

1 A bill to be entitled
2 An act relating to retirement; amending s. 121.021, F.S.;
3 revising definitions; amending s. 121.051, F.S.;
4 conforming provisions relating to dual employment;
5 amending s. 121.0511, F.S.; revising procedure by which a
6 municipality or independent special district may revoke
7 its election to participate in the Florida Retirement
8 System; creating s. 121.0517, F.S.; providing legislative
9 intent; creating the Qualifying Injured Special Risk Class
10 of membership within the Florida Retirement System;
11 providing eligibility requirements for membership;
12 providing medical certification requirements; defining
13 "qualifying injury"; prohibiting the grant or creation of
14 additional rights; amending s. 121.052, F.S.; authorizing
15 sheriffs to remain or elect membership in the class;
16 amending s. 121.055, F.S.; authorizing a person appointed
17 to a position in the Senior Management Service Class who
18 is a member of the Qualifying Injured Special Risk Class
19 to remain in the latter class; amending s. 121.091, F.S.;
20 providing an average final compensation formula for
21 members of the Qualifying Injured Special Risk Class;
22 providing for computation of benefits payable for dual
23 normal retirement ages and early retirement benefits;
24 providing for DROP participation; amending s. 121.23,
25 F.S.; providing applicability to proceedings in which the
26 administrator has made written final edits on the merits
27 respecting applications for qualifying injured special
28 risk membership; amending s. 121.4501, F.S.; providing the

29 benefit commencement age for members of the Qualifying
 30 Injured Special Risk Class; amending s. 121.71, F.S.;
 31 providing for employer retirement contribution rates for
 32 the Qualifying Injured Special Risk Class; amending ss.
 33 121.72 and 121.73, F.S.; providing gross compensation
 34 percentages for the Qualifying Injured Special Risk Class
 35 for allocations from the Florida Retirement System
 36 Contributions Clearing Trust Fund for optional retirement
 37 program participant accounts and participant disability
 38 coverage; providing an effective date.

39

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

41

42 Section 1. Subsection (12) and paragraph (b) of subsection
 43 (29) of section 121.021, Florida Statutes, are amended, and
 44 paragraph (f) is added to subsection (15) of that section, to
 45 read:

46 121.021 Definitions.--The following words and phrases as
 47 used in this chapter have the respective meanings set forth
 48 unless a different meaning is plainly required by the context:

49 (12) "Member" means any officer or employee who is covered
 50 or who becomes covered under this system in accordance with this
 51 chapter. On and after December 1, 1970, all new members and
 52 those members transferring from existing systems shall be
 53 divided into the following classes: "Special Risk Class," as
 54 provided in s. 121.0515(2); "Special Risk Administrative Support
 55 Class," as provided in s. 121.0515(7); "Qualifying Injured
 56 Special Risk Class," as provided in s. 121.0517; "Elected

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57 Officers' Class," as provided in s. 121.052; "Senior Management
58 Service Class," as provided in s. 121.055; and "Regular Class,"
59 which consists of all members who are not in the Special Risk
60 Class, Special Risk Administrative Support Class, Qualifying
61 Injured Special Risk Class, Elected Officers' Class, or Senior
62 Management Service Class.

63 (15)

64 (f) Effective July 1, 2007, "qualifying injured special
65 risk member" or "qualifying injured special risk employee"
66 includes any member who is employed as a law enforcement
67 officer, as a firefighter, or in a criminal detention position
68 and meets the criteria set forth in s. 121.0517.

69 (29) "Normal retirement date" means the first day of any
70 month following the date a member attains one of the following
71 statuses:

72 (b) If a Special Risk Class or Qualifying Injured Special
73 Risk Class member, the member:

74 1. Completes 6 or more years of creditable service in the
75 Special Risk Class, the Qualifying Injured Special Risk Class,
76 or a combination of the two and attains age 55;

77 2. Completes 25 years of creditable service in the Special
78 Risk Class, the Qualifying Injured Special Risk Class, or a
79 combination of the two, regardless of age; or

80 3. Completes 25 years of creditable service and attains
81 age 52, which service may include a maximum of 4 years of
82 military service credit as long as such credit is not claimed
83 under any other system and the remaining years are in the
84 Special Risk Class, the Qualifying Injured Special Risk Class,

85 or a combination of the two.

