

By Representative Feeney

1                                   A bill to be entitled  
2           An act relating to the Florida Retirement  
3           System, amending s. 121.021, F.S.; redefining  
4           the term "termination" for Deferred Retirement  
5           Option Program participants; defining the term  
6           "DROP participants"; amending s. 121.091, F.S.;  
7           specifying benefits may be payable to a  
8           participant's Deferred Retirement Option  
9           Program; specifying that the option selection  
10          for payment of benefits shall be final at the  
11          time a benefit payment is assigned to the  
12          Deferred Retirement Option Program; specifying  
13          death benefits applicable to Deferred  
14          Retirement Option Program participants;  
15          specifying employment after retirement  
16          limitations applicable to Deferred Retirement  
17          Option Program participants; providing overview  
18          of the Deferred Retirement Option Program;  
19          providing eligibility criteria; providing for  
20          procedures for election of participation;  
21          providing for benefits payable; providing for  
22          death benefits; providing for a cost-of-living  
23          adjustment; specifying health insurance subsidy  
24          payments are not payable; specifying Deferred  
25          Retirement Option Program participation does  
26          not qualify as renewed membership; providing  
27          limitations on employment after participation;  
28          specifying contribution rates; specifying  
29          Deferred Retirement Option Program  
30          participation does not exempt such participants  
31          from the forfeiture of benefits under the

1 provisions of ss. 112.3173 and 121.091(5), F.S;  
2 providing for administration of the program;  
3 providing a declaration of important state  
4 interest; providing a contingent effective  
5 date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Subsection (39) of section 121.021, Florida  
10 Statutes, 1996 Supplement, is amended, and subsection (43) is  
11 added to said section, to read:

12 121.021 Definitions.--The following words and phrases  
13 as used in this chapter have the respective meanings set forth  
14 unless a different meaning is plainly required by the context:

15 (39)(a) "Termination" occurs, except as provided in  
16 paragraph (b), when a member ceases all employment  
17 relationships with employers under this system, as defined in  
18 subsection (10), but in the event a member should be employed  
19 by any such employer within the next calendar month,  
20 termination shall be deemed not to have occurred. A leave of  
21 absence shall constitute a continuation of the employment  
22 relationship, except that a leave of absence without pay due  
23 to disability may constitute termination for a member, if such  
24 member makes application for and is approved for disability  
25 retirement in accordance with s. 121.091(4). The division may  
26 require other evidence of termination as it deems necessary.

27 (b) "Termination" for a member electing to participate  
28 under the Deferred Retirement Option Program occurs when the  
29 Deferred Retirement Option Program participant ceases all  
30 employment relationships with employers under this system in  
31 accordance with s. 121.091(13), but in the event the Deferred

1 Retirement Option Program participant should be employed by  
2 any such employer within the next calendar month, termination  
3 will be deemed not to have occurred. A leave of absence shall  
4 constitute a continuation of the employment relationship.

5 (43) "DROP participant" means any member who elects to  
6 retire and participate in the Deferred Retirement Option  
7 Program as provided in s. 121.091(13).

8 Section 2. The introductory paragraph, paragraph (h)  
9 of subsection (6), paragraphs (c), (d), and (e) of subsection  
10 (7), and paragraph (b) of subsection (9) of section 121.091,  
11 Florida Statutes, 1996 Supplement, are amended, and subsection  
12 (13) is added to said section, to read:

13 121.091 Benefits payable under the system.--No  
14 benefits shall be paid under this section unless the member  
15 has terminated employment as provided in s. 121.021(39)(a) or  
16 began participation in the Deferred Retirement Option Program  
17 as provided in subsection (13),and a proper application has  
18 been filed in the manner prescribed by the division.

19 (6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND  
20 DISABILITY RETIREMENT BENEFITS.--

21 (h) The option selected or determined for payment of  
22 benefits as provided in this section shall be final and  
23 irrevocable at the time a benefit payment is cashed or  
24 deposited or credited to the Deferred Retirement Option  
25 Program as provided in subsection (13).

