

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; amending s. 121.091, F.S.; increasing
4 the period of time which members of the system
5 who are employed as instructional personnel in
6 grades K-12 and certain other personnel may
7 participate in the DROP; providing a time
8 period for certain retired members to
9 participate in DROP; providing a statement of
10 proper and legitimate state purpose; providing
11 an effective date.

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

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15 Section 1. Subsection (13) of section 121.091, Florida
16 Statutes, is amended to read:

17 121.091 Benefits payable under the system.--Benefits
18 may not be paid under this section unless the member has
19 terminated employment as provided in s. 121.021(39)(a) or
20 begun 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 department. The
23 department may cancel an application for retirement benefits
24 when the member or beneficiary fails to timely provide the
25 information and documents required by this chapter and the
26 department's rules. The department shall adopt rules
27 establishing procedures for application for retirement
28 benefits and for the cancellation of such application when the
29 required information or documents are not received.

30 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
31 and subject to the provisions of this section, the Deferred

1 Retirement Option Program, hereinafter referred to as the
2 DROP, is a program under which an eligible member of the
3 Florida Retirement System may elect to participate, deferring
4 receipt of retirement benefits while continuing employment
5 with his or her Florida Retirement System employer. The
6 deferred monthly benefits shall accrue in the System Trust
7 Fund on behalf of the participant, plus interest compounded
8 monthly, for the specified period of the DROP participation,
9 as provided in paragraph (c). Upon termination of employment,
10 the participant shall receive the total DROP benefits and
11 begin to receive the previously determined normal retirement
12 benefits. Participation in the DROP does not guarantee
13 employment for the specified period of DROP.

14 (a) Eligibility of member to participate in the
15 DROP.--All active Florida Retirement System members in a
16 regularly established position, and all active members of
17 either the Teachers' Retirement System established in chapter
18 238 or the State and County Officers' and Employees'
19 Retirement System established in chapter 122 which systems are
20 consolidated within the Florida Retirement System under s.
21 121.011, are eligible to elect participation in the DROP
22 provided that:

23 1. The member is not a renewed member of the Florida
24 Retirement System under s. 121.122, or a member of the State
25 Community College System Optional Retirement Program under s.
26 121.051, the Senior Management Service Optional Annuity
27 Program under s. 121.055, or the optional retirement program
28 for the State University System under s. 121.35.

29 2. Except as provided in subparagraph 6., election to
30 participate is made within 12 months immediately following the
31 date on which the member first reaches normal retirement date,

1 or, for a member who reaches normal retirement date based on
2 service before he or she reaches age 62, or age 55 for Special
3 Risk Class members, election to participate may be deferred to
4 the 12 months immediately following the date the member
5 attains 57, or age 52 for Special Risk Class members. For a
6 member who first reached normal retirement date or the
7 deferred eligibility date described above prior to the
8 effective date of this section, election to participate shall
9 be made within 12 months after the effective date of this
10 section. A member who fails to make an election within such
11 12-month limitation period shall forfeit all rights to
12 participate in the DROP. The member shall advise his or her
13 employer and the division in writing of the date on which the
14 DROP shall begin. Such beginning date may be subsequent to the
15 12-month election period, but must be within the 60-month or,
16 with respect to members who are instructional personnel, as
17 defined in s. 228.041(9)(a)-(d), in grades K-12, or other
18 school district members, including members enrolled prior to
19 July 1, 2002, whose continuing employment in an active status
20 is deemed essential as determined by resolution of the local
21 school board, the 96-month limitation period as provided in
22 subparagraph (b)1. When establishing eligibility of the member
23 to participate in the DROP for the 60-month or, with respect
24 to members who are instructional personnel, as defined in s.
25 228.041(9)(a)-(d), in grades K-12, or other school district
26 members, including members enrolled prior to July 1, 2002,
27 whose continuing employment in an active status is deemed
28 essential as determined by resolution of the local school
29 board, the 96-month maximum participation period, the member
30 may elect to include or exclude any optional service credit
31 purchased by the member from the total service used to

1 establish the normal retirement date. A member with dual
2 normal retirement dates shall be eligible to elect to
3 participate in DROP within 12 months after attaining normal
4 retirement date in either class.

