

By the Committee on Governmental Operations and
Representatives Feeney and Fasano

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 that 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
18 eligibility criteria; providing for procedures
19 for election of participation; providing for
20 benefits payable; providing for death benefits;
21 providing for a cost-of-living adjustment;
22 specifying health insurance subsidy payments
23 are not payable; specifying Deferred Retirement
24 Option Program participation does not qualify
25 as renewed membership; providing limitations on
26 employment after participation; specifying
27 contribution rates; specifying Deferred
28 Retirement Option Program participation does
29 not exempt such participants from the
30 forfeiture of benefits under the provisions of
31 ss. 112.3173 and 121.091(5), F.S; providing for

1 administration of the program; providing a
2 declaration of important state interest;
3 providing for an appropriation; providing an
4 effective date dependent upon the Division of
5 Retirement's receipt of a favorable written
6 determination letter and a favorable private
7 letter ruling from the Internal Revenue
8 Service.

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

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

15 121.021 Definitions.--The following words and phrases
16 as used in this chapter have the respective meanings set forth
17 unless a different meaning is plainly required by the context:

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

30 (b) "Termination" for a member electing to participate
31 under the Deferred Retirement Option Program occurs when the

1 Deferred Retirement Option Program participant ceases all
2 employment relationships with employers under this system in
3 accordance with s. 121.091(13), but in the event the Deferred
4 Retirement Option Program participant should be employed by
5 any such employer within the next calendar month, termination
6 will be deemed not to have occurred, except as provided in s.
7 121.091(13)(b)5.b. A leave of absence shall constitute a
8 continuation of the employment relationship.

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

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

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

23 (6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND
24 DISABILITY RETIREMENT BENEFITS.--

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

30 (7) DEATH BENEFITS.--

31

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

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

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

17 (d)~~1~~. Notwithstanding any other provision in this
18 chapter to the contrary, with the exception of the Deferred
19 Retirement Option Program, as provided in subsection (13):

20 1. The surviving spouse of any member killed in the
21 line of duty may receive a monthly pension equal to one-half
22 of the monthly salary being received by the member at the time
23 of death for the rest of the surviving spouse's lifetime.
24 Benefits provided by this paragraph shall supersede any other
25 distribution that may have been provided by the member's
26 designation of beneficiary.

27 2. If the surviving spouse of a member killed in the
28 line of duty dies, the monthly payments which would have been
29 payable to such surviving spouse had such surviving spouse
30 lived shall be paid for the use and benefit of such member's
31

1 child or children under 18 years of age and unmarried until
2 the 18th birthday of the member's youngest child.

3 3. If a member killed in the line of duty leaves no
4 surviving spouse but is survived by a child or children under
5 18 years of age, the benefits provided by subparagraph 1.,
6 normally payable to a surviving spouse, shall be paid for the
7 use and benefit of such member's child or children under 18
8 years of age and unmarried until the 18th birthday of the
9 member's youngest child.

10 4. The surviving spouse of a member whose benefit
11 terminated because of remarriage shall have the benefit
12 reinstated beginning July 1, 1993, at an amount that would
13 have been payable had the benefit not been terminated.

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

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

25 (b)1. Any person who is retired under this chapter,
26 except under the disability retirement provisions of
27 subsection (4), may be reemployed by any private or public
28 employer after retirement and receive retirement benefits and
29 compensation from his or her employer without any limitations,
30 except that a person may not receive both a salary from
31 reemployment with any agency participating in the Florida

1 Retirement System and retirement benefits under this chapter
2 for a period of 12 months immediately subsequent to the date
3 of retirement. However, a DROP participant shall continue
4 employment and receive a salary during the period of
5 participation in the Deferred Retirement Option Program, as
6 provided in subsection (13).