26 (7) DEATH BENEFITS.--

27 (c) If a retiring member dies on or after the  
28 effective date of retirement, but prior to a benefit payment  
29 being cashed or deposited, or credited to the Deferred  
30 Retirement Option Program,benefits shall be paid as follows:  
31

1           1. For a designated beneficiary who qualifies as a  
2 joint annuitant, benefits shall be paid in the optional form  
3 of payment provided in subparagraph (6)(a)3. for the joint  
4 annuitant's lifetime or, if the member chose the optional form  
5 of payment provided in subparagraph (6)(a)2., the joint  
6 annuitant may select the form provided in either subparagraph  
7 (6)(a)2. or subparagraph (6)(a)3.

8           2. For a designated beneficiary who does not qualify  
9 as a joint annuitant, any benefits payable shall be paid as  
10 provided in the option selected by the member; or if the  
11 member has not selected an option, benefits shall be paid in  
12 the optional form of payment provided in subparagraph (6)(a)1.

13           (d)1. Notwithstanding any other provision in this  
14 chapter to the contrary, with the exception of the Deferred  
15 Retirement Option Program, as provided in subsection (13), the  
16 surviving spouse of any member killed in the line of duty may  
17 receive a monthly pension equal to one-half of the monthly  
18 salary being received by the member at the time of death for  
19 the rest of the surviving spouse's lifetime. Benefits provided  
20 by this paragraph shall supersede any other distribution that  
21 may have been provided by the member's designation of  
22 beneficiary.

23           2. If the surviving spouse of a member killed in the  
24 line of duty dies, the monthly payments which would have been  
25 payable to such surviving spouse had such surviving spouse  
26 lived shall be paid for the use and benefit of such member's  
27 child or children under 18 years of age and unmarried until  
28 the 18th birthday of the member's youngest child.

29           3. If a member killed in the line of duty leaves no  
30 surviving spouse but is survived by a child or children under  
31 18 years of age, the benefits provided by subparagraph 1.,

1 normally payable to a surviving spouse, shall be paid for the  
2 use and benefit of such member's child or children under 18  
3 years of age and unmarried until the 18th birthday of the  
4 member's youngest child.

5           4. The surviving spouse of a member whose benefit  
6 terminated because of remarriage shall have the benefit  
7 reinstated beginning July 1, 1993, at an amount that would  
8 have been payable had the benefit not been terminated.

9           (e) The surviving spouse or other dependent of any  
10 member, except a member who participated in the Deferred  
11 Retirement Option Program, whose employment is terminated by  
12 death shall, upon application to the administrator, be  
13 permitted to pay the required contributions for any service  
14 performed by the member which could have been claimed by the  
15 member at the time of his or her death. Such service shall be  
16 added to the creditable service of the member and shall be  
17 used in the calculation of any benefits which may be payable  
18 to the surviving spouse or other surviving dependent.

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

20           (b)1. Any person who is retired under this chapter,  
21 except under the disability retirement provisions of  
22 subsection (4), may be reemployed by any private or public  
23 employer after retirement and receive retirement benefits and  
24 compensation from his or her employer without any limitations,  
25 except that a person may not receive both a salary from  
26 reemployment with any agency participating in the Florida  
27 Retirement System and retirement benefits under this chapter  
28 for a period of 12 months immediately subsequent to the date  
29 of retirement. However, a DROP participant shall be eligible  
30 to continue to receive a salary during the period of  
31

1 participation in the Deferred Retirement Option Program, as  
2 provided in subsection (13).

3           2. Any person to whom the limitation in subparagraph  
4 1. applies who violates such reemployment limitation and who  
5 is reemployed with any agency participating in the Florida  
6 Retirement System before completion of the 12-month limitation  
7 period shall give timely notice of this fact in writing to the  
8 employer and to the division and shall have his or her  
9 retirement benefits suspended for the balance of the 12-month  
10 limitation period. Any person employed in violation of this  
11 paragraph and any employing agency which knowingly employs or  
12 appoints such person without notifying the Division of  
13 Retirement to suspend retirement benefits shall be jointly and  
14 severally liable for reimbursement to the retirement trust  
15 fund of any benefits paid during the reemployment limitation  
16 period. To avoid liability, such employing agency shall have  
17 a written statement from the retiree that he or she is not  
18 retired from a state-administered retirement system. Any  
19 retirement benefits received while reemployed during this  
20 reemployment limitation period shall be repaid to the  
21 retirement trust fund, and retirement benefits shall remain  
22 suspended until such repayment has been made. Benefits  
23 suspended beyond the reemployment limitation shall apply  
24 toward repayment of benefits received in violation of the  
25 reemployment limitation.

