

By the Committees on General Government Appropriations, Governmental Operations and Representatives Feeney, Fasano, D. Prewitt, Heyman, Boyd, Crow, Turnbull, Maygarden, Livingston, Ball, Ziebarth, Murman, Spratt, Lynn, K. Pruitt and Dawson-White

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; amending s. 121.091, F.S.; revising
4 criteria, limitations, and restrictions for
5 eligibility, participation, and benefits
6 payable under the Deferred Retirement Option
7 Program; providing conditions for payment of
8 annual leave; amending s. 121.1122, F.S.,
9 relating to provisions for purchase of
10 retirement credit for in-state-service in
11 accredited nonpublic schools and colleges;
12 providing an effective date.

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

16 Section 1. Paragraphs (a), (b), and (c) of subsection
17 (13) of section 121.091, Florida Statutes, are amended to
18 read:

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

24 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
25 and subject to the provisions of this section, the Deferred
26 Retirement Option Program, hereinafter referred to as the
27 DROP, is a program under which an eligible member of the
28 Florida Retirement System may elect to participate, deferring
29 receipt of retirement benefits while continuing employment
30 with his or her Florida Retirement System employer. The
31 deferred monthly benefits shall accrue in the System Trust

1 Fund on behalf of the participant, plus interest compounded
2 monthly, for the specified period of the DROP participation,
3 as provided in paragraph (c). Upon termination of employment,
4 the participant shall receive the total DROP benefits and
5 begin to receive the previously determined normal retirement
6 benefits. Participation ~~Employment~~ in the DROP does not
7 guarantee employment for the specified period of DROP.

8 (a) Eligibility of member to participate in the
9 DROP.--Each active ~~All~~ Florida Retirement System member, who
10 is employed in a regularly established position, and each
11 active member of the State and County Officers' and Employees'
12 Retirement System established under chapter 122 and
13 consolidated with the Florida Retirement System under s.
14 121.011, is ~~members are~~ eligible to elect participation in the
15 DROP provided that:

16 1. The member is not a renewed member of the Florida
17 Retirement System under s. 121.122, or a member of the State
18 Community College System Optional Retirement Program under s.
19 121.051, the Senior Management Service Optional Annuity
20 Program under s. 121.055, or the optional retirement program
21 for the State University System under s. 121.35.

22 2.1. Election to participate is made within 12 months
23 immediately following the date on which the member first
24 reaches normal retirement date ~~or age~~, or for a member who
25 reaches normal retirement date based on service before he or
26 she reaches age 62, or age 55 for Special Risk Class members,
27 election to participate may be deferred to the 12 months
28 immediately following the date the member attains 57, or age
29 50 for Special Risk Class members.For a member who first
30 reached normal retirement date or the deferred eligibility
31 date described above ~~age~~ prior to the effective date of this

1 section, election to participate shall be ~~is~~ made within 12
2 months of the effective date of this section. A member who
3 fails to make an election within such 12-month limitation
4 period shall forfeit all rights to participate in the DROP.
5 The member shall advise his employer and the division in
6 writing of the date on which the DROP shall begin. Such
7 beginning date may be subsequent to the 12-month election
8 period but must be within the 60-month limitation period as
9 provided in subparagraph (b)1. When establishing eligibility
10 of the member to participate in the DROP or the 60-month
11 maximum participation period, the member may elect to include
12 or exclude any optional service credit purchased by the member
13 from the total service used to establish the normal retirement
14 date. A member with dual normal retirement dates shall be
15 eligible to elect to participate in DROP within 12 months
16 after attaining normal retirement date in either class.

17 ~~3.2.~~ The retiring member's employer of a member
18 electing to participate in the DROP, or employers if dually
19 employed, shall acknowledge in writing to the division the
20 date the member's participation in the DROP begins and the
21 date the member's employment and DROP participation will
22 terminate.

