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

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsection (13) of section 121.091, Florida
12 Statutes, is amended to read:

13 121.091 Benefits payable under the system.--Benefits may
14 not be paid under this section unless the member has terminated
15 employment as provided in s. 121.021(39) (a) or begun
16 participation in the Deferred Retirement Option Program as
17 provided in subsection (13), and a proper application has been
18 filed in the manner prescribed by the department. The department
19 may cancel an application for retirement benefits when the
20 member or beneficiary fails to timely provide the information
21 and documents required by this chapter and the department's
22 rules. The department shall adopt rules establishing procedures
23 for application for retirement benefits and for the cancellation
24 of such application when the required information or documents
25 are not received.

26 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
27 subject to the provisions of this section, the Deferred
28 Retirement Option Program, hereinafter referred to as the DROP,
29 is a program under which an eligible member of the Florida



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30 Retirement System may elect to participate, deferring receipt of
31 retirement benefits while continuing employment with his or her
32 Florida Retirement System employer. The deferred monthly
33 benefits shall accrue in the System Trust Fund on behalf of the
34 participant, plus interest compounded monthly, for the specified
35 period of the DROP participation, as provided in paragraph (c).
36 Upon termination of employment, the participant shall receive
37 the total DROP benefits and begin to receive the previously
38 determined normal retirement benefits. Participation in the DROP
39 does not guarantee employment for the specified period of DROP.

40 (a) *Eligibility of member to participate in the DROP.*--All
41 active Florida Retirement System members in a regularly
42 established position, and all active members of either the
43 Teachers' Retirement System established in chapter 238 or the
44 State and County Officers' and Employees' Retirement System
45 established in chapter 122 which systems are consolidated within
46 the Florida Retirement System under s. 121.011, are eligible to
47 elect participation in the DROP provided that:

48 1. The member is not a renewed member of the Florida
49 Retirement System under s. 121.122, or a member of the State
50 Community College System Optional Retirement Program under s.
51 121.051, the Senior Management Service Optional Annuity Program
52 under s. 121.055, or the optional retirement program for the
53 State University System under s. 121.35.

54 2. Except as provided in subparagraph 6., election to
55 participate is made within 12 months immediately following the
56 date on which the member first reaches normal retirement date,
57 or, for a member who reaches normal retirement date based on
58 service before he or she reaches age 62, or age 55 for Special



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59 Risk Class members, election to participate may be deferred to
60 the 12 months immediately following the date the member attains
61 57, or age 52 for Special Risk Class members. For a member who
62 first reached normal retirement date or the deferred eligibility
63 date described above prior to the effective date of this
64 section, election to participate shall be made within 12 months
65 after the effective date of this section. A member who fails to
66 make an election within such 12-month limitation period shall
67 forfeit all rights to participate in the DROP. The member shall
68 advise his or her employer and the division in writing of the
69 date on which the DROP shall begin. Such beginning date may be
70 subsequent to the 12-month election period, but must be within
71 the 60-month or, with respect to members who are instructional
72 personnel, in grades K-12, the 96-month limitation period as
73 provided in subparagraph (b)1. When establishing eligibility of
74 the member to participate in the DROP for the 60-month or, with
75 respect to members who are instructional personnel, in grades K-
76 12, the 96-month maximum participation period, the member may
77 elect to include or exclude any optional service credit
78 purchased by the member from the total service used to establish
79 the normal retirement date. A member with dual normal retirement
80 dates shall be eligible to elect to participate in DROP within
81 12 months after attaining normal retirement date in either
82 class.

83 3. The employer of a member electing to participate in the
84 DROP, or employers if dually employed, shall acknowledge in
85 writing to the division the date the member's participation in
86 the DROP begins and the date the member's employment and DROP
87 participation will terminate.



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88 4. Simultaneous employment of a participant by additional
89 Florida Retirement System employers subsequent to the
90 commencement of participation in the DROP shall be permissible
91 provided such employers acknowledge in writing a DROP
92 termination date no later than the participant's existing
93 termination date or the 60-month limitation period as provided
94 in subparagraph (b)1.

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

97 a. A change of employment must take place without a break
98 in service so that the member receives salary for each month of
99 continuous DROP participation. If a member receives no salary
100 during a month, DROP participation shall cease unless the
101 employer verifies a continuation of the employment relationship
102 for such participant pursuant to s. 121.021(39)(b).

103 b. Such participant and new employer shall notify the
104 division on forms required by the division as to the identity of
105 the new employer.