26           3. A district school board may reemploy a retired  
27 member as a substitute or hourly teacher, teacher aide,  
28 transportation assistant, bus driver, or food service worker  
29 on a noncontractual basis after he or she has been retired for  
30 1 calendar month, in accordance with s. 121.021(39). Any  
31 retired member who is reemployed within 1 calendar month after

1 retirement shall void his or her application for retirement  
2 benefits. District school boards reemploying such teachers,  
3 teacher aides, transportation assistants, bus drivers, or food  
4 service workers are subject to the retirement contribution  
5 required by subparagraph 7. Reemployment of a retired member  
6 as a substitute or hourly teacher, teacher aide,  
7 transportation assistant, bus driver, or food service worker  
8 is limited to 780 hours during the first 12 months of his or  
9 her retirement. Any retired member reemployed for more than  
10 780 hours during his or her first 12 months of retirement  
11 shall give timely notice in writing to the employer and to the  
12 division of the date he or she will exceed the limitation.  
13 The division shall suspend his or her retirement benefits for  
14 the remainder of the first 12 months of retirement. Any  
15 person employed in violation of this subparagraph and any  
16 employing agency which knowingly employs or appoints such  
17 person without notifying the Division of Retirement to suspend  
18 retirement benefits shall be jointly and severally liable for  
19 reimbursement to the retirement trust fund of any benefits  
20 paid during the reemployment limitation period. To avoid  
21 liability, such employing agency shall have a written  
22 statement from the retiree that he or she is not retired from  
23 a state-administered retirement system. Any retirement  
24 benefits received by a retired member while reemployed in  
25 excess of 780 hours during the first 12 months of retirement  
26 shall be repaid to the Retirement System Trust Fund, and his  
27 or her retirement benefits shall remain suspended until  
28 repayment is made. Benefits suspended beyond the end of the  
29 retired member's first 12 months of retirement shall apply  
30 toward repayment of benefits received in violation of the  
31 780-hour reemployment limitation.

1           4. A community college board of trustees may reemploy  
2 a retired member as an adjunct instructor, that is, an  
3 instructor who is noncontractual and part-time, or as a  
4 participant in a phased retirement program within the State  
5 Community College System, after he or she has been retired for  
6 1 calendar month, in accordance with s. 121.021(39). Any  
7 retired member who is reemployed within 1 calendar month after  
8 retirement shall void his or her application for retirement  
9 benefits. Boards of trustees reemploying such instructors are  
10 subject to the retirement contribution required in  
11 subparagraph 7. A retired member may be reemployed as an  
12 adjunct instructor for no more than 780 hours during the first  
13 12 months of retirement. Any retired member reemployed for  
14 more than 780 hours during the first 12 months of retirement  
15 shall give timely notice in writing to the employer and to the  
16 division of the date he or she will exceed the limitation.  
17 The division shall suspend his or her retirement benefits for  
18 the remainder of the first 12 months of retirement. Any  
19 person employed in violation of this subparagraph and any  
20 employing agency which knowingly employs or appoints such  
21 person without notifying the Division of Retirement to suspend  
22 retirement benefits shall be jointly and severally liable for  
23 reimbursement to the retirement trust fund of any benefits  
24 paid during the reemployment limitation period. To avoid  
25 liability, such employing agency shall have a written  
26 statement from the retiree that he or she is not retired from  
27 a state-administered retirement system. Any retirement  
28 benefits received by a retired member while reemployed in  
29 excess of 780 hours during the first 12 months of retirement  
30 shall be repaid to the Retirement System Trust Fund, and  
31 retirement benefits shall remain suspended until repayment is



1 made. Benefits suspended beyond the end of the retired  
2 member's first 12 months of retirement shall apply toward  
3 repayment of benefits received in violation of the 780-hour  
4 reemployment limitation.