23 ~~4.3.~~ Simultaneous employment of a participant by
24 additional Florida Retirement System employers subsequent to
25 the commencement of participation in the DROP shall be
26 permissible provided such employers acknowledge in writing a
27 DROP termination date no later than the participant's existing
28 termination date or the 60-month limitation period as provided
29 in subparagraph (b)1.

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

1 a. A change of employment must take place without a
2 break in service so that the member receives salary for each
3 month of continuous DROP participation. If a member receives
4 no salary during a month, DROP participation shall cease
5 unless the employer verifies a continuation of the employment
6 relationship for such participant pursuant to 121.021(39)(b).

7 b. Such participant and new employer shall notify the
8 division on forms required by the division as to the identity
9 of the new employer.

10 c. The new employer shall acknowledge, in writing, the
11 participant's DROP termination date, which may be extended but
12 not beyond the original 60-month period provided in
13 subparagraph (b)1., shall acknowledge liability for any
14 additional retirement contributions and interest required if
15 the participant fails to timely terminate employment, and
16 shall be subject to the adjustment required in
17 sub-subparagraph (c)4.d.

18 (b) Participation in the DROP.--

19 1. An eligible member may elect to participate in the
20 DROP for a period not to exceed a maximum of 60 calendar
21 months immediately following the date on which the member
22 first reaches normal retirement ~~age or date or the date to~~
23 which he or she is eligible to defer his or her election to
24 participate as provided in subparagraph (a)2, including a
25 member who first reaches normal retirement age or date prior
26 to the effective date of this section. Any member who has
27 exceeded the 60-month limitation shall not be eligible to
28 participate in the DROP. However, a member, other than a
29 Special Risk Class member, who has reached normal retirement
30 date prior to the effective date of the DROP shall be eligible
31 to participate in the DROP for a period of time not to exceed

1 60 calendar months immediately following the effective date of
2 the DROP. A member of the Special Risk Class who has reached
3 normal retirement date prior to the effective date of the DROP
4 and whose total accrued value exceeds 75 percent of average
5 final compensation as of his or her effective date of
6 retirement shall be eligible to participate in the DROP for no
7 more than 36 calendar months immediately following the
8 effective date of the DROP.

9 2. Upon deciding to participate in the DROP, the
10 member shall submit, on forms required by the division:
11 a. A written election to participate in the DROP;
12 b. Selection of the DROP participation and termination
13 dates, which satisfy the limitations stated in paragraph (a)
14 and subparagraph 1. Such termination date shall be in a
15 binding letter of resignation with the employer, establishing
16 a deferred termination date. The member may change the
17 termination date within the limitations of subparagraph 1.,
18 but only with the written approval of his employer;
19 c. A properly completed DROP application for service
20 retirement as provided in this section; and
21 d. Any other information required by the division.

22 3. The DROP participant shall be a retiree under the
23 Florida Retirement System for all purposes, except for
24 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
25 121.053, and 121.122. However, participation in the DROP does
26 not alter the participant's employment status and such
27 employee shall not be deemed retired from employment until his
28 or her deferred resignation is effective and termination
29 occurs as provided in s. 121.021(39).

30 ~~4. A reemployed retiree with renewed membership is not~~
31 ~~eligible for DROP participation.~~

1 ~~4.5.~~ Elected officers shall be eligible to participate
2 in the DROP subject to the following:

3 a. An elected officer who reaches normal retirement
4 date during a term of office may defer the election to
5 participate in the DROP until the next succeeding term in that
6 office. Such elected officer who exercises this option may
7 participate in the DROP for up to 60 calendar months or a
8 period of no longer than such succeeding term of office,
9 whichever is less.

10 ~~b.a.~~ An elected or a nonelected participant may run
11 for a term of office while participating in DROP and, if
12 elected, extend the DROP termination date accordingly, except,
13 however, if such additional term of office exceeds the
14 60-month limitation established in subparagraph 1., and the
15 officer does not resign from office within such 60-month
16 limitation, the retirement and the participant's DROP shall be
17 null and void as provided in sub-subparagraph (c)4.d.