86
 87 "Normal retirement age" is attained on the "normal retirement
 88 date."

89 Section 2. Subsection (9) of section 121.051, Florida
 90 Statutes, is amended to read:

91 121.051 Participation in the system.--

92 (9) DUAL EMPLOYMENT.--A member may not participate in more
 93 than one state-administered retirement system, plan, or class of
 94 membership simultaneously. Pursuant thereto:

95 (a) With respect to any member who is not eligible to
 96 participate in the Elected Officers' Class, but who is
 97 simultaneously employed in two or more positions covered by
 98 different Florida Retirement System classes:

99 1. The member must participate in the membership class for
 100 the position in which he or she is employed the majority of the
 101 time: the Regular Class, Senior Management Service Class,
 102 Special Risk Class, Qualifying Injured Special Risk Class, or
 103 Special Risk Administrative Support Class; or

104 2. If the employment is split equally between or among
 105 positions, the member may choose any single class of membership
 106 for which he or she is eligible, whether or not the positions
 107 are full-time positions. The member's choice must be made in
 108 writing and remains in effect as long as the member is employed
 109 equally in two or more positions.

110 (b) Contributions shall be made and creditable service
 111 shall be determined as follows:

112 1. If the member is participating in the Regular Class,

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113 retirement contributions shall be made on the total salary the
114 member has received for all covered employment, and at
115 retirement the member's average final compensation shall be
116 calculated on the total salary received from all covered
117 employment.

118 2. If the member is participating in the Senior Management
119 Service Class, Special Risk Class, Qualifying Injured Special
120 Risk Class, or Special Risk Administrative Support Class,
121 retirement contributions shall be made only on the salary
122 received in the designated class of membership. At retirement,
123 the member's average final compensation shall be based only on
124 the salary received in the designated class of membership for
125 any period, including any period of dual employment.

126 Section 3. Subsection (4) of section 121.0511, Florida
127 Statutes, is amended to read:

128 121.0511 Revocation of election and alternative plan.--The
129 governing body of any municipality or independent special
130 district that has elected to participate in the Florida
131 Retirement System may revoke its election in accordance with the
132 following procedure:

133 (4) A copy of the proposed alternative plan and report
134 must be given to each representative of each certified
135 bargaining unit before adoption of a revocation resolution under
136 subsection (5). A municipality or independent special district
137 that has a collective bargaining agreement with a certified
138 bargaining agent may not exercise the right of revocation for
139 future members of any covered class within the unit without
140 negotiating such revocation and proposed alternative plan, as

141 provided in chapter 447, with each bargaining unit covering such
 142 classes of employees. If more than one bargaining unit exists,
 143 each unit must negotiate independently. The new retirement plan
 144 for special risk employees or qualifying injured special risk
 145 employees must provide benefits which meet or exceed the minimum
 146 benefits contained in chapter plans under chapter 175 or chapter
 147 185, as appropriate. For purposes of this subsection, "chapter
 148 plans" means those plans having minimum benefits required
 149 generally under these chapters, and not local law plans having
 150 variant benefits permissible under s. 175.351 or s. 185.35.

151 Section 4. Section 121.0517, Florida Statutes, is created
 152 to read:

153 121.0517 Qualifying injured special risk membership.--

154 (1) In creating the Qualifying Injured Special Risk Class
 155 of membership within the Florida Retirement System, it is the
 156 intent and purpose of the Legislature to recognize that persons
 157 employed in the categories of law enforcement, firefighting, and
 158 criminal detention positions are required as one of the
 159 essential functions of their positions to perform work that is
 160 unusually dangerous, that is physically demanding or arduous, or
 161 that requires extraordinary agility. The Legislature further
 162 recognizes that such persons, because their jobs expose them to
 163 such risk, may suffer a disability in line of duty, as defined
 164 in s. 121.021(13), that requires them to work in a new position
 165 to continue to work for the same employer. It is the intent of
 166 the Legislature that if such disability in line of duty is a
 167 qualifying injury as defined in subsection (3), a special risk
 168 member may be reclassified as a qualifying injured special risk