5 3. The employer of a member electing to participate in
6 the DROP, or employers if dually employed, shall acknowledge
7 in writing to the division the date the member's participation
8 in the DROP begins and the date the member's employment and
9 DROP participation will terminate.

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

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

19 a. A change of employment must take place without a
20 break in service so that the member receives salary for each
21 month of continuous DROP participation. If a member receives
22 no salary during a month, DROP participation shall cease
23 unless the employer verifies a continuation of the employment
24 relationship for such participant pursuant to s.
25 121.021(39)(b).

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

29 c. The new employer shall acknowledge, in writing, the
30 participant's DROP termination date, which may be extended but
31 not beyond the original 60-month or, with respect to members

1 who are instructional personnel, as defined in s.
2 228.041(9)(a)-(d), in grades K-12, or other school district
3 members, including members enrolled prior to July 1, 2002,
4 whose continuing employment in an active status is deemed
5 essential as determined by resolution of the local school
6 board, the 96-month period provided in subparagraph (b)1.,
7 shall acknowledge liability for any additional retirement
8 contributions and interest required if the participant fails
9 to timely terminate employment, and shall be subject to the
10 adjustment required in sub-subparagraph (c)5.d.

11 6. Effective July 1, 2001, for instructional personnel
12 as defined in s. 228.041(9)(a)-(d), election to participate in
13 the DROP shall be made at any time following the date on which
14 the member first reaches normal retirement date. The member
15 shall advise his or her employer and the division in writing
16 of the date on which the Deferred Retirement Option Program
17 shall begin. When establishing eligibility of the member to
18 participate in the DROP for the 60-month or, with respect to
19 members who are instructional personnel, as defined in s.
20 228.041(9)(a)-(d), in grades K-12, or other school district
21 members, including members enrolled prior to July 1, 2002,
22 whose continuing employment in an active status is deemed
23 essential as determined by resolution of the local school
24 board, the 96-month maximum participation period, as provided
25 in subparagraph (b)1., the member may elect to include or
26 exclude any optional service credit purchased by the member
27 from the total service used to establish the normal retirement
28 date. A member with dual normal retirement dates shall be
29 eligible to elect to participate in either class.

30 (b) Participation in the DROP.--

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1 1. An eligible member may elect to participate in the
 2 DROP for a period not to exceed a maximum of 60 calendar
 3 months or, with respect to members who are instructional
 4 personnel, as defined in s. 228.041(9)(a)-(d), in grades K-12,
 5 or other school district members, including members enrolled
 6 prior to July 1, 2002, whose continuing employment in an
 7 active status is deemed essential as determined by resolution
 8 of the local school board, a maximum of 96 calendar months
 9 immediately following the date on which the member first
 10 reaches his or her normal retirement date or the date to which
 11 he or she is eligible to defer his or her election to
 12 participate as provided in subparagraph (a)2. However, a
 13 member who has reached normal retirement date prior to the
 14 effective date of the DROP shall be eligible to participate in
 15 the DROP for a period of time not to exceed 60 calendar months
 16 or, with respect to members who are instructional personnel,
 17 as defined in s. 228.041(9)(a)-(d), in grades K-12, or other
 18 school district members, including members enrolled prior to
 19 July 1, 2002, whose continuing employment in an active status
 20 is deemed essential as determined by resolution of the local
 21 school board, 96 calendar months immediately following the
 22 effective date of the DROP, except a member of the Special
 23 Risk Class who has reached normal retirement date prior to the
 24 effective date of the DROP and whose total accrued value
 25 exceeds 75 percent of average final compensation as of his or
 26 her effective date of retirement shall be eligible to
 27 participate in the DROP for no more than 36 calendar months
 28 immediately following the effective date of the DROP.

