

1 retirement benefits but, due to a qualifying injury, will
2 suffer a severe economic deprivation due to the loss of future
3 benefit accruals at the special risk membership rate.
4 Therefore, as a means of recognizing the peculiar and special
5 risk to this class of employees, it is the intent and purpose
6 of the Legislature to establish a class of retirement
7 membership which continues to award retirement benefits at the
8 special risk membership rate for those public servants
9 identified in this section who sustain qualifying injuries in
10 the line of duty and to avoid penalizing them because of a
11 qualifying injury when the member is not receiving disability
12 retirement benefits. This section does not require that the
13 member be ineligible for qualifying injured special risk
14 membership or special risk membership upon reaching age 55.
15 However, a member becomes ineligible for membership in the
16 qualifying injured special risk class upon attaining his or
17 her normal retirement date.

18 (2) To be eligible under this section for membership,
19 the member must have already qualified for and be actively
20 participating in the special risk class of membership under s.
21 121.0515 at the time of the qualifying injury and must not be
22 receiving disability retirement benefits under the disability
23 retirement provisions of s. 121.091(4).

24 (3) The ability to qualify for this class of
25 membership occurs only when two licensed medical physicians,
26 one of whom must be a primary treating physician of the
27 employee, have certified the existence of the physical injury
28 and medical condition that constitutes a qualifying injury as
29 defined in subsection (4) and upon the employee reaching
30 maximum medical improvement after October 1, 2007. The
31 certifications must include, at a minimum, all the following:

1 (a) That the injury to the special risk member has
2 resulted in a physical loss or loss of use of one or more
3 arms, legs, hands, or feet;

4 (b) That this physical loss or loss of use is total
5 and permanent, except in the event of a physical injury to the
6 special risk member's brain, in which event the loss of use
7 is:

8 1. Permanent and total with respect to at least one
9 hand or one foot; or

10 2. Permanent with at least 75 percent loss of motor
11 function with respect to one arm or one leg;

12 (c) That this physical loss or loss of use renders the
13 special risk member physically unable to perform the essential
14 job functions of his or her special risk position;

15 (d) That, notwithstanding this physical loss or loss
16 of use, the individual is able to perform the essential job
17 functions required by his or her new position;

18 (e) That the use of artificial limbs either is not
19 possible or does not change the special risk member's ability
20 to perform the essential job functions of his or her position;
21 and

22 (f) That the physical loss or loss of use of one or
23 more arms, legs, hands, or feet is a direct result of a
24 physical injury and not of any mental, psychological, or
25 emotional injury.

26 (4) For the purposes of this section, the term
27 "qualifying injury" means an injury in the line of duty, as
28 certified by the member's employing agency, to a special risk
29 member which does not result in total and permanent disability
30 as defined in s. 121.091(4)(b). An injury is not a qualifying
31 injury unless the injury is a physical injury to the special

1 risk member's physical body resulting in a physical loss or
2 loss of use of one or more arms, legs, hands, or feet.
3 Notwithstanding anything in this section to the contrary, an
4 injury that would otherwise qualify as a qualifying injury
5 shall not be treated as a qualifying injury or shall cease
6 conforming to the definition of qualifying injury if and when
7 the special risk member ceases employment with the employer
8 for whom he or she was providing special risk services on the
9 date the injury occurred.

10 (5) This section does not grant or create additional
11 rights for any individual to continued employment, to be
12 hired, or to be rehired with his or her employer which are not
13 already provided within the Florida Statutes, the Florida
14 Constitution, the Americans with Disabilities Act, if
15 applicable, or any other applicable state or federal law.

16 Section 2. This act shall take effect July 1, 2007.

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19 SENATE SUMMARY

20 Creates the Qualifying Injured Special Risk Class in the
21 State Retirement System to provide for continued
22 employment of special risk members who have sustained
23 qualifying injuries but are neither receiving disability
24 retirement benefits nor able to continue performing the
25 previous functions of their special risk employment but
26 are able to perform the functions of new jobs with that
27 special risk employer.
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