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

30 3. A district school board may reemploy a retired
31 member as a substitute or hourly teacher, teacher aide,

1 transportation assistant, bus driver, or food service worker
2 on a noncontractual basis after he or she has been retired for
3 1 calendar month, in accordance with s. 121.021(39). Any
4 retired member who is reemployed within 1 calendar month after
5 retirement shall void his or her application for retirement
6 benefits. District school boards reemploying such teachers,
7 teacher aides, transportation assistants, bus drivers, or food
8 service workers are subject to the retirement contribution
9 required by subparagraph 7. Reemployment of a retired member
10 as a substitute or hourly teacher, teacher aide,
11 transportation assistant, bus driver, or food service worker
12 is limited to 780 hours during the first 12 months of his or
13 her retirement. Any retired member reemployed for more than
14 780 hours during his or her 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 his
31 or her retirement benefits shall remain suspended until

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

5 4. A community college board of trustees may reemploy
6 a retired member as an adjunct instructor, that is, an
7 instructor who is noncontractual and part-time, or as a
8 participant in a phased retirement program within the State
9 Community College System, after he or she has been retired for
10 1 calendar month, in accordance with s. 121.021(39). Any
11 retired member who is reemployed within 1 calendar month after
12 retirement shall void his or her application for retirement
13 benefits. Boards of trustees reemploying such instructors are
14 subject to the retirement contribution required in
15 subparagraph 7. A retired member may be reemployed as an
16 adjunct instructor for no more than 780 hours during the first
17 12 months of retirement. Any retired member reemployed for
18 more than 780 hours during the first 12 months of retirement
19 shall give timely notice in writing to the employer and to the
20 division of the date he or she will exceed the limitation.
21 The division shall suspend his or her retirement benefits for
22 the remainder of the first 12 months of retirement. Any
23 person employed in violation of this subparagraph and any
24 employing agency which knowingly employs or appoints such
25 person without notifying the Division of Retirement to suspend
26 retirement 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 5. The State University System may reemploy a retired
10 member as an adjunct faculty member or as a participant in a
11 phased retirement program within the State University System
12 after the retired member has been retired for 1 calendar
13 month, in accordance with s. 121.021(39). Any retired member
14 who is reemployed within 1 calendar month after retirement
15 shall void his or her application for retirement benefits.
16 The State University System is subject to the retired
17 contribution required in subparagraph 7., as appropriate. A
18 retired member may be reemployed as an adjunct faculty member
19 or a participant in a phased retirement program for no more
20 than 780 hours during the first 12 months of his or her
21 retirement. Any retired member reemployed for more than 780
22 hours during the first 12 months of retirement shall give
23 timely notice in writing to the employer and to the division
24 of the date he or she will exceed the limitation. The
25 division shall suspend his or her retirement benefits for the
26 remainder of the first 12 months of retirement. Any person
27 employed in violation of this subparagraph and any employing
28 agency which knowingly employs or appoints such person without
29 notifying the Division of Retirement to suspend retirement
30 benefits shall be jointly and severally liable for
31 reimbursement to the retirement trust fund of any benefits

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

13 6. The Board of Trustees of the Florida School for the
14 Deaf and the Blind may reemploy a retired member as a
15 substitute teacher, substitute residential instructor, or
16 substitute nurse on a noncontractual basis after he or she has
17 been retired for 1 calendar month, in accordance with s.
18 121.021(39). Any retired member who is reemployed within 1
19 calendar month after retirement shall void his or her
20 application for retirement benefits. The Board of Trustees of
21 the Florida School for the Deaf and the Blind reemploying such
22 teachers, residential instructors, or nurses is subject to the
23 retirement contribution required by subparagraph 7.
24 Reemployment of a retired member as a substitute teacher,
25 substitute residential instructor, or substitute nurse is
26 limited to 780 hours during the first 12 months of his or her
27 retirement. Any retired member reemployed for more than 780
28 hours during the first 12 months of retirement shall give
29 timely notice in writing to the employer and to the division
30 of the date he or she will exceed the limitation. The division
31 shall suspend his or her retirement benefits for the remainder

1 of the first 12 months of retirement. Any person employed in
2 violation of this subparagraph and any employing agency which
3 knowingly employs or appoints such person without notifying
4 the Division of Retirement to suspend retirement benefits
5 shall be jointly and severally liable for reimbursement to the
6 retirement trust fund of any benefits paid during the
7 reemployment limitation period. To avoid liability, such
8 employing agency shall have a written statement from the
9 retiree that he or she is not retired from a
10 state-administered retirement system. Any retirement benefits
11 received by a retired member while reemployed in excess of 780
12 hours during the first 12 months of retirement shall be repaid
13 to the Retirement System Trust Fund, and his or her retirement
14 benefits shall remain suspended until payment is made.
15 Benefits suspended beyond the end of the retired member's
16 first 12 months of retirement shall apply toward repayment of
17 benefits received in violation of the 780-hour reemployment
18 limitation.

