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CHAMBER ACTION

The Committee on State Administration recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

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

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

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

121.091 Benefits payable under the system.--Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department



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29 | may cancel an application for retirement benefits when the
30 | member or beneficiary fails to timely provide the information
31 | and documents required by this chapter and the department's
32 | rules. The department shall adopt rules establishing procedures
33 | for application for retirement benefits and for the cancellation
34 | of such application when the required information or documents
35 | are not received.

36 | (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
37 | subject to the provisions of this section, the Deferred
38 | Retirement Option Program, hereinafter referred to as the DROP,
39 | is a program under which an eligible member of the Florida
40 | Retirement System may elect to participate, deferring receipt of
41 | retirement benefits while continuing employment with his or her
42 | Florida Retirement System employer. The deferred monthly
43 | benefits shall accrue in the System Trust Fund on behalf of the
44 | participant, plus interest compounded monthly, for the specified
45 | period of the DROP participation, as provided in paragraph (c).
46 | Upon termination of employment, the participant shall receive
47 | the total DROP benefits and begin to receive the previously
48 | determined normal retirement benefits. Participation in the DROP
49 | does not guarantee employment for the specified period of DROP.

50 | (a) Eligibility of member to participate in the DROP.--All
51 | active Florida Retirement System members in a regularly
52 | established position, and all active members of either the
53 | Teachers' Retirement System established in chapter 238 or the
54 | State and County Officers' and Employees' Retirement System
55 | established in chapter 122 which systems are consolidated within



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56 the Florida Retirement System under s. 121.011, are eligible to
57 elect participation in the DROP provided that:

58 1. The member is not a renewed member of the Florida
59 Retirement System under s. 121.122, or a member of the State
60 Community College System Optional Retirement Program under s.
61 121.051, the Senior Management Service Optional Annuity Program
62 under s. 121.055, or the optional retirement program for the
63 State University System under s. 121.35.

64 2. Except as provided in subparagraph 6., election to
65 participate is made within 12 months immediately following the
66 date on which the member first reaches normal retirement date,
67 or, for a member who reaches normal retirement date based on
68 service before he or she reaches age 62, or age 55 for Special
69 Risk Class members, election to participate may be deferred to
70 the 12 months immediately following the date the member attains
71 57, or age 52 for Special Risk Class members. For a member who
72 first reached normal retirement date or the deferred eligibility
73 date described above prior to the effective date of this
74 section, election to participate shall be made within 12 months
75 after the effective date of this section. A member who fails to
76 make an election within such 12-month limitation period shall
77 forfeit all rights to participate in the DROP. The member shall
78 advise his or her employer and the division in writing of the
79 date on which the DROP shall begin. Such beginning date may be
80 subsequent to the 12-month election period, but must be within
81 the 60-month or, with respect to members who are instructional
82 personnel as defined in s. 1012.01(2)(a)-(d), in grades K-12,
83 the 96-month limitation period as provided in subparagraph (b)1.



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84 | When establishing eligibility of the member to participate in
85 | the DROP for the 60-month or, with respect to members who are
86 | instructional personnel as defined in s. 1012.01(2)(a)-(d), in
87 | grades K-12, the 96-month maximum participation period, the
88 | member may elect to include or exclude any optional service
89 | credit purchased by the member from the total service used to
90 | establish the normal retirement date. A member with dual normal
91 | retirement dates shall be eligible to elect to participate in
92 | DROP within 12 months after attaining normal retirement date in
93 | either class.

94 | 3. The employer of a member electing to participate in the
95 | DROP, or employers if dually employed, shall acknowledge in
96 | writing to the division the date the member's participation in
97 | the DROP begins and the date the member's employment and DROP
98 | participation will terminate.

99 | 4. Simultaneous employment of a participant by additional
100 | Florida Retirement System employers subsequent to the
101 | commencement of participation in the DROP shall be permissible
102 | provided such employers acknowledge in writing a DROP
103 | termination date no later than the participant's existing
104 | termination date or the 60-month limitation period as provided
105 | in subparagraph(b)1.

106 | 5. A DROP participant may change employers while
107 | participating in the DROP, subject to the following:

108 | a. A change of employment must take place without a break
109 | in service so that the member receives salary for each month of
110 | continuous DROP participation. If a member receives no salary
111 | during a month, DROP participation shall cease unless the



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112 employer verifies a continuation of the employment relationship
113 for such participant pursuant to s. 121.021(39)(b).

114 b. Such participant and new employer shall notify the
115 division on forms required by the division as to the identity of
116 the new employer.