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

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

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 or her 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. However, participation in the DROP does
15 not alter the participant's employment status and such
16 employee shall not be deemed retired from employment until his
17 or her deferred resignation is effective and termination
18 occurs as provided in s. 121.021(39).

19 4. Elected officers shall be eligible to participate
20 in the DROP subject to the following:

21 a. An elected officer who reaches normal retirement
22 date during a term of office may defer the election to
23 participate in the DROP until the next succeeding term in that
24 office. Such elected officer who exercises this option may
25 participate in the DROP for up to 60 calendar months or a
26 period of no longer than such succeeding term of office,
27 whichever is less.

28 b. An elected or a nonelected participant may run for
29 a term of office while participating in DROP and, if elected,
30 extend the DROP termination date accordingly, except, however,
31 if such additional term of office exceeds the 60-month or,

1 with respect to members who are instructional personnel, as
 2 defined in s. 228.041(9)(a)-(d), in grades K-12, or other
 3 school district members, including members enrolled prior to
 4 July 1, 2002, whose continuing employment in an active status
 5 is deemed essential as determined by resolution of the local
 6 school board, the 96-month limitation established in
 7 subparagraph 1., and the officer does not resign from office
 8 within such ~~60-month~~ limitation, the retirement and the
 9 participant's DROP shall be null and void as provided in
 10 sub-subparagraph (c)5.d.

11 c. An elected officer who is dually employed and
 12 elects to participate in DROP shall be required to satisfy the
 13 definition of termination within the 60-month limitation
 14 period as provided in subparagraph 1. for the nonelected
 15 position and may continue employment as an elected officer as
 16 provided in s. 121.053. The elected officer will be enrolled
 17 as a renewed member in the Elected Officers' Class or the
 18 Regular Class, as provided in ss. 121.053 and 121.22, on the
 19 first day of the month after termination of employment in the
 20 nonelected position and termination of DROP. Distribution of
 21 the DROP benefits shall be made as provided in paragraph (c).

22 d. An elected officer who is elected or appointed to
 23 an elective office is not subject to termination limitations
 24 as provided in chapter 121.

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

26 1. Effective with the date of DROP participation, the
 27 member's initial normal monthly benefit, including creditable
 28 service, optional form of payment, and average final
 29 compensation, and the effective date of retirement shall be
 30 fixed. The beneficiary established under the Florida
 31 Retirement System shall be the beneficiary eligible to receive

1 any DROP benefits payable if the DROP participant dies prior
2 to the completion of the period of DROP participation. In the
3 event a joint annuitant predeceases the member, the member may
4 name a beneficiary to receive accumulated DROP benefits
5 payable. Such retirement benefit, the annual cost of living
6 adjustments provided in s. 121.101, and interest shall accrue
7 monthly in the System Trust Fund. Such interest shall accrue
8 at an effective annual rate of 6.5 percent compounded monthly,
9 on the prior month's accumulated ending balance, up to the
10 month of termination or death.

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

1 3. The effective date of DROP participation and the
2 effective date of retirement of a DROP participant shall be
3 the first day of the month selected by the member to begin
4 participation in the DROP, provided such date is properly
5 established, with the written confirmation of the employer,
6 and the approval of the division, on forms required by the
7 division.

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

15 5. At the conclusion of the participant's DROP, the
16 division shall distribute the participant's total accumulated
17 DROP benefits, subject to the following provisions:

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

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

29 (I) Lump sum.--All accrued DROP benefits, plus
30 interest, less withholding taxes remitted to the Internal
31

1 Revenue Service, shall be paid to the DROP participant or
2 surviving beneficiary.

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

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

25 c. The form of payment selected by the DROP
26 participant or surviving beneficiary complies with the minimum
27 distribution requirements of the Internal Revenue Code.