18 ~~c.b.~~ An elected officer who is dually employed and
19 elects to participate in DROP shall be required to satisfy the
20 definition of termination within the 60-month limitation
21 period as provided in subparagraph 1. for the nonelected
22 position and may continue employment as an elected officer as
23 provided in s. 121.053. The elected officer will be enrolled
24 as a renewed member in the Elected State and County Officers'
25 Class or the Regular Class, as provided in ss. 121.053 and
26 121.22, on the first day of the month after termination of
27 employment in the nonelected position and termination of DROP.
28 Distribution of the DROP benefits shall be made as provided in
29 paragraph (c).

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

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1 1. Effective with the date of DROP participation, the
2 member's initial normal monthly benefit, including creditable
3 service, optional form of payment, and average final
4 compensation, and the effective date of retirement shall be
5 fixed. The beneficiary established under the Florida
6 Retirement System shall be the beneficiary eligible to receive
7 any DROP benefits payable if the DROP participant dies prior
8 to the completion of the period of DROP participation. In the
9 event a joint annuitant predeceases the member, the member may
10 name a beneficiary to receive accumulated DROP benefits
11 payable. Such retirement benefit, the annual cost of living
12 adjustments provided in s. 121.101, and interest shall accrue
13 monthly in the System Trust Fund. Such interest shall accrue
14 at an effective annual rate of 6.5 percent compounded monthly,
15 on the prior month's accumulated ending balance, up to the
16 month of termination or death.

17 2. Each employee who elects to participate in the DROP
18 shall be allowed to elect to receive a lump-sum payment for
19 accrued annual leave earned in accordance with agency policy
20 upon beginning participation in the DROP. Such accumulated
21 leave payment certified to the division upon commencement of
22 DROP shall be included in the calculation of the member's
23 average final compensation. The employee electing such
24 lump-sum payment upon beginning participation in DROP will not
25 be eligible to receive a second lump-sum payment upon
26 termination, except to the extent the employee has earned
27 additional annual leave which combined with the original
28 payment does not exceed the maximum lump-sum payment allowed
29 by the employing agency's policy or rules. Such early
30 lump-sum payment shall be based on the hourly wage of the
31 employee at the time he or she begins participation in the

1 DROP. If the member elects to wait and receive such lump-sum
2 payment upon termination of DROP and termination of employment
3 with the employer, any accumulated leave payment made at that
4 time cannot be included in the member's retirement benefit,
5 which was determined and fixed by law when the employee
6 elected to participate in the DROP.

7 3.2. The effective date of DROP participation and the
8 effective date of retirement of a DROP participant shall be
9 the first day of the month selected by the member to begin
10 participation in the DROP, provided such date is properly
11 established, with the written confirmation of the employer,
12 and the approval of the division, on forms required by the
13 division.

14 4.3. Normal retirement benefits and interest thereon
15 shall continue to accrue in the DROP until the established
16 termination date of the DROP, or until the participant
17 terminates employment or dies prior to such date. Although
18 individual DROP accounts shall not be established, a separate
19 accounting of each participant's accrued benefits under the
20 DROP shall be calculated and provided to participants
21 annually.

22 5.4. At the conclusion of the participant's DROP, the
23 division shall distribute the participant's total accumulated
24 DROP benefits, subject to the following provisions:

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

28 b. The terminated DROP participant or, if deceased,
29 such participant's named beneficiary, shall elect on forms
30 provided by the division to receive payment of the DROP
31 benefits in accordance with one of the options listed below.

1 For a participant or beneficiary who fails to elect a method
2 of payment within 60 days of termination of the DROP, the
3 division will pay a lump sum as provided in
4 sub-sub-subparagraph(I).

5 (I) Lump sum.--All accrued DROP benefits, plus
6 interest, less withholding taxes remitted to the Internal
7 Revenue Service, shall be paid to the DROP participant or
8 surviving beneficiary.