106 c. The new employer shall acknowledge, in writing, the
107 participant's DROP termination date, which may be extended but
108 not beyond the original 60-month or, with respect to members who
109 are instructional personnel, in grades K-12, the 96-month period
110 provided in subparagraph (b)1., shall acknowledge liability for
111 any additional retirement contributions and interest required if
112 the participant fails to timely terminate employment, and shall
113 be subject to the adjustment required in sub-subparagraph
114 (c)5.d.

115 6. Effective July 1, 2001, for instructional personnel as
116 defined in s. 1012.01(2), election to participate in the DROP



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117 shall be made at any time following the date on which the member
118 first reaches normal retirement date. The member shall advise
119 his or her employer and the division in writing of the date on
120 which the Deferred Retirement Option Program shall begin. When
121 establishing eligibility of the member to participate in the
122 DROP for the 60-month or, with respect to members who are
123 instructional personnel, in grades K-12, the 96-month maximum
124 participation period, as provided in subparagraph (b)1., the
125 member may elect to include or exclude any optional service
126 credit purchased by the member from the total service used to
127 establish the normal retirement date. A member with dual normal
128 retirement dates shall be eligible to elect to participate in
129 either class.

130 (b) *Participation in the DROP.--*

131 1. An eligible member may elect to participate in the DROP
132 for a period not to exceed a maximum of 60 calendar months or,
133 with respect to members who are instructional personnel, in
134 grades K-12, a maximum of 96-months immediately following the
135 date on which the member first reaches his or her normal
136 retirement date or the date to which he or she is eligible to
137 defer his or her election to participate as provided in
138 subparagraph (a)2. However, a member who has reached normal
139 retirement date prior to the effective date of the DROP shall be
140 eligible to participate in the DROP for a period of time not to
141 exceed 60 calendar months or, with respect to members who are
142 instructional personnel, in grades K-12, 96 calendar months
143 immediately following the effective date of the DROP, except a
144 member of the Special Risk Class who has reached normal
145 retirement date prior to the effective date of the DROP and



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146 whose total accrued value exceeds 75 percent of average final
 147 compensation as of his or her effective date of retirement shall
 148 be eligible to participate in the DROP for no more than 36
 149 calendar months immediately following the effective date of the
 150 DROP.

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

- 153 a. A written election to participate in the DROP;
- 154 b. Selection of the DROP participation and termination
 155 dates, which satisfy the limitations stated in paragraph (a) and
 156 subparagraph 1. Such termination date shall be in a binding
 157 letter of resignation with the employer, establishing a deferred
 158 termination date. The member may change the termination date
 159 within the limitations of subparagraph 1., but only with the
 160 written approval of his or her employer;
- 161 c. A properly completed DROP application for service
 162 retirement as provided in this section; and
- 163 d. Any other information required by the division.

164 3. The DROP participant shall be a retiree under the
 165 Florida Retirement System for all purposes, except for paragraph
 166 (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
 167 and 121.122. However, participation in the DROP does not alter
 168 the participant's employment status and such employee shall not
 169 be deemed retired from employment until his or her deferred
 170 resignation is effective and termination occurs as provided in
 171 s. 121.021(39).

172 4. Elected officers shall be eligible to participate in
 173 the DROP subject to the following:



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174 a. An elected officer who reaches normal retirement date
175 during a term of office may defer the election to participate in
176 the DROP until the next succeeding term in that office. Such
177 elected officer who exercises this option may participate in the
178 DROP for up to 60 calendar months or a period of no longer than
179 such succeeding term of office, whichever is less.

180 b. An elected or a nonelected participant may run for a
181 term of office while participating in DROP and, if elected,
182 extend the DROP termination date accordingly, except, however,
183 if such additional term of office exceeds the 60-month or, with
184 respect to members who are instructional personnel, in grades K-
185 12, the 96-month limitation established in subparagraph 1., and
186 the officer does not resign from office within such ~~60-month~~
187 limitation, the retirement and the participant's DROP shall be
188 null and void as provided in sub-subparagraph (c)5.d.

189 c. An elected officer who is dually employed and elects to
190 participate in DROP shall be required to satisfy the definition
191 of termination within the ~~60-month~~ limitation period as provided
192 in subparagraph 1. for the nonelected position and may continue
193 employment as an elected officer as provided in s. 121.053. The
194 elected officer will be enrolled as a renewed member in the
195 Elected Officers' Class or the Regular Class, as provided in ss.
196 121.053 and 121.22, on the first day of the month after
197 termination of employment in the nonelected position and
198 termination of DROP. Distribution of the DROP benefits shall be
199 made as provided in paragraph (c).

