

By the Committee on Governmental Reform and Oversight and
Senator Gutman

302-691A-98

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; amending s. 121.091, F.S.; authorizing
4 certain persons to participate in the Deferred
5 Retirement Option Program notwithstanding
6 certain restrictions; providing a contingent
7 effective date.

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

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11 Section 1. Paragraphs (a), (b), and (c) of subsection
12 (13) of section 121.091, Florida Statutes, as amended by
13 section 2 of chapter 97-154, Laws of Florida, and section 8 of
14 chapter 97-180, Laws of Florida, are amended to read:

15 121.091 Benefits payable under the system.--No
16 benefits shall be paid under this section unless the member
17 has terminated employment as provided in s. 121.021(39) and a
18 proper application has been filed in the manner prescribed by
19 the division.

20 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
21 and subject to the provisions of this section, the Deferred
22 Retirement Option Program, hereinafter referred to as the
23 DROP, is a program under which an eligible member of the
24 Florida Retirement System may elect to participate, deferring
25 receipt of retirement benefits while continuing employment
26 with his or her Florida Retirement System employer. The
27 deferred monthly benefits shall accrue in the System Trust
28 Fund on behalf of the participant, plus interest compounded
29 monthly, for the specified period of the DROP participation,
30 as provided in paragraph (c). Upon termination of employment,
31 the participant shall receive the total DROP benefits and

1 begin to receive the previously determined normal retirement
2 benefits. Employment in the DROP does not guarantee employment
3 for the specified period of DROP.

4 (a) Eligibility of member to participate in the
5 DROP.--All active Florida Retirement System members in a
6 regularly established position, and all active members of
7 either the Teachers' Retirement System established in chapter
8 238 or the State and County Officers' and Employees'
9 Retirement System established in chapter 122 which systems are
10 consolidated within the Florida Retirement System under s.
11 121.011,are eligible to elect participation in the DROP
12 provided that:

13 1. The member is not enrolled as a renewed member
14 under s. 121.122 or a participant in a defined contribution
15 plan under s. 121.051(2)(c), s. 121.055(6), or s. 121.35 in
16 lieu of the Florida Retirement System defined benefit plan.

17 ~~2.1.~~ Election to participate is made within 12 months
18 following the date on which the member first reaches normal
19 retirement date or age, or for a member who first reached
20 normal retirement date or age prior to the effective date of
21 this section, election to participate is made within 12 months
22 of the effective date of this section. A member who fails to
23 make an election within such 12-month limitation period shall
24 forfeit all rights to participate in the DROP. The member
25 shall advise his employer and the division in writing of the
26 date on which the DROP shall begin. Such beginning date may be
27 subsequent to the 12-month election period but must be within
28 the 60-month limitation period as provided in subparagraph
29 (b)1. When establishing either eligibility to participate in
30 DROP or the 60-month maximum participation period, the member
31 may elect to include or exclude any optional service credit

1 purchased by the member from the total service used to
2 establish the normal retirement date. A member who has dual
3 retirement dates is eligible to elect to participate in DROP
4 within 12 months after attaining the normal retirement date in
5 either class.

6 ~~3.2.~~ The retiring member's employer, or employers if
7 dually employed, shall acknowledge in writing to the division
8 the date the member's participation in the DROP begins and the
9 date the member's employment and DROP participation will
10 terminate.

11 ~~4.3.~~ Simultaneous employment of a participant by
12 additional Florida Retirement System employers subsequent to
13 the commencement of participation in the DROP shall be
14 permissible provided such employers acknowledge in writing a
15 DROP termination date no later than the participant's existing
16 termination date or the 60-month limitation period as provided
17 in subparagraph (b)1.

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

20 a. The change of employment must occur without a break
21 in service so that the member receives salary for each month
22 of continuous DROP participation. If no salary is received
23 during a month, DROP participation shall cease unless the
24 employer verifies that a continuing employer/employee
25 relationship exists for such participant pursuant to s.
26 121.021(39)(b).

27 b. Such participant and new employer must notify the
28 division on forms required by the division as to the identity
29 of the new employer.

30 c. The new employer must acknowledge in writing the
31 participant's DROP termination date, which may be extended,

1 but not beyond the original 60-month period provided in
2 subparagraph (b)1. and must acknowledge liability for any
3 additional retirement contributions and interest required if
4 the participant fails to terminate employment timely, and is
5 subject to the adjustment required in sub-subparagraph (c)4.d.