5           5. The State University System may reemploy a retired  
6 member as an adjunct faculty member or as a participant in a  
7 phased retirement program within the State University System  
8 after the retired member has been retired for 1 calendar  
9 month, in accordance with s. 121.021(39). Any retired member  
10 who is reemployed within 1 calendar month after retirement  
11 shall void his or her application for retirement benefits.  
12 The State University System is subject to the retired  
13 contribution required in subparagraph 7., as appropriate. A  
14 retired member may be reemployed as an adjunct faculty member  
15 or a participant in a phased retirement program for no more  
16 than 780 hours during the first 12 months of his or her  
17 retirement. Any retired member reemployed for more than 780  
18 hours during the first 12 months of retirement shall give  
19 timely notice in writing to the employer and to the division  
20 of the date he or she will exceed the limitation. The  
21 division shall suspend his or her retirement benefits for the  
22 remainder of the first 12 months of retirement. Any person  
23 employed in violation of this subparagraph and any employing  
24 agency which knowingly employs or appoints such person without  
25 notifying the Division of Retirement to suspend retirement  
26 benefits shall be jointly and severally liable for  
27 reimbursement to the retirement trust fund of any benefits  
28 paid during the reemployment limitation period. To avoid  
29 liability, such employing agency shall have a written  
30 statement from the retiree that he or she is not retired from  
31 a state-administered retirement system. Any retirement

1 benefits received by a retired member while reemployed in  
2 excess of 780 hours during the first 12 months of retirement  
3 shall be repaid to the Retirement System Trust Fund, and  
4 retirement benefits shall remain suspended until repayment is  
5 made. Benefits suspended beyond the end of the retired  
6 member's first 12 months of retirement shall apply toward  
7 repayment of benefits received in violation of the 780-hour  
8 reemployment limitation.

9           6. The Board of Trustees of the Florida School for the  
10 Deaf and the Blind may reemploy a retired member as a  
11 substitute teacher, substitute residential instructor, or  
12 substitute nurse on a noncontractual basis after he or she has  
13 been retired for 1 calendar month, in accordance with s.  
14 121.021(39). Any retired member who is reemployed within 1  
15 calendar month after retirement shall void his or her  
16 application for retirement benefits. The Board of Trustees of  
17 the Florida School for the Deaf and the Blind reemploying such  
18 teachers, residential instructors, or nurses is subject to the  
19 retirement contribution required by subparagraph 7.  
20 Reemployment of a retired member as a substitute teacher,  
21 substitute residential instructor, or substitute nurse is  
22 limited to 780 hours during the first 12 months of his or her  
23 retirement. Any retired member reemployed for more than 780  
24 hours during the first 12 months of retirement shall give  
25 timely notice in writing to the employer and to the division  
26 of the date he or she will exceed the limitation. The division  
27 shall suspend his or her retirement benefits for the remainder  
28 of the first 12 months of retirement. Any person employed in  
29 violation of this subparagraph and any employing agency which  
30 knowingly employs or appoints such person without notifying  
31 the Division of Retirement to suspend retirement benefits

1 shall be jointly and severally liable for reimbursement to the  
2 retirement trust fund of any benefits paid during the  
3 reemployment limitation period. To avoid liability, such  
4 employing agency shall have a written statement from the  
5 retiree that he or she is not retired from a  
6 state-administered retirement system. Any retirement benefits  
7 received by a retired member while reemployed in excess of 780  
8 hours during the first 12 months of retirement shall be repaid  
9 to the Retirement System Trust Fund, and his or her retirement  
10 benefits shall remain suspended until payment is made.  
11 Benefits suspended beyond the end of the retired member's  
12 first 12 months of retirement shall apply toward repayment of  
13 benefits received in violation of the 780-hour reemployment  
14 limitation.

15         7. The employment by an employer of any retiree or  
16 DROP participant of any state-administered retirement system  
17 shall have no effect on the average final compensation or  
18 years of creditable service of the retiree or DROP  
19 participant. Prior to July 1, 1991, upon employment of any  
20 person, other than an elected officer as provided in s.  
21 121.053, who has been retired under any state-administered  
22 retirement program, the employer shall pay retirement  
23 contributions in an amount equal to the unfunded actuarial  
24 ~~accrued~~ liability portion of the employer contribution which  
25 would be required for regular members of the Florida  
26 Retirement System. Effective July 1, 1991, contributions shall  
27 be made as provided in s. 121.122 for retirees, or subsection  
28 (13) for DROP participants ~~renewed membership~~.