117 c. The new employer shall acknowledge, in writing, the
118 participant's DROP termination date, which may be extended but
119 not beyond the original 60-month or, with respect to members who
120 are instructional personnel as defined in s. 1012.01(2)(a)-(d),
121 in grades K-12, the 96-month period provided in subparagraph
122 (b)1., shall acknowledge liability for any additional retirement
123 contributions and interest required if the participant fails to
124 timely terminate employment, and shall be subject to the
125 adjustment required in sub-subparagraph (c)5.d.

126 6. Effective July 1, 2001, for instructional personnel as
127 defined in s. 1012.01(2), election to participate in the DROP
128 shall be made at any time following the date on which the member
129 first reaches normal retirement date. The member shall advise
130 his or her employer and the division in writing of the date on
131 which the Deferred Retirement Option Program shall begin. When
132 establishing eligibility of the member to participate in the
133 DROP for the 60-month or, with respect to members who are
134 instructional personnel as defined in s. 1012.01(2)(a)-(d), in
135 grades K-12, the 96-month maximum participation period, as
136 provided in subparagraph(b)1., the member may elect to include
137 or exclude any optional service credit purchased by the member
138 from the total service used to establish the normal retirement



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139 date. A member with dual normal retirement dates shall be
140 eligible to elect to participate in either class.

141 (b) Participation in the DROP.--

142 1. An eligible member may elect to participate in the DROP
143 for a period not to exceed a maximum of 60 calendar months or,
144 with respect to members who are instructional personnel as
145 defined in s. 1012.01(2)(a)-(d), in grades K-12, a maximum of
146 96-months immediately following the date on which the member
147 first reaches his or her normal retirement date or the date to
148 which he or she is eligible to defer his or her election to
149 participate as provided in subparagraph (a)2. However, a member
150 who has reached normal retirement date prior to the effective
151 date of the DROP shall be eligible to participate in the DROP
152 for a period of time not to exceed 60 calendar months or, with
153 respect to members who are instructional personnel as defined in
154 s. 1012.01(2)(a)-(d), in grades K-12, 96 calendar months
155 immediately following the effective date of the DROP, except a
156 member of the Special Risk Class who has reached normal
157 retirement date prior to the effective date of the DROP and
158 whose total accrued value exceeds 75 percent of average final
159 compensation as of his or her effective date of retirement shall
160 be eligible to participate in the DROP for no more than 36
161 calendar months immediately following the effective date of the
162 DROP.

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

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



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166 b. Selection of the DROP participation and termination
167 dates, which satisfy the limitations stated in paragraph(a) and
168 subparagraph 1. Such termination date shall be in a binding
169 letter of resignation with the employer, establishing a deferred
170 termination date. The member may change the termination date
171 within the limitations of subparagraph 1., but only with the
172 written approval of his or her employer;

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

175 d. Any other information required by the division.

176 3. The DROP participant shall be a retiree under the
177 Florida Retirement System for all purposes, except for paragraph
178 (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
179 and 121.122. However, participation in the DROP does not alter
180 the participant's employment status and such employee shall not
181 be deemed retired from employment until his or her deferred
182 resignation is effective and termination occurs as provided in
183 s. 121.021(39).

184 4. Elected officers shall be eligible to participate in
185 the DROP subject to the following:

186 a. An elected officer who reaches normal retirement date
187 during a term of office may defer the election to participate in
188 the DROP until the next succeeding term in that office. Such
189 elected officer who exercises this option may participate in the
190 DROP for up to 60 calendar months or a period of no longer than
191 such succeeding term of office, whichever is less.

192 b. An elected or a nonelected participant may run for a
193 term of office while participating in DROP and, if elected,



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194 extend the DROP termination date accordingly, except, however,
195 if such additional term of office exceeds the 60-month or, with
196 respect to members who are instructional personnel as defined in
197 s. 1012.01(2)(a)-(d), in grades K-12, the 96-month limitation
198 established in subparagraph 1., and the officer does not resign
199 from office within such ~~60-month~~ limitation, the retirement and
200 the participant's DROP shall be null and void as provided in
201 sub-subparagraph (c)5.d.

202 c. An elected officer who is dually employed and elects to
203 participate in DROP shall be required to satisfy the definition
204 of termination within the ~~60-month~~ limitation period as provided
205 in subparagraph 1. for the nonelected position and may continue
206 employment as an elected officer as provided in s. 121.053. The
207 elected officer will be enrolled as a renewed member in the
208 Elected Officers' Class or the Regular Class, as provided in ss.
209 121.053 and 121.22, on the first day of the month after
210 termination of employment in the nonelected position and
211 termination of DROP. Distribution of the DROP benefits shall be
212 made as provided in paragraph(c).