6 (b) Participation in the DROP.--

7 1. An eligible member may elect to participate in the
8 DROP for a period not to exceed a maximum of 60 calendar
9 months immediately following the date on which the member
10 first reaches normal retirement age or date, including a
11 ~~member who first reaches normal retirement age or date prior~~
12 ~~to the effective date of this section. However, a member,~~
13 other than a Special Risk member described below, who has
14 reached normal retirement date prior to the effective date of
15 DROP is eligible to participate in the DROP for a period of
16 time not to exceed 60 calendar months immediately following
17 such DROP effective date. A member of the Special Risk Class
18 who has reached normal retirement date prior to the effective
19 date of the DROP and whose total accrued value exceeds 75
20 percent of average final compensation as of his or her
21 effective date of retirement is eligible to participate in the
22 DROP for no more than 36 calendar months immediately following
23 such DROP effective date. Any member who has exceeded the
24 ~~60-month limitation shall not be eligible to participate in~~
25 ~~the DROP.~~

26 2. Upon deciding to participate in the DROP, the
27 member shall submit, on forms required by the division:
28 a. A written election to participate in the DROP;
29 b. Selection of the DROP participation and termination
30 dates, which satisfy the limitations stated in paragraph (a)
31 and subparagraph 1. Such termination date shall be in a

1 binding letter of resignation with the employer, establishing
2 a deferred termination date. The member may change the
3 termination date within the limitations of subparagraph 1.,
4 but only with the written approval of his employer;

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

7 d. Any other information required by the division.

8 3. The DROP participant shall be a retiree under the
9 Florida Retirement System for all purposes, except for
10 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
11 121.053, and 121.122.

12 ~~4. A reemployed retiree with renewed membership is not~~
13 ~~eligible for DROP participation.~~

14 4.5. Elected officers shall be eligible to participate
15 in the DROP subject to the following:

16 a. An elected or a nonelected participant may run for
17 a term of office while participating in DROP and, if elected,
18 extend the DROP termination date accordingly, except, however,
19 if such additional term of office exceeds the 60-month
20 limitation established in subparagraph 1., and the officer
21 does not resign from office within such 60-month limitation,
22 the retirement and the participant's DROP shall be null and
23 void as provided in sub-subparagraph (c)4.d.

24 b. An elected officer who is dually employed and
25 elects to participate in DROP shall be required to satisfy the
26 definition of termination within the 60-month limitation
27 period as provided in subparagraph 1. for the nonelected
28 position and may continue employment as an elected officer as
29 provided in s. 121.053. The elected officer will be enrolled
30 as a renewed member in the Elected State and County Officers'
31 Class or the Regular Class, as provided in ss. 121.053 and

1 121.22, on the first day of the month after termination of
2 employment in the nonelected position and termination of DROP.
3 Distribution of the DROP benefits shall be made as provided in
4 paragraph (c).

5 c. An elected officer who reaches normal retirement
6 date during a term of office may defer the election to
7 participate in the DROP until the next succeeding term in such
8 office, if such election to participate is made within 12
9 months after the first day of the succeeding term. An elected
10 officer who exercises this option may participate in the DROP
11 only for up to 48 months or until the end of the next
12 succeeding term after making the election to participate in
13 the DROP, whichever is less.

14 (c) Benefits payable under the DROP.--

15 1. Effective with the date of DROP participation, the
16 member's initial normal monthly benefit, including creditable
17 service, ~~and~~ average final compensation, optional form of
18 payment, and the effective date of retirement shall be fixed.
19 The beneficiary eligible for benefits payable under the
20 Florida Retirement System is the beneficiary eligible to
21 receive any DROP benefits payable if the DROP participant dies
22 before the completion of the DROP participation period. Such
23 retirement benefit, the annual cost of living adjustments
24 provided in s. 121.101, and interest shall accrue monthly in
25 the System Trust Fund. Such interest shall accrue at an
26 effective annual rate of 6.5 percent compounded monthly, on
27 the prior month's accumulated ending balance, up to the month
28 of termination or death.

29 2. The effective date of DROP participation and the
30 effective date of retirement of a DROP participant shall be
31 the first day of the month selected by the member to begin

1 participation in the DROP, provided that such date is properly
2 established, with the written confirmation of the employer and
3 the approval of the division, on forms required by the
4 division.

5 3. Normal retirement benefits and interest thereon
6 shall continue to accrue in the DROP until the established
7 termination date of the DROP, or until the participant
8 terminates employment or dies prior to such date. Although
9 individual DROP accounts shall not be established, a separate
10 accounting of each participant's accrued benefits under the
11 DROP shall be calculated and provided to participants
12 ~~annually.~~

13 4. At the conclusion of the participant's DROP, the
14 division shall distribute the participant's total accumulated
15 DROP benefits, subject to the following provisions:

16 a. The division shall receive verification by the
17 participant's employer or employers that such participant has
18 terminated employment as provided in s. 121.021(39)(b).

19 b. The terminated DROP participant or, if deceased,
20 such participant's named beneficiary, shall elect on forms
21 provided by the division to receive payment of the DROP
22 benefits in accordance with one of the options listed below.
23 For a participant or beneficiary who fails to elect a method
24 of payment within 60 days of termination of the DROP, the
25 division will pay a lump sum as provided in
26 sub-sub-subparagraph(I).