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

1 membership or subsection (13) with respect to DROP
2 participants.

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

21 9. Any person who is holding an elective public office
22 which is covered by the Florida Retirement System and who is
23 concurrently employed in nonelected covered employment may
24 elect to retire while continuing employment in the elective
25 public office, provided that he or she shall be required to
26 terminate his or her nonelected covered employment. Any
27 person who exercises this election shall receive his or her
28 retirement benefits in addition to the compensation of the
29 elective office without regard to the time limitations
30 otherwise provided in this subsection. No person who seeks to
31 exercise the provisions of this subparagraph, as the same

1 existed prior to May 3, 1984, shall be deemed to be retired
2 under those provisions, unless such person is eligible to
3 retire under the provisions of this subparagraph, as amended
4 by chapter 84-11, Laws of Florida.

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

9 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
10 and subject to the provisions of this section, the Deferred
11 Retirement Option Program, hereinafter referred to as the
12 DROP, is a program under which an eligible member of the
13 Florida Retirement System may elect to participate, deferring
14 receipt of retirement benefits while continuing employment
15 with his or her Florida Retirement System employer. The
16 deferred monthly benefits shall accrue in the System Trust
17 Fund on behalf of the participant, plus interest compounded
18 monthly, for the specified period of the DROP participation,
19 as provided in paragraph (c). Upon termination of employment,
20 the participant shall receive the total DROP benefits and
21 begin to receive the previously determined normal retirement
22 benefits. Employment in the DROP does not guarantee employment
23 for the specified period of DROP.

24 (a) Eligibility of member to participate in the
25 DROP.--All Florida Retirement System members are eligible to
26 elect participation in the DROP provided that:

27 1. Election to participate is made within 12 months
28 following the date on which the member first reaches normal
29 retirement date or age, or for a member who first reached
30 normal retirement date or age prior to the effective date of
31 this section, election to participate is made within 12 months

1 of the effective date of this section. A member who fails to
2 make an election within such 12-month limitation period shall
3 forfeit all rights to participate in the DROP. The member
4 shall advise his employer and the division in writing of the
5 date on which the DROP shall begin. Such beginning date may be
6 subsequent to the 12-month election period but must be within
7 the 60-month limitation period as provided in subparagraph
8 (b)1.

9 2. The retiring member's employer, or employers if
10 dually employed, shall acknowledge in writing to the division
11 the date the member's participation in the DROP begins and the
12 date the member's employment and DROP participation will
13 terminate.

14 3. Employment of a participant by additional Florida
15 Retirement System employers subsequent to the commencement of
16 participation in the DROP shall be permissible provided such
17 employers acknowledge in writing a DROP termination date no
18 later than the participant's existing termination date or the
19 60-month limitation period as provided in subparagraph (b)1.

20 (b) Participation in the DROP.--

21 1. An eligible member may elect to participate in the
22 DROP for a period not to exceed a maximum of 60 months
23 following the date on which the member first reaches normal
24 retirement age or date, including a member who first reaches
25 normal retirement age or date prior to the effective date of
26 this section. Any member who has exceeded the 60-month
27 limitation shall not be eligible to participate in the DROP.

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

30 a. A written election to participate in the DROP;
31

1 b. Selection of the DROP participation and termination
2 dates, which satisfy the limitations stated in paragraph (a)
3 and subparagraph 1. Such termination date shall be in a
4 binding letter of resignation with the employer, establishing
5 a deferred termination date. The member may change the
6 termination date within the limitations of subparagraph 1.,
7 but only with the written approval of his employer;

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

10 d. Any other information required by the division.

11 3. The DROP participant shall be a retiree under the
12 Florida Retirement System for all purposes, except for
13 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
14 121.053, and 121.122.

15 4. A reemployed retiree with renewed membership is not
16 eligible for DROP participation.