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

214 1. Effective with the date of DROP participation, the
215 member's initial normal monthly benefit, including creditable
216 service, optional form of payment, and average final
217 compensation, and the effective date of retirement shall be
218 fixed. The beneficiary established under the Florida Retirement
219 System shall be the beneficiary eligible to receive any DROP
220 benefits payable if the DROP participant dies prior to the
221 completion of the period of DROP participation. In the event a



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222 joint annuitant predeceases the member, the member may name a
223 beneficiary to receive accumulated DROP benefits payable. Such
224 retirement benefit, the annual cost of living adjustments
225 provided in s. 121.101, and interest shall accrue monthly in the
226 System Trust Fund. Such interest shall accrue at an effective
227 annual rate of 6.5 percent compounded monthly, on the prior
228 month's accumulated ending balance, up to the month of
229 termination or death.

230 2. Each employee who elects to participate in the DROP
231 shall be allowed to elect to receive a lump-sum payment for
232 accrued annual leave earned in accordance with agency policy
233 upon beginning participation in the DROP. Such accumulated leave
234 payment certified to the division upon commencement of DROP
235 shall be included in the calculation of the member's average
236 final compensation. The employee electing such lump-sum payment
237 upon beginning participation in DROP will not be eligible to
238 receive a second lump-sum payment upon termination, except to
239 the extent the employee has earned additional annual leave which
240 combined with the original payment does not exceed the maximum
241 lump-sum payment allowed by the employing agency's policy or
242 rules. Such early lump-sum payment shall be based on the hourly
243 wage of the employee at the time he or she begins participation
244 in the DROP. If the member elects to wait and receive such lump-
245 sum payment upon termination of DROP and termination of
246 employment with the employer, any accumulated leave payment made
247 at that time cannot be included in the member's retirement
248 benefit, which was determined and fixed by law when the employee
249 elected to participate in the DROP.



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250 3. The effective date of DROP participation and the
251 effective date of retirement of a DROP participant shall be the
252 first day of the month selected by the member to begin
253 participation in the DROP, provided such date is properly
254 established, with the written confirmation of the employer, and
255 the approval of the division, on forms required by the division.

256 4. Normal retirement benefits and interest thereon shall
257 continue to accrue in the DROP until the established termination
258 date of the DROP, or until the participant terminates employment
259 or dies prior to such date. Although individual DROP accounts
260 shall not be established, a separate accounting of each
261 participant's accrued benefits under the DROP shall be
262 calculated and provided to participants.

263 5. At the conclusion of the participant's DROP, the
264 division shall distribute the participant's total accumulated
265 DROP benefits, subject to the following provisions:

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

269 b. The terminated DROP participant or, if deceased, such
270 participant's named beneficiary, shall elect on forms provided
271 by the division to receive payment of the DROP benefits in
272 accordance with one of the options listed below. For a
273 participant or beneficiary who fails to elect a method of
274 payment within 60 days of termination of the DROP, the division
275 will pay a lump sum as provided in sub-sub-subparagraph (I).



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

279 (II) Direct rollover.--All accrued DROP benefits, plus
280 interest, shall be paid from the DROP directly to the custodian
281 of an eligible retirement plan as defined in s. 402(c)(8)(B) of
282 the Internal Revenue Code. However, in the case of an eligible
283 rollover distribution to the surviving spouse of a deceased
284 participant, an eligible retirement plan is an individual
285 retirement account or an individual retirement annuity as
286 described in s. 402(c)(9) of the Internal Revenue Code.

287 (III) Partial lump sum.--A portion of the accrued DROP
288 benefits shall be paid to the DROP participant or surviving
289 spouse, less withholding taxes remitted to the Internal Revenue
290 Service, and the remaining DROP benefits shall be transferred
291 directly to the custodian of an eligible retirement plan as
292 defined in s. 402(c)(8)(B) of the Internal Revenue Code.
293 However, in the case of an eligible rollover distribution to the
294 surviving spouse of a deceased participant, an eligible
295 retirement plan is an individual retirement account or an
296 individual retirement annuity as described in s. 402(c)(9) of
297 the Internal Revenue Code. The proportions shall be specified by
298 the DROP participant or surviving beneficiary.