27 (I) Lump sum.--All accrued DROP benefits, plus
28 interest, less withholding taxes remitted to the Internal
29 Revenue Service, shall be paid to the DROP participant or
30 surviving beneficiary.

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1 (II) Direct rollover.--All accrued DROP benefits, plus
2 interest, shall be paid from the DROP directly to the
3 custodian of an eligible retirement plan as defined in s.
4 402(c)(8)(B) of the Internal Revenue Code. However, in the
5 case of an eligible rollover distribution to the surviving
6 spouse of a deceased participant, an eligible retirement plan
7 is an individual retirement account or an individual
8 retirement annuity as described in s. 402(c)(9) of the
9 Internal Revenue Code.

10 (III) Partial lump sum.--A portion of the accrued DROP
11 benefits shall be paid to the DROP participant or surviving
12 spouse, less withholding taxes remitted to the Internal
13 Revenue Service, and the remaining DROP benefits shall be
14 transferred directly to the custodian of an eligible
15 retirement plan as defined in s. 402(c)(8)(B) of the Internal
16 Revenue Code. However, in the case of an eligible rollover
17 distribution to the surviving spouse of a deceased
18 participant, an eligible retirement plan is an individual
19 retirement account or an individual retirement annuity as
20 described in s. 402(c)(9) of the Internal Revenue Code. The
21 proportions shall be specified by the DROP participant or
22 surviving beneficiary.

23 c. The form of payment selected by the DROP
24 participant or surviving beneficiary complies with the minimum
25 distribution requirements of the Internal Revenue Code and
26 ~~payments begin no later than the date on which the participant~~
27 ~~reaches age 70 years and 6 months.~~

28 d. ~~For~~ A DROP participant who fails to terminate
29 employment as defined in s. 121.021(39)(b), the member shall
30 be deemed not to be retired and the DROP election shall be
31 null and void. Florida Retirement System membership shall be

1 reestablished retroactively to the date of the commencement of
2 the DROP, and the employers with whom the participant
3 continues employment ~~employer~~ shall be required to pay to the
4 System Trust Fund the difference between the DROP
5 contributions paid in paragraph (i) and the contributions
6 required for the applicable Florida Retirement System class of
7 membership during the period the member participated in the
8 DROP, plus 6.5 percent interest compounded annually.

9 5. The accrued benefits of any DROP participant, and
10 any contributions accumulated under such program, shall not be
11 subject to assignment, execution, attachment, or to any legal
12 process whatsoever, except for qualified domestic relations
13 orders by a court of competent jurisdiction, income deduction
14 orders as provided in s. 61.1301, and federal income tax
15 levies.

16 6. DROP participants shall not be eligible for
17 disability retirement benefits as provided in subsection (4).

18 Section 2. This act shall take effect upon the
19 effective date of the amendments to section 121.091, Florida
20 Statutes, contained in section 2 of chapter 97-154, Laws of
21 Florida, and section 8 of chapter 97-180, Laws of Florida.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 216

4 The committee substitute recognizes members of the Teacher's
5 Retirement System (TRS) and the State and County Officers' and
6 Employees' Retirement System (SCOERS') as eligible
7 participants in DROP. Additional language restricts DROP
8 participation to those active members of the FRS employed in
9 regularly established positions. Members of the State Community
10 College System Optional Retirement Program, Senior Management
11 Service Optional Annuity Program, and State University System
12 Optional Annuity Program are not eligible to participate in
13 DROP.

14 The bill clarifies that a member who has purchased optional
15 service credit to establish normal retirement date may choose
16 to include or exclude the credit when establishing DROP
17 eligibility.

18 The bill clarifies that a DROP participant may be
19 simultaneously employed by other FRS employers and may change
20 employers provided the change takes place without a break in
21 service.

22 The bill stipulates that Special Risk Members who have reached
23 retirement date and have a total accrued value exceeding 75%
24 of average final compensation as of his or her effective date
25 of retirement may only participate in DROP for no more than 36
26 months.

27 On the effective date of participation of DROP, the optional
28 form of payment elected by the member will be fixed and if the
29 member should die before completing DROP, then the current
30 beneficiary named to receive benefits under FRS shall also be
31 the same to receive benefits payable under DROP.

The bill clarifies that the effective date of DROP and the
effective date of retirement are both the first day of the
month following eligibility.

The bill deletes language requiring distribution of DROP
payment before the participant reached 70 years and 6 months
of age.

The bill specifies that the employer is responsible and
financially liable for the employees timely termination from
the DROP plan.

The bill allows elected officers, including constitutional
officers, who have reach normal retirement date during a term
of office, to defer their election to participate in DROP
provided the election occurs within the first 12 months of the
succeeding term.