29         8. Any person who has previously retired and who is  
30 holding an elective public office or an appointment to an  
31 elective public office eligible for the Elected State and

1 County Officers' Class on or after July 1, 1990, shall be  
2 enrolled in the Florida Retirement System as provided in s.  
3 121.053(1)(b) or, if holding an elective public office that  
4 does not qualify for the Elected State and County Officers'  
5 Class on or after July 1, 1991, shall be enrolled in the  
6 Florida Retirement System as provided in s. 121.122, and shall  
7 continue to receive retirement benefits as well as  
8 compensation for the elected officer's service for as long as  
9 he or she remains in elective office. However, any retired  
10 member who served in an elective office prior to July 1, 1990,  
11 suspended his or her retirement benefit, and had his or her  
12 Florida Retirement System membership reinstated shall, upon  
13 retirement from such office, have his or her retirement  
14 benefit recalculated to include the additional service and  
15 compensation earned.

16         9. Any person who is holding an elective public office  
17 which is covered by the Florida Retirement System and who is  
18 concurrently employed in nonelected covered employment may  
19 elect to retire while continuing employment in the elective  
20 public office, provided that he or she shall be required to  
21 terminate his or her nonelected covered employment. Any  
22 person who exercises this election shall receive his or her  
23 retirement benefits in addition to the compensation of the  
24 elective office without regard to the time limitations  
25 otherwise provided in this subsection. No person who seeks to  
26 exercise the provisions of this subparagraph, as the same  
27 existed prior to May 3, 1984, shall be deemed to be retired  
28 under those provisions, unless such person is eligible to  
29 retire under the provisions of this subparagraph, as amended  
30 by chapter 84-11, Laws of Florida.

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1           10. The limitations of this paragraph apply to  
2 reemployment in any capacity with an "employer" as defined in  
3 s. 121.021(10), irrespective of the category of funds from  
4 which the person is compensated.

5           (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general  
6 and subject to the provisions of this section, the Deferred  
7 Retirement Option Program, hereinafter referred to as the  
8 DROP, is a program under which an eligible member of the  
9 Florida Retirement System may elect to participate, deferring  
10 receipt of retirement benefits while continuing employment  
11 with his or her Florida Retirement System employer. The  
12 deferred monthly benefits shall accrue in the System Trust  
13 Fund on behalf of the participant, plus interest compounded  
14 monthly, for the specified period of the DROP participation,  
15 as provided in paragraph (c). Upon termination of employment,  
16 the participant shall receive the total DROP benefits and  
17 begin to receive the previously determined normal retirement  
18 benefits.

19           (a) Eligibility of member to participate in the  
20 DROP.--All Florida Retirement System members are eligible to  
21 elect participation in the DROP provided:

22           1. Election to participate is made within 48 months  
23 following the date on which the member first reaches normal  
24 retirement date or age, or for a member who first reached  
25 normal retirement date or age prior to the effective date of  
26 this section, election to participate is made within 48 months  
27 of the effective date of this section. A member who fails to  
28 make an election within such 48-month limitation period shall  
29 forfeit all rights to participate in the DROP.

30           2. The retiring member's employer, or employers if  
31 dually employed, shall acknowledge in writing the date the

