those whose primary
17 duties and responsibilities are in accounting, purchasing,
18 legal services, and personnel are not included; however,
19 probation and parole circuit and deputy circuit administrators
20 are included in the Special Risk Class.

21 (3) PROCEDURE FOR DESIGNATING.--

22 (a) Any member of the Florida Retirement System
23 employed by a county, city, or special district who feels that
24 he or she meets the criteria set forth in subsection (2)~~this~~
25 ~~section~~ for membership in the Special Risk Class may request
26 that his or her employer submit an application to the division
27 requesting that the division designate him or her as a special
28 risk member. If the employer agrees that the member meets the
29 requirements for special risk membership, the employer shall
30 submit an application to the division in behalf of the
31 employee containing a certification that the member meets the

1 criteria for special risk membership set forth in subsection
2 ~~(2) this section~~ and such other supporting documentation as
3 may be required by administrative rule. The division shall,
4 within 90 days, either designate or refuse to designate the
5 member as a special risk member. If the employer declines to
6 submit the member's application to the division or if the
7 division does not designate the member as a special risk
8 member, the member or the employer may appeal to the State
9 Retirement Commission, as provided in s. 121.23, for
10 designation as a special risk member.

11 (b)1. Applying the criteria set forth in subsection
12 ~~(2) this section~~, the division ~~Department of Management~~
13 ~~Services~~ shall specify which current and newly created classes
14 of positions under the uniform classification plans ~~plan~~
15 established pursuant to chapter 110 entitle the incumbents of
16 positions in those classes to membership in the Special Risk
17 Class. Only employees employed in the classes so specified
18 shall be special risk members; however, if an employee
19 complies with the provisions of subsection (8), such member
20 shall retain his Special Risk Class membership.

21 2. When a class is not specified by the division
22 ~~department~~ as provided in subparagraph 1., the employing
23 agency may petition the State Retirement Commission for
24 approval in accordance with s. 121.23.

25 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT
26 DATE.--

27 (a) A special risk member who is moved or reassigned
28 to a nonspecial risk law enforcement, firefighting, or
29 correctional administrative support position with the same
30 agency prior to July 1, 1998, or who is subsequently employed
31 in such a position prior to July 1, 1998, with any law

1 enforcement, firefighting, or correctional agency under the
2 Florida Retirement System, shall earn credit for such service
3 at the same percentage rate as that earned by a regular
4 member. Notwithstanding the provisions of subsection (4),
5 service in such an administrative support position shall, for
6 purposes of s. 121.091, apply toward satisfaction of the
7 special risk normal retirement date, as defined in s.
8 121.021(29)(c), provided that, while in such position, the
9 member remains certified as a law enforcement officer,
10 firefighter, or correctional officer; remains subject to
11 reassignment at any time to a position qualifying for special
12 risk membership; and completes an aggregate of 10 or more
13 years of service as a designated special risk member prior to
14 retirement.

15 (b) Upon application by a member, the provisions of
16 this subsection shall apply, with respect to such member,
17 retroactively to October 1, 1978.

18 (c) The division shall adopt such rules as are
19 required to administer this subsection.

20 (8) Retention of Special Risk Membership.--

21 (a) Effective July 1, 1998, a member of the Special
22 Risk Class who is employed in, assigned to, or reassigned to a
23 non-special risk position, or whose duties are changed to
24 delete special risk duties, shall retain special risk
25 membership if such employment is in a law enforcement,
26 firefighting, or correctional agency, or, in a subdivision of
27 an agency with multiple responsibilities where law
28 enforcement, firefighting, or corrections is the primary
29 function of the subdivision, or the member is in a position
30 with direct supervisory or command responsibility over such
31 subdivision, provided that:

1 1. The member has completed a minimum of 5 years as a
2 member of the Special Risk Class, as provided in subsection
3 (2).

4 2. The member remains certified within the area of law
5 enforcement, firefighting, or corrections in which he is
6 employed, as provided in s. 121.0515(2).

7 3. The member remains subject to reassignment at any
8 time to a position qualifying for special risk membership as
9 specified in subsection (2).

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11 The employing agency shall notify the division of the member's
12 assignment or reassignment to a non-special-risk position on
13 the forms required by the division.

14 (b) A member of the Regular Class or Special Risk
15 Administrative Support Class of the Florida Retirement System
16 prior to and on July 1, 1998, shall be enrolled in the Special
17 Risk Class upon application by the member, certification by
18 the employing agency, and approval by the division that the
19 member satisfies the conditions specified in paragraph (a).