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

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

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

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

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

19 1. Upon the death of a DROP participant, the named
20 beneficiary shall be entitled to apply for and receive the
21 accrued benefits in the DROP as provided in sub-subparagraph
22 (c)5.b.

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

26 3. Eligibility to participate in the DROP terminates
27 upon death of the participant. If the participant dies on or
28 after the effective date of enrollment in the DROP, but prior
29 to the first monthly benefit being credited to the DROP,
30 Florida Retirement System benefits shall be paid in accordance
31 with subparagraph (7)(c)1. or subparagraph 2.

1 4. A DROP participants' survivors shall not be
2 eligible to receive Florida Retirement System death benefits
3 as provided in paragraph (7)(d).

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

7 (f) Retiree health insurance subsidy.--DROP
8 participants are not eligible to apply for the retiree health
9 insurance subsidy payments as provided in s. 112.363 until
10 such participants have terminated employment and participation
11 in the DROP.

12 (g) Renewed membership.--DROP participants shall not
13 be eligible for renewed membership in the Florida Retirement
14 System under ss. 121.053 and 121.122 until termination of
15 employment is effectuated as provided in s. 121.021(39)(b).

16 (h) Employment limitation after DROP
17 participation.--Upon satisfying the definition of termination
18 of employment as provided in s. 121.021(39)(b), DROP
19 participants shall be subject to such reemployment limitations
20 as other retirees. Reemployment restrictions applicable to
21 retirees as provided in subsection (9) shall not apply to DROP
22 participants until their employment and participation in the
23 DROP are terminated.

24 (i) Contributions.--

25 1. All employers paying the salary of a DROP
26 participant filling a regularly established position shall
27 contribute 11.56 percent of such participant's gross
28 compensation, which shall constitute the entire employer DROP
29 contribution with respect to such participant. Such
30 contributions, payable to the System Trust Fund in the same
31 manner as required in s. 121.071, shall be made as appropriate

1 for each pay period and are in addition to contributions
2 required for social security and the Retiree Health Insurance
3 Subsidy Trust Fund. Such employer, social security, and
4 health insurance subsidy contributions are not included in the
5 DROP.

6 2. The employer shall, in addition to subparagraph 1.,
7 also withhold one-half of the entire social security
8 contribution required for the participant. Contributions for
9 social security by each participant and each employer, in the
10 amount required for social security coverage as now or
11 hereafter provided by the federal Social Security Act, shall
12 be in addition to contributions specified in subparagraph 1.

13 3. All employers paying the salary of a DROP
14 participant filling a regularly established position shall
15 contribute the percent of such participant's gross
16 compensation required in s. 121.071(4), which shall constitute
17 the employer's health insurance subsidy contribution with
18 respect to such participant. Such contributions shall be
19 deposited by the administrator in the Retiree Health Insurance
20 Subsidy Trust Fund.

21 (j) Forfeiture of retirement benefits.--Nothing in
22 this section shall be construed to remove DROP participants
23 from the scope of s. 8(d), Art. II of the State Constitution,
24 s. 112.3173, and paragraph (5)(f). DROP participants who
25 commit a specified felony offense while employed will be
26 subject to forfeiture of all retirement benefits, including
27 DROP benefits, pursuant to those provisions of law.

28 (k) Administration of program.--The division shall
29 make such rules as are necessary for the effective and
30 efficient administration of this subsection. The division
31 shall not be required to advise members of the federal tax

1 consequences of an election related to the DROP but may advise
2 members to seek independent advice.

3 Section 2. Commencing on July 1, 2002, there shall be
4 a one time period of 45 days in which members of the Florida
5 Retirement System who have reached normal retirement date and
6 have not retired and did not elect to participate in the DROP
7 within one year of reaching normal retirement age may elect to
8 participate in the program.

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

21 Section 4. This act shall take effect June 30, 2003.
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