1 member's participation in the DROP begins and the date the  
2 member's employment and DROP participation will terminate.  
3 3. Employment during the DROP is limited to employment  
4 by the employer with whom the DROP was established.  
5 (b) Participation in the DROP.--  
6 1. An eligible member may elect to participate in the  
7 DROP for a period not to exceed a maximum of 60 months  
8 following the date on which the member first reaches normal  
9 retirement age or date, including a member who first reaches  
10 normal retirement age or date prior to the effective date of  
11 this section. Any member who has exceeded the 60-month  
12 limitation shall not be eligible to participate in the DROP.  
13 2. Upon deciding to participate in the DROP, the  
14 member shall submit, on forms required by the division:  
15 a. A written election to participate in the DROP.  
16 b. Selection of the DROP participation and termination  
17 dates, which satisfy the limitations stated in paragraph (a)  
18 and subparagraph 1. Within the limitations set forth in  
19 subparagraph 1., such termination date subsequently may be  
20 changed by the participant to establish an earlier conclusion  
21 date or may be changed to a later conclusion date upon written  
22 agreement with the employer.  
23 c. A properly completed DROP application for normal  
24 service retirement.  
25 d. Any other information required by the division.  
26 3. The DROP participant shall be a retiree under the  
27 Florida Retirement System for all purposes, except for ss.  
28 112.3173, 112.363, 121.053, and 121.122, and paragraph (5)(f)  
29 and subsection (9).  
30 (c) Benefits payable under the DROP.--  
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1           1. Upon election to participate in the DROP and  
2 completion of documents required in subparagraph (b) 2., and  
3 upon reaching the DROP participation date, a member shall  
4 begin participating in the DROP and the member's retirement  
5 benefit payable shall be fixed as of the effective date of  
6 retirement. Such retirement benefit, the annual cost of  
7 living adjustments provided in s. 121.101, and interest shall  
8 accrue monthly in the System Trust Fund. Such interest shall  
9 be an effective annual rate of 6.5 percent compounded monthly  
10 on the last day of each month through the end of the calendar  
11 month preceding the month of termination or death.

12           2. The effective date of retirement of a DROP  
13 participant shall be the first day of the month selected by  
14 the member to begin participation in the DROP.

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

23           4. Upon ceasing participation in the DROP and agency  
24 verification of termination of employment, the division shall  
25 determine the total amount accrued in the participant's  
26 benefits:

27           5. The following provisions apply with respect to the  
28 distribution of the DROP benefits:

29           a. The accumulated DROP benefits shall not be paid to  
30 the participant until such participant has terminated  
31 employment as provided in s. 121.021(39)(b).

1           b. A terminated DROP participant or if deceased, such  
2 participant's named beneficiary, shall elect on forms provided  
3 by the division to receive payment of the DROP benefits in  
4 accordance with one of the options listed below. For a  
5 participant or beneficiary who fails to elect a method of  
6 payment within 60 days of termination of the DROP, the  
7 division will pay a lump sum as provided in (I).

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

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

21           (III) Partial lump sum.--A portion of the accrued DROP  
22 benefits shall be paid to the DROP participant or surviving  
23 beneficiary, less withholding taxes remitted to the Internal  
24 Revenue Service, and the remaining DROP benefits shall be  
25 transferred directly to the custodian of an eligible  
26 retirement plan as defined in s. 402(c)(8)(B) of the Internal  
27 Revenue Code. Such proportions shall be specified by the DROP  
28 participant or surviving beneficiary.

29           c. Any form of payment selected by the DROP  
30 participant or surviving beneficiary must comply with the  
31 minimum distribution requirements of the Internal Revenue Code



1 and payments must begin no later than the date on which the  
2 participant reaches age 70 years and 6 months.

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

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

23 7. DROP participants shall not be eligible for  
24 disability retirement benefits as provided in subsection (4).

25 (d) Death benefits under the DROP.--

26 1. Upon the death of a DROP participant, the named  
27 beneficiary shall be entitled to apply for and receive the  
28 accrued benefits in the DROP as provided in sub-subparagraph

29 (c)5.b.

30  
31

1           2. The normal retirement benefit accrued to the DROP  
2 during the month of a participant's death shall be the final  
3 monthly benefit credited for such DROP participant.

4           3. Eligibility to participate in the DROP terminates  
5 upon death of the participant. If the participant dies on or  
6 after the effective date of enrollment in the DROP, but prior  
7 to the first monthly benefit being credited to the DROP,  
8 Florida Retirement System benefits shall be paid in accordance  
9 with subparagraph (7)(C)1. or subparagraph 2.

10           4. A DROP participants' survivors shall not be  
11 eligible to receive Florida Retirement System death benefit as  
12 provided in paragraph (7)(d).

13           (e) Cost-of-living adjustment.--On each July 1, the  
14 participants' normal retirement benefit shall be increased as  
15 provided in s. 121.101.