20 ~~(9)(8)~~ RESTORATION OF SPECIAL RISK CREDIT FOR
21 SPECIFIED PERIOD OF EMPLOYMENT.--

22 (a) A special risk member who was removed from the
23 Special Risk Class effective October 1978, for the sole reason
24 that he or she did not possess the required certificate or
25 temporary waiver of certificate, and who obtained
26 certification and was approved for special risk membership on
27 or before June 30, 1982, shall be permitted to have special
28 risk credit restored for that period upon:

29 1.~~(a)~~ Certification by his or her employer that all
30 requirements for special risk membership except the
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1 requirement for certification or temporary waiver of
2 certification were met; and

3 2.(b) Payment of contributions equal to the difference
4 in the contributions that were paid during the period and the
5 contributions required for special risk members during that
6 period, plus 6.5 percent interest thereon, compounded each
7 June 30 from date of service until date of payment.

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9 This credit may be purchased by the member or by the employer
10 on behalf of the member.

11 (b) A special risk member who was removed from the
12 Special Risk Class of the Florida Retirement System on or
13 after October 1, 1978, and prior to July 1, 1998, due to
14 employment in a non-special-risk position or assignment or
15 reassignment to a non-special-risk position, or because the
16 duties of his or her position were changed to delete special
17 risk duties, shall be permitted to have special risk credit
18 restored for that period as follows:

19 1. The member shall satisfy all of the provisions of
20 subsection (8), as verified by the employing agency.

21 2. Each active member eligible for such retroactive
22 special risk membership, or the employer of such member shall
23 pay the difference between the contributions paid and the
24 required contribution rate for the Special Risk Class during
25 the period for which special risk credit is restored, plus 6.5
26 percent interest thereon, compounded each June 30 from date of
27 service until date of payment.

28 3. Contributions paid in excess of the required
29 special risk contribution rate after October 1, 1986, for
30 members of the Special Risk Administrative Support Class shall
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1 be refunded to the employing agency that paid the special risk
2 administrative support contributions.

3 4. Such member who is not employed on July 1, 1998,
4 and who has creditable service in the Regular Class or Special
5 Risk Administrative Support Class between October 1, 1978, and
6 June 30, 1998, may have special risk membership restored for
7 that period upon return to employment with a law enforcement,
8 firefighting, or corrections agency; satisfaction of the
9 provisions of subsection (8); and payment by the member or the
10 member's employer of the required contributions as provided in
11 subparagraph 2.

12 Section 3. Effective July 1, 1998, the percentage
13 contribution rate applicable to employers of members of the
14 Special Risk Class of the Florida Retirement System shall be
15 increased by 0.11 percentage points to fund the provisions of
16 this act. This increase is in addition to all other changes to
17 such contribution rates.

18 Section 4. The Legislature finds that a proper and
19 legitimate state purpose is served when employees and retirees
20 of the state and of its political subdivisions, and the
21 dependents, survivors, and beneficiaries of such employees and
22 retirees, are extended the basic protections afforded by
23 governmental retirement systems that provide fair and adequate
24 benefits and that are managed, administered, and funded in an
25 actuarially sound manner, as required by Section 14 of Article
26 X of the State Constitution and part VII of chapter 112,
27 Florida Statutes. Therefore, the Legislature determines and
28 declares that this act fulfills an important state interest.

29 Section 5. This act shall take effect July 1, 1998.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1146

4 The committee substitute expands the definition of the Special
5 Risk Class to include correctional probation officers,
6 parole circuit and deputy circuit administrators, effective
7 January 1, 1999.

8 The bill restores special risk credit for Special Risk
9 Administrative Support Class members and Regular Class members
10 who were removed from the Special Risk Class on or after
11 October 1, 1978, and prior to July 1, 1998. Special Risk Class
12 membership will be restored only to those who were assigned or
13 responsibilities during that period.

14 The bill will take those members of the Florida Retirement
15 System, effective July 1, 1998, who are: employed in; assigned
16 to; or reassigned to a non-special-risk position; or whose
17 duties changed by deleting special risk will remain in the
18 Special Risk Class provided the member is employed by an
19 agency or subdivision thereof whose primary functions are law
20 enforcement, firefighting, or corrections.

21 The act becomes effective July 1, 1998.
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