200 (c) *Benefits payable under the DROP.--*

201 1. Effective with the date of DROP participation, the
202 member's initial normal monthly benefit, including creditable



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203 service, optional form of payment, and average final
204 compensation, and the effective date of retirement shall be
205 fixed. The beneficiary established under the Florida Retirement
206 System shall be the beneficiary eligible to receive any DROP
207 benefits payable if the DROP participant dies prior to the
208 completion of the period of DROP participation. In the event a
209 joint annuitant predeceases the member, the member may name a
210 beneficiary to receive accumulated DROP benefits payable. Such
211 retirement benefit, the annual cost of living adjustments
212 provided in s. 121.101, and interest shall accrue monthly in the
213 System Trust Fund. Such interest shall accrue at an effective
214 annual rate of 6.5 percent compounded monthly, on the prior
215 month's accumulated ending balance, up to the month of
216 termination or death.

217 2. Each employee who elects to participate in the DROP
218 shall be allowed to elect to receive a lump-sum payment for
219 accrued annual leave earned in accordance with agency policy
220 upon beginning participation in the DROP. Such accumulated leave
221 payment certified to the division upon commencement of DROP
222 shall be included in the calculation of the member's average
223 final compensation. The employee electing such lump-sum payment
224 upon beginning participation in DROP will not be eligible to
225 receive a second lump-sum payment upon termination, except to
226 the extent the employee has earned additional annual leave which
227 combined with the original payment does not exceed the maximum
228 lump-sum payment allowed by the employing agency's policy or
229 rules. Such early lump-sum payment shall be based on the hourly
230 wage of the employee at the time he or she begins participation
231 in the DROP. If the member elects to wait and receive such lump-



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232 sum payment upon termination of DROP and termination of
233 employment with the employer, any accumulated leave payment made
234 at that time cannot be included in the member's retirement
235 benefit, which was determined and fixed by law when the employee
236 elected to participate in the DROP.

237 3. The effective date of DROP participation and the
238 effective date of retirement of a DROP participant shall be the
239 first day of the month selected by the member to begin
240 participation in the DROP, provided such date is properly
241 established, with the written confirmation of the employer, and
242 the approval of the division, on forms required by the division.

243 4. Normal retirement benefits and interest thereon shall
244 continue to accrue in the DROP until the established termination
245 date of the DROP, or until the participant terminates employment
246 or dies prior to such date. Although individual DROP accounts
247 shall not be established, a separate accounting of each
248 participant's accrued benefits under the DROP shall be
249 calculated and provided to participants.

250 5. At the conclusion of the participant's DROP, the
251 division shall distribute the participant's total accumulated
252 DROP benefits, subject to the following provisions:

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

256 b. The terminated DROP participant or, if deceased, such
257 participant's named beneficiary, shall elect on forms provided
258 by the division to receive payment of the DROP benefits in
259 accordance with one of the options listed below. For a
260 participant or beneficiary who fails to elect a method of



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261 payment within 60 days of termination of the DROP, the division
 262 will pay a lump sum as provided in sub-sub-subparagraph (I).

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

266 (II) Direct rollover.--All accrued DROP benefits, plus
 267 interest, shall be paid from the DROP directly to the custodian
 268 of an eligible retirement plan as defined in s. 402(c)(8)(B) of
 269 the Internal Revenue Code. However, in the case of an eligible
 270 rollover distribution to the surviving spouse of a deceased
 271 participant, an eligible retirement plan is an individual
 272 retirement account or an individual retirement annuity as
 273 described in s. 402(c)(9) of the Internal Revenue Code.

274 (III) Partial lump sum.--A portion of the accrued DROP
 275 benefits shall be paid to the DROP participant or surviving
 276 spouse, less withholding taxes remitted to the Internal Revenue
 277 Service, and the remaining DROP benefits shall be transferred
 278 directly to the custodian of an eligible retirement plan as
 279 defined in s. 402(c)(8)(B) of the Internal Revenue Code.
 280 However, in the case of an eligible rollover distribution to the
 281 surviving spouse of a deceased participant, an eligible
 282 retirement plan is an individual retirement account or an
 283 individual retirement annuity as described in s. 402(c)(9) of
 284 the Internal Revenue Code. The proportions shall be specified by
 285 the DROP participant or surviving beneficiary.

286 c. The form of payment selected by the DROP participant or
 287 surviving beneficiary complies with the minimum distribution
 288 requirements of the Internal Revenue Code.



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289 d. A DROP participant who fails to terminate employment as
 290 defined in s. 121.021(39)(b) shall be deemed not to be retired,
 291 and the DROP election shall be null and void. Florida Retirement
 292 System membership shall be reestablished retroactively to the
 293 date of the commencement of the DROP, and each employer with
 294 whom the participant continues employment shall be required to
 295 pay to the System Trust Fund the difference between the DROP
 296 contributions paid in paragraph (i) and the contributions
 297 required for the applicable Florida Retirement System class of
 298 membership during the period the member participated in the
 299 DROP, plus 6.5 percent interest compounded annually.

