

By Senators Gutman, Geller, Silver, Meek, Holzendorf, Bronson, Forman and Jones

34-1083-99

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 "average final compensation"; amending
5 s. 121.091, F.S.; redefining the normal
6 retirement benefit for special risk members to
7 include enhanced credit for certain prior
8 service; changing the date for certain special
9 risk class members to elect participation in
10 the Deferred Retirement Option Program;
11 providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (24) of section 121.021, Florida
16 Statutes, 1998 Supplement, is amended to read:

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

20 (24) "Average final compensation" means the average of
21 the 3 5 highest fiscal years of compensation for creditable
22 service prior to retirement, termination, or death. For
23 in-line-of-duty disability benefits, if less than 3 5 years of
24 creditable service have been completed, the term "average
25 final compensation" means the average annual compensation of
26 the total number of years of creditable service. Each year
27 used in the calculation of average final compensation shall
28 commence on July 1.

29 (a) The average final compensation shall include:
30 1. Accumulated annual leave payments, not to exceed
31 500 hours; and

1 2. All payments defined as compensation in subsection
2 (22).
3 (b) The average final compensation shall not include:
4 1. Compensation paid to professional persons for
5 special or particular services;
6 2. Payments for accumulated sick leave made due to
7 retirement or termination;
8 3. Payments for accumulated annual leave in excess of
9 500 hours;
10 4. Bonuses as defined in subsection (47);
11 5. Third party payments made on and after July 1,
12 1990; or
13 6. Fringe benefits (for example, automobile allowances
14 or housing allowances).
15 Section 2. Subsection (1) and paragraph (a) of
16 subsection (13) of section 121.091, Florida Statutes, 1998
17 Supplement, are amended to read:
18 121.091 Benefits payable under the system.--Benefits
19 may not be paid under this section unless the member has
20 terminated employment as provided in s. 121.021(39)(a) or
21 begun participation in the Deferred Retirement Option Program
22 as provided in subsection (13), and a proper application has
23 been filed in the manner prescribed by the division. The
24 division may cancel an application for retirement benefits
25 when the member or beneficiary fails to timely provide the
26 information and documents required by this chapter and the
27 division's rules. The division shall adopt rules establishing
28 procedures for application for retirement benefits and for the
29 cancellation of such application when the required information
30 or documents are not received.
31

1 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or
2 her normal retirement date, the member, upon application to
3 the administrator, shall receive a monthly benefit which shall
4 begin to accrue on the first day of the month of retirement
5 and be payable on the last day of that month and each month
6 thereafter during his or her lifetime. The normal retirement
7 benefit, including any past or additional retirement credit,
8 may not exceed 100 percent of the average final compensation.
9 The amount of monthly benefit shall be calculated as the
10 product of A and B, subject to the adjustment of C, if
11 applicable, as set forth below:

12 (a)1. For creditable years of Regular Class service, A
13 is 1.60 percent of the member's average final compensation, up
14 to the member's normal retirement date. Upon completion of the
15 first year after the normal retirement date, A is 1.63 percent
16 of the member's average final compensation. Following the
17 second year after the normal retirement date, A is 1.65
18 percent of the member's average final compensation. Following
19 the third year after the normal retirement date, and for
20 subsequent years, A is 1.68 percent of the member's average
21 final compensation.

22 2. For creditable years of special risk service, A is:

23 a. Two percent of the member's average final
24 compensation for all creditable years prior to October 1,
25 1974;

26 b. Three percent of the member's average final
27 compensation for all creditable years after September 30,
28 1974, and before October 1, 1978;

29 c. Two percent of the member's average final
30 compensation for all creditable years after September 30,
31 1978, and before January 1, 1989;

1 d. Two and two-tenths percent of the member's final
2 monthly compensation for all creditable years after December
3 31, 1988, and before January 1, 1990;

4 e. Two and four-tenths percent of the member's average
5 final compensation for all creditable years after December 31,
6 1989, and before January 1, 1991;

7 f. Two and six-tenths percent of the member's average
8 final compensation for all creditable years after December 31,
9 1990, and before January 1, 1992;

10 g. Two and eight-tenths percent of the member's
11 average final compensation for all creditable years after
12 December 31, 1991, and before January 1, 1993; ~~and~~

13 h. Three percent of the member's average final
14 compensation for all creditable years after December 31, 1992;
15 and

16 i. Three percent of the member's average final
17 compensation for all creditable years after September 30,
18 1978, and before January 1, 1993, for any special risk member
19 who retires after July 1, 1999;

20 3. For creditable years of Senior Management Service
21 Class service after January 31, 1987, A is 2 percent;

22 4. For creditable years of Elected State and County
23 Officers' Class service as a Supreme Court Justice, district
24 court of appeal judge, circuit judge, or county court judge, A
25 is 3 1/3 percent of the member's average final compensation,
26 and for all other creditable service in such class, A is 3
27 percent of average final compensation;

28 (b) B is the number of the member's years and any
29 fractional part of a year of creditable service earned
30 subsequent to November 30, 1970; and

31

1 (c) C is the normal retirement benefit credit brought
2 forward as of November 30, 1970, by a former member of an
3 existing system. Such normal retirement benefit credit shall
4 be determined as the product of X and Y when X is the
5 percentage of average final compensation which the member
6 would have been eligible to receive if the member had attained
7 his or her normal retirement date as of November 30, 1970, all
8 in accordance with the existing system under which the member
9 is covered on November 30, 1970, and Y is average final
10 compensation as defined in s. 121.021(25). However, any
11 member of an existing retirement system who is eligible to
12 retire and who does retire, become disabled, or die prior to
13 April 15, 1971, may have his or her retirement benefits
14 calculated on the basis of the best 5 of the last 10 years of
15 service.

16 (d) A member's average final compensation shall be
17 determined by formula to obtain the coverage for the 3 5
18 highest fiscal years' salaries, calculated as provided by
19 rule.

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

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

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

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

19 2. Election to participate is made within 12 months
20 immediately following the date on which the member first
21 reaches normal retirement date, or, for a member who reaches
22 normal retirement date based on service before he or she
23 reaches age 62, or age 55 for Special Risk Class members,
24 election to participate may be deferred to the 12 months
25 immediately following the date the member attains 57, or age
26 52 ~~50~~ for Special Risk Class members. For a member who first
27 reached normal retirement date or the deferred eligibility
28 date described above prior to the effective date of this
29 section, election to participate shall be made within 12
30 months after the effective date of this section. A member who
31 fails to make an election within such 12-month limitation

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

14 3. The employer of a member electing to participate in
15 the DROP, or employers if dually employed, shall acknowledge
16 in writing to the division the date the member's participation
17 in the DROP begins and the date the member's employment and
18 DROP participation will terminate.

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

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

28 a. A change of employment must take place without a
29 break in service so that the member receives salary for each
30 month of continuous DROP participation. If a member receives
31 no salary during a month, DROP participation shall cease

1 unless the employer verifies a continuation of the employment
2 relationship for such participant pursuant to s.
3 121.021(39)(b).

4 b. Such participant and new employer shall notify the
5 division on forms required by the division as to the identity
6 of the new employer.

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

15 Section 3. This act shall take effect July 1, 1999.

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18 SENATE SUMMARY

19 Changes the method of calculating average final
20 compensation under the Florida Retirement System from the
21 highest 5 years to the highest 3 years of compensation.
22 Provides for 3-percent credit for service between
23 September 30, 1978, and January 1, 1993, for special risk
24 members retiring after July 1, 1999. Changes the date for
25 a special risk member to elect participation in the
26 Deferred Retirement Option Program.
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