16           (f) Retiree health insurance subsidy.--DROP  
17 participants are not eligible to apply for the retiree health  
18 insurance subsidy payments as provided in s. 112.363 until  
19 such participants have terminated both employment and  
20 participation in the DROP.

21           (g) Renewed membership.--DROP participants shall not  
22 qualify for renewed membership in the Florida Retirement  
23 System under ss. 121.053 and 121.122 until termination of  
24 employment is effectuated as provided in s.121.021(39)(b).

25           (h) Employment after DROP participation  
26 limitation.--Reemployment restrictions applicable to retirees  
27 as provided in subsection (9) shall not apply to DROP  
28 participants until their employment and participation in the  
29 DROP is terminated. DROP participants shall be subject to  
30 such reemployment limitations upon satisfying the definition  
31 of termination of employment as provided in s. 121.021(39)(b).

1           (i) Contributions.--  
2           1. The employer paying the salary of a DROP  
3 participant shall contribute 11.56 percent of such  
4 participant's gross compensation, which shall constitute the  
5 entire employer DROP contribution with respect to such  
6 participant. Such contributions, payable to the System Trust  
7 Fund in the same manner as required in s. 121.071, shall be  
8 made as appropriate for each pay period and are in addition to  
9 contributions required for Social Security. Such employer and  
10 Social Security contributions are not included in the DROP.  
11           2. The employer shall, in addition to subparagraph 1.,  
12 also withhold one-half of the entire Social Security  
13 contribution required for the participant. Contributions for  
14 Social Security by each participant and each employer, in the  
15 amount required for Social Security coverage as now or  
16 hereafter provided by the federal Social Security Act, shall  
17 be in addition to contributions specified in subparagraph 1.  
18           3. The employer shall make no other DROP, retirement,  
19 or health insurance subsidy contributions on behalf of such  
20 participants.  
21           Section 3. The Legislature finds that a proper and  
22 legitimate state purpose is served when employees and retirees  
23 of the state and of its political subdivisions, and the  
24 dependents, survivors, and beneficiaries of such employees and  
25 retirees, are extended the basic protections afforded by  
26 governmental retirement systems that provide fair and adequate  
27 benefits and that are managed, administered, and funded in an  
28 actuarially sound manner, as required by section 14, Article X  
29 of the State Constitution and part VII of chapter 112, Florida  
30 Statutes. Therefore, the Legislature hereby determines and  
31

1 declares that the provisions of this act fulfill an important  
2 state interest.

3 Section 4. This act shall take effect July 1, 1998;  
4 however, the division shall not adopt rules implementing the  
5 provisions of this act until such time as the division  
6 receives a favorable determination letter and a favorable  
7 private letter ruling, hereinafter referred to as favorable  
8 letters, from the Internal Revenue Service, as provided below.  
9 The divisions shall, within 90 days of this act becoming law,  
10 request from the Internal Revenue Service:

11 (1) A written determination letter stating that the  
12 Florida Retirement System, as amended to include the DROP,  
13 continues to be a facially qualified plan.

14 (2) A private letter ruling stating:

15 (a) That the Florida Retirement System, as amended to  
16 include the DROP, is not a "defined contribution plan" as  
17 defined in ss. 414(i) and 415(k)(1) of the Internal Revenue  
18 Code, is not subject to the separate limitations contained  
19 within s. 415(c) and (e) of the Internal Revenue Code, and is  
20 not a "hybrid plan" as defined in s. 414(k) of the Internal  
21 Revenue Code.

22 (b) That the Florida Retirement System, as amended to  
23 include the DROP, is not a "cash or deferred arrangement"  
24 within the meaning of s. 401(k) of the Internal Revenue Code.

25 (c) That the monthly retirement benefits paid into the  
26 DROP are not deemed to be constructive receipt of income under  
27 s. 402(a) of the Internal Revenue Code and shall not be  
28 taxable until actual distribution to the retiree.

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HOUSE SUMMARY

Creates the Deferred Retirement Option Program within the Florida Retirement System under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the System Trust Fund on behalf of the participant, together with interest compounded monthly, for the specified period of the DROP participation. Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. See bill for details.