17 5. Elected officers shall be eligible to participate
18 in the DROP subject to the following:

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

27 b. An elected officer who is dually employed and
28 elects to participate in DROP shall be required to satisfy the
29 definition of termination within the 60-month limitation
30 period as provided in subparagraph 1. for the nonelected
31 position and may continue employment as an elected officer as

1 provided in s. 121.053. The elected officer will be enrolled
2 as a renewed member in the Elected State and County Officers'
3 Class or the Regular Class, as provided in ss. 121.053 and
4 121.22, on the first day of the month after termination of
5 employment in the nonelected position and termination of DROP.
6 Distribution of the DROP benefits shall be made as provided in
7 paragraph (c).

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

9 1. Effective with the date of DROP participation, the
10 member's initial normal monthly benefit, including creditable
11 service and average final compensation, and the effective date
12 of retirement shall be fixed. Such retirement benefit, the
13 annual cost of living adjustments provided in s. 121.101, and
14 interest shall accrue monthly in the System Trust Fund. Such
15 interest shall accrue at an effective annual rate of 6.5
16 percent compounded monthly, on the prior month's accumulated
17 ending balance, up to the month of termination or death.

18 2. The effective date of retirement of a DROP
19 participant shall be the first day of the month selected by
20 the member to begin participation in the DROP.

21 3. Normal retirement benefits and interest thereon
22 shall continue to accrue in the DROP until the established
23 termination date of the DROP, or until the participant
24 terminates employment or dies prior to such date. Although
25 individual DROP accounts shall not be established, a separate
26 accounting of each participant's accrued benefits under the
27 DROP shall be calculated and provided to participants
28 annually.

29 4. At the conclusion of the participant's DROP, the
30 division shall distribute the participant's total accumulated
31 DROP benefits, subject to the following provisions:

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

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

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

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

24 (III) Partial lump sum.--A portion of the accrued DROP
25 benefits shall be paid to the DROP participant or surviving
26 spouse, less withholding taxes remitted to the Internal
27 Revenue Service, and the remaining DROP benefits shall be
28 transferred directly to the custodian of an eligible
29 retirement plan as defined in s. 402(c)(8)(B) of the Internal
30 Revenue Code. However, in the case of an eligible rollover
31 distribution to the surviving spouse of a deceased

1 participant, an eligible retirement plan is an individual
2 retirement account or an individual retirement annuity as
3 described in s. 402(c)(9) of the Internal Revenue Code. The
4 proportions shall be specified by the DROP participant or
5 surviving beneficiary.

6 c. The form of payment selected by the DROP
7 participant or surviving beneficiary complies with the minimum
8 distribution requirements of the Internal Revenue Code and
9 payments begin no later than the date on which the participant
10 reaches age 70 years and 6 months.

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

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

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

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

- 1 1. Upon the death of a DROP participant, the named
2 beneficiary shall be entitled to apply for and receive the
3 accrued benefits in the DROP as provided in sub-subparagraph
4 (c)4.b.
- 5 2. The normal retirement benefit accrued to the DROP
6 during the month of a participant's death shall be the final
7 monthly benefit credited for such DROP participant.
- 8 3. Eligibility to participate in the DROP terminates
9 upon death of the participant. If the participant dies on or
10 after the effective date of enrollment in the DROP, but prior
11 to the first monthly benefit being credited to the DROP,
12 Florida Retirement System benefits shall be paid in accordance
13 with subparagraph (7)(c)1. or subparagraph 2.
- 14 4. A DROP participants' survivors shall not be
15 eligible to receive Florida Retirement System death benefits
16 as provided in paragraph (7)(d).
- 17 (e) Cost-of-living adjustment.--On each July 1, the
18 participants' normal retirement benefit shall be increased as
19 provided in s. 121.101.
- 20 (f) Retiree health insurance subsidy.--DROP
21 participants are not eligible to apply for the retiree health
22 insurance subsidy payments as provided in s. 112.363 until
23 such participants have terminated employment and participation
24 in the DROP.
- 25 (g) Renewed membership.--DROP participants shall not
26 be eligible for renewed membership in the Florida Retirement
27 System under ss. 121.053 and 121.122 until termination of
28 employment is effectuated as provided in s. 121.021(39)(b).
- 29 (h) Employment limitation after DROP
30 participation.--Upon satisfying the definition of termination
31 of employment as provided in s. 121.021(39)(b) DROP

1 participants shall be subject to such reemployment limitations
2 as other retirees. Reemployment restrictions applicable to
3 retirees as provided in subsection (9) shall not apply to DROP
4 participants until their employment and participation in the
5 DROP are terminated.