299 c. The form of payment selected by the DROP participant or
300 surviving beneficiary complies with the minimum distribution
301 requirements of the Internal Revenue Code.

302 d. A DROP participant who fails to terminate employment as
303 defined in s. 121.021(39)(b) shall be deemed not to be retired,



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304 and the DROP election shall be null and void. Florida Retirement
305 System membership shall be reestablished retroactively to the
306 date of the commencement of the DROP, and each employer with
307 whom the participant continues employment shall be required to
308 pay to the System Trust Fund the difference between the DROP
309 contributions paid in paragraph (i) and the contributions
310 required for the applicable Florida Retirement System class of
311 membership during the period the member participated in the
312 DROP, plus 6.5 percent interest compounded annually.

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

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

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

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

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

329 3. Eligibility to participate in the DROP terminates upon
330 death of the participant. If the participant dies on or after
331 the effective date of enrollment in the DROP, but prior to the



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332 first monthly benefit being credited to the DROP, Florida
333 Retirement System benefits shall be paid in accordance with
334 subparagraph (7)(c)1. or subparagraph 2.

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

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

341 (f) Retiree health insurance subsidy.--DROP participants
342 are not eligible to apply for the retiree health insurance
343 subsidy payments as provided in s. 112.363 until such
344 participants have terminated employment and participation in the
345 DROP.

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

350 (h) Employment limitation after DROP participation.--Upon
351 satisfying the definition of termination of employment as
352 provided in s. 121.021(39)(b), DROP participants shall be
353 subject to such reemployment limitations as other retirees.
354 Reemployment restrictions applicable to retirees as provided in
355 subsection (9) shall not apply to DROP participants until their
356 employment and participation in the DROP are terminated.

357 (i) Contributions.--

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



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360 percent of such participant's gross compensation for the period
361 of July 1, 2002, through June 30, 2003, and 11.56 percent of
362 such compensation thereafter, which shall constitute the entire
363 employer DROP contribution with respect to such participant.
364 Such contributions, payable to the System Trust Fund in the same
365 manner as required in s. 121.071, shall be made as appropriate
366 for each pay period and are in addition to contributions
367 required for social security and the Retiree Health Insurance
368 Subsidy Trust Fund. Such employer, social security, and health
369 insurance subsidy contributions are not included in the DROP.

370 2. The employer shall, in addition to subparagraph 1.,
371 also withhold one-half of the entire social security
372 contribution required for the participant. Contributions for
373 social security by each participant and each employer, in the
374 amount required for social security coverage as now or hereafter
375 provided by the federal Social Security Act, shall be in
376 addition to contributions specified in subparagraph 1.

377 3. All employers paying the salary of a DROP participant
378 filling a regularly established position shall contribute the
379 percent of such participant's gross compensation required in s.
380 121.071(4), which shall constitute the employer's health
381 insurance subsidy contribution with respect to such participant.
382 Such contributions shall be deposited by the administrator in
383 the Retiree Health Insurance Subsidy Trust Fund.

384 (j) Forfeiture of retirement benefits.--Nothing in this
385 section shall be construed to remove DROP participants from the
386 scope of s. 8(d), Art. II of the State Constitution, s.
387 112.3173, and paragraph (5)(f). DROP participants who commit a



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388 specified felony offense while employed will be subject to
389 forfeiture of all retirement benefits, including DROP benefits,
390 pursuant to those provisions of law.

391 (k) Administration of program.--The division shall make
392 such rules as are necessary for the effective and efficient
393 administration of this subsection. The division shall not be
394 required to advise members of the federal tax consequences of an
395 election related to the DROP but may advise members to seek
396 independent advice.

397 Section 2. Commencing on July 1, 2003, there shall be a
398 one-time period of 45 days in which members of the Florida
399 Retirement System who have reached normal retirement date and
400 have not retired and did not elect to participate in the DROP
401 within one year of reaching normal retirement age may elect to
402 participate in the program.

403 Section 3. The Legislature finds that a proper and
404 legitimate state purpose is served when employees and retirees
405 of the state and of its political subdivisions, and the
406 dependants, survivors, and beneficiaries of such employees and
407 retirees, are extended the basic protections afforded by
408 governmental retirement systems that provide fair and adequate
409 benefits and that are managed, administered, and funded in an
410 actuarially sound manner, as required by s. 14, Art. X of the
411 State Constitution and part VII of chapter 112, Florida
412 Statutes. Therefore, the Legislature hereby determines and
413 declares that the provisions of this act fulfill an important
414 state interest.

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