9 (II) Direct rollover.--All accrued DROP benefits, plus
10 interest, shall be paid from the DROP directly to the
11 custodian of an eligible retirement plan as defined in s.
12 402(c)(8)(B) of the Internal Revenue Code. However, in the
13 case of an eligible rollover distribution to the surviving
14 spouse of a deceased participant, an eligible retirement plan
15 is an individual retirement account or an individual
16 retirement annuity as described in s. 402(c)(9) of the
17 Internal Revenue Code.

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

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1 c. The form of payment selected by the DROP
2 participant or surviving beneficiary complies with the minimum
3 distribution requirements of the Internal Revenue Code ~~and~~
4 ~~payments begin no later than the date on which the participant~~
5 ~~reaches age 70 years and 6 months.~~

6 d. ~~For~~ A DROP participant who fails to terminate
7 employment as defined in s. 121.021(39)(b), ~~the member~~ shall
8 be deemed not to be retired and the DROP election shall be
9 null and void. Florida Retirement System membership shall be
10 reestablished retroactively to the date of the commencement of
11 the DROP, and each the employer with whom the participant
12 continues employment shall be required to pay to the System
13 Trust Fund the difference between the DROP contributions paid
14 in paragraph (i) and the contributions required for the
15 applicable Florida Retirement System class of membership
16 during the period the member participated in the DROP, plus
17 6.5 percent interest compounded annually.

18 ~~6.5.~~ The accrued benefits of any DROP participant, and
19 any contributions accumulated under such program, shall not be
20 subject to assignment, execution, attachment, or to any legal
21 process whatsoever, except for qualified domestic relations
22 orders by a court of competent jurisdiction, income deduction
23 orders as provided in s. 61.1301, and federal income tax
24 levies.

25 ~~7.6.~~ DROP participants shall not be eligible for
26 disability retirement benefits as provided in subsection (4).

27 Section 2. Section 121.1122, Florida Statutes, is
28 amended to read:

29 121.1122 Purchase of retirement credit for in-state
30 public service and in-state service in accredited nonpublic,
31 ~~nonsectarian~~ schools and colleges, including charter

1 schools.--Effective January 1, 1998, a member of the Florida
2 Retirement System may purchase creditable service for periods
3 of certain public or nonpublic, ~~nonsectarian~~ employment
4 performed in this state, as provided in this section.

5 (1) PURCHASE OF RETIREMENT CREDIT AUTHORIZED.--Subject
6 to the provisions of subsections (2) and (3), a member of the
7 Florida Retirement System may purchase up to 5 years of
8 retirement credit for:

9 (a) Periods of public employment in this state; or

10 (b) Periods of employment in charter schools or in any
11 nonpublic, ~~nonsectarian~~ school or college in this state that
12 is accredited by the Southern Association of Colleges and
13 Schools.

14

15 Credit for 1 year of such service may be purchased for each
16 year of creditable service a member completes under the
17 Florida Retirement System.

18 (2) LIMITATIONS AND CONDITIONS.--

19 (a) A member is not eligible to receive credit for
20 in-state service under this section until he or she has
21 completed 10 years of creditable service under the Florida
22 Retirement System, excluding service purchased under this
23 section and out-of-state service claimed and purchased under
24 s. 121.1115.

25 (b) A member may not purchase and receive credit for
26 more than 5 years of creditable service aggregated under the
27 provisions of this section and s. 121.1115.

28 (c) Service credit claimed under this section shall be
29 credited only as service in the Regular Class of membership
30 and shall be subject to the provisions of s. 112.65.

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1 (d) A member shall be eligible to receive service
2 credit for in-state service performed after leaving the
3 Florida Retirement System only upon returning to membership
4 and completing at least 1 year of creditable service in the
5 Florida Retirement System following the in-state service.

6 (e) The service claimed must have been service covered
7 by a retirement or pension plan provided by the employer.

8 (3) COST.--The cost to purchase retirement credit
9 under this section shall be calculated in the same manner as
10 set forth in s. 121.1115(2) for purchase of credit for
11 out-of-state service.

12 Section 3. This act shall take effect July 1 of the
13 year in which enacted.

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