6 (i) Contributions.--

7 1. All employers paying the salary of a DROP
8 participant filling a regularly established position shall
9 contribute 11.56 percent of such participant's gross
10 compensation, which shall constitute the entire employer DROP
11 contribution with respect to such participant. Such
12 contributions, payable to the System Trust Fund in the same
13 manner as required in s. 121.071, shall be made as appropriate
14 for each pay period and are in addition to contributions
15 required for Social Security and the Retiree Health Insurance
16 Subsidy Trust Fund. Such employer, Social Security, and
17 health insurance subsidy contributions are not included in the
18 DROP.

19 2. The employer shall, in addition to subparagraph 1.,
20 also withhold one-half of the entire Social Security
21 contribution required for the participant. Contributions for
22 Social Security by each participant and each employer, in the
23 amount required for Social Security coverage as now or
24 hereafter provided by the federal Social Security Act, shall
25 be in addition to contributions specified in subparagraph 1.

26 3. All employers paying the salary of a DROP
27 participant filling a regularly established position shall
28 contribute 0.66 percent of such participant's gross
29 compensation, which shall constitute the employer's health
30 insurance subsidy contribution with respect to such
31 participant. Such contributions shall be deposited by the

1 administrator in the Retiree Health Insurance Subsidy Trust
2 Fund.

3 (j) Forfeiture of Retirement Benefits.--Nothing in
4 this section shall be construed to remove DROP participants
5 from the scope of s. 8(d), Art. II of the State Constitution,
6 s. 112.3173, and paragraph (5)(f). DROP participants who
7 commit a specified felony offense while employed will be
8 subject to forfeiture of all retirement benefits, including
9 DROP benefits, pursuant to those provisions of law.

10 (k) Administration of Program.--The division shall
11 make such rules as are necessary for the effective and
12 efficient administration of this subsection. The division
13 shall not be required to advise members of the federal tax
14 consequences of an election related to the DROP but may advise
15 members to seek independent advice.

16 Section 3. The Legislature finds that a proper and
17 legitimate state purpose is served when employees and retirees
18 of the state and of its political subdivisions, and the
19 dependents, survivors, and beneficiaries of such employees and
20 retirees, are extended the basic protections afforded by
21 governmental retirement systems that provide fair and adequate
22 benefits and that are managed, administered, and funded in an
23 actuarially sound manner, as required by s. 14, Art. X of the
24 State Constitution and part VII of chapter 112, Florida
25 Statutes. Therefore, the Legislature hereby determines and
26 declares that the provisions of this act fulfill an important
27 state interest.

28 Section 4. There is hereby appropriated to the
29 Division of Retirement from the Florida Retirement System
30 Trust Fund the sum of \$813,923 and 14 positions for the
31 purposes of advanced planning and systems development

1 associated with development of the Deferred Retirement Option
2 Plan. The funds and positions are contingent upon passage of
3 this act, or substantially similar legislation.

4 Section 5. This act shall take effect July 1, 1998,
5 contingent upon the Division of Retirement receiving a
6 favorable determination letter and a favorable private letter
7 ruling, hereinafter referred to as favorable letters, from the
8 Internal Revenue Service, as provided below prior to the end
9 of the 1998 legislative session. The division shall request
10 from the Internal Revenue Service, within 90 days of the
11 passage of this act:

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

15 (2) A private letter ruling stating:

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

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

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

31

1 The division shall notify the Speaker of the House of
2 Representatives and the President of the Senate within 30 days
3 of receipt of the favorable or unfavorable letters. If no
4 favorable letters are received by July 1, 1998, this act shall
5 take effect January 1, 1999, provided the division receives
6 the favorable letters prior to such date. In the event
7 favorable letters are not received, this act shall not take
8 effect.
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