300 6. The accrued benefits of any DROP participant, and any
 301 contributions accumulated under such program, shall not be
 302 subject to assignment, execution, attachment, or to any legal
 303 process whatsoever, except for qualified domestic relations
 304 orders by a court of competent jurisdiction, income deduction
 305 orders as provided in s. 61.1301, and federal income tax levies.

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

308 (d) *Death benefits under the DROP.--*

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

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

316 3. Eligibility to participate in the DROP terminates upon
 317 death of the participant. If the participant dies on or after



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318 the effective date of enrollment in the DROP, but prior to the
 319 first monthly benefit being credited to the DROP, Florida
 320 Retirement System benefits shall be paid in accordance with
 321 subparagraph (7) (c)1. or subparagraph 2.

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

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

328 (f) *Retiree health insurance subsidy.*--DROP participants
 329 are not eligible to apply for the retiree health insurance
 330 subsidy payments as provided in s. 112.363 until such
 331 participants have terminated employment and participation in the
 332 DROP.

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

337 (h) *Employment limitation after DROP participation.*--Upon
 338 satisfying the definition of termination of employment as
 339 provided in s. 121.021(39) (b), DROP participants shall be
 340 subject to such reemployment limitations as other retirees.
 341 Reemployment restrictions applicable to retirees as provided in
 342 subsection (9) shall not apply to DROP participants until their
 343 employment and participation in the DROP are terminated.

344 (i) *Contributions.*--

345 1. All employers paying the salary of a DROP participant
 346 filling a regularly established position shall contribute 8.0



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347 percent of such participant's gross compensation for the period
348 of July 1, 2002, through June 30, 2003, and 11.56 percent of
349 such compensation thereafter, which shall constitute the entire
350 employer DROP contribution with respect to such participant.
351 Such contributions, payable to the System Trust Fund in the same
352 manner as required in s. 121.071, shall be made as appropriate
353 for each pay period and are in addition to contributions
354 required for social security and the Retiree Health Insurance
355 Subsidy Trust Fund. Such employer, social security, and health
356 insurance subsidy contributions are not included in the DROP.

357 2. The employer shall, in addition to subparagraph 1.,
358 also withhold one-half of the entire social security
359 contribution required for the participant. Contributions for
360 social security by each participant and each employer, in the
361 amount required for social security coverage as now or hereafter
362 provided by the federal Social Security Act, shall be in
363 addition to contributions specified in subparagraph 1.

364 3. All employers paying the salary of a DROP participant
365 filling a regularly established position shall contribute the
366 percent of such participant's gross compensation required in s.
367 121.071(4), which shall constitute the employer's health
368 insurance subsidy contribution with respect to such participant.
369 Such contributions shall be deposited by the administrator in
370 the Retiree Health Insurance Subsidy Trust Fund.

371 (j) *Forfeiture of retirement benefits.*--Nothing in this
372 section shall be construed to remove DROP participants from the
373 scope of s. 8(d), Art. II of the State Constitution, s.
374 112.3173, and paragraph (5)(f). DROP participants who commit a
375 specified felony offense while employed will be subject to



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376 forfeiture of all retirement benefits, including DROP benefits,
 377 pursuant to those provisions of law.

378 (k) *Administration of program.*--The division shall make
 379 such rules as are necessary for the effective and efficient
 380 administration of this subsection. The division shall not be
 381 required to advise members of the federal tax consequences of an
 382 election related to the DROP but may advise members to seek
 383 independent advice.

384 Section 2. Commencing on July 1, 2003, there shall be a
 385 one-time period of 45 days in which members of the Florida
 386 Retirement System who have reached normal retirement date and
 387 have not retired and did not elect to participate in the DROP
 388 within one year of reaching normal retirement age may elect to
 389 participate in the program.

390 Section 3. The Legislature finds that a proper and
 391 legitimate state purpose is served when employees and retirees
 392 of the state and of its political subdivisions, and the
 393 dependants, survivors, and beneficiaries of such employees and
 394 retirees, are extended the basic protections afforded by
 395 governmental retirement systems that provide fair and adequate
 396 benefits and that are managed, administered, and funded in an
 397 actuarially sound manner, as required by s. 14, Art. X of the
 398 State Constitution and part VII of chapter 112, Florida
 399 Statutes. Therefore, the Legislature hereby determines and
 400 declares that the provisions of this act fulfill an important
 401 state interest.

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