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169 member. The purpose of the Qualifying Injured Special Risk Class
170 is to rectify situations in which a special risk member is not
171 receiving disability retirement benefits but, due to a
172 qualifying injury, will suffer a severe economic deprivation due
173 to the loss of future benefit accruals at the special risk
174 membership rate. Therefore, as a means of recognizing the
175 peculiar and special risk of this class of employees, it is the
176 intent and purpose of the Legislature to establish a class of
177 retirement membership that continues to award retirement
178 benefits at the special risk membership rate for those public
179 servants identified in this section who sustain qualifying
180 injuries in line of duty and to avoid penalizing them because of
181 qualifying injuries for which the members do not receive
182 disability retirement benefits. Nothing contained in this
183 section shall require ineligibility for qualifying injured
184 special risk membership or special risk membership upon reaching
185 age 55.

186 (2) To be eligible for qualifying injured special risk
187 membership under this section:

188 (a) The member must have already qualified for and be
189 actively participating in special risk membership under s.
190 121.0515 at the time of the qualifying injury and must not be
191 receiving disability retirement benefits as provided in s.
192 121.091(4).

193 (b) Two licensed medical physicians, one of whom is a
194 primary treating physician of the member, must certify the
195 existence of the physical injury and medical condition that
196 constitute a qualifying injury as defined in subsection (3) and

197 that the member has reached Maximum Medical Improvement (MMI)
 198 after July 1, 2007. The certifications from the licensed medical
 199 physicians must include, at a minimum, all of the following:

200 1. That the injury to the special risk member has resulted
 201 in a physical loss, or loss of use, of one or both arms, legs,
 202 hands, or feet.

203 2. That this physical loss or loss of use is total and
 204 permanent, except in the event of a physical injury to the
 205 member's brain, in which event the loss of use is:

206 a. Permanent and total with respect to at least one hand
 207 or foot; or

208 b. Permanent with at least 75-percent loss of motor
 209 function with respect to at least one arm or leg.

210 3. That this physical loss or loss of use renders the
 211 member physically unable to perform the essential job functions
 212 of his or her special risk position.

213 4. That, notwithstanding this physical loss or loss of
 214 use, the individual is able to perform the essential job
 215 functions required by the member's new position.

216 5. That use of artificial limbs is either not possible or
 217 does not alter the member's ability to perform the essential job
 218 functions of the member's position.

219 6. That the physical loss or loss of use of one or both
 220 arms, legs, hands, or feet is a direct result of a physical
 221 injury and not of any mental, psychological, or emotional
 222 injury.

223 (3) For the purposes of this section, "qualifying injury"
 224 means an injury in line of duty, as certified by the member's

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225 employing agency, to a special risk member that does not result
 226 in total and permanent disability as defined in s.
 227 121.091(4) (b). An injury is not a qualifying injury unless the
 228 injury is a physical injury to the member's physical body
 229 resulting in a physical loss, or loss of use, of one or both
 230 arms, legs, hands, or feet. Notwithstanding anything in this
 231 section to the contrary, an injury that would otherwise qualify
 232 as a qualifying injury shall not be considered a qualifying
 233 injury if and when the member ceases employment with the
 234 employer for whom he or she was providing special risk services
 235 on the date the injury occurred.

236 (4) Nothing in this section shall grant or create
 237 additional rights for any individual to continued employment, to
 238 be hired, or to be rehired with his or her employer that are not
 239 already provided within the Florida Statutes, the State
 240 Constitution, the Americans with Disabilities Act, if
 241 applicable, or any other applicable state or federal law.

242 Section 5. Paragraph (b) of subsection (3) of section
 243 121.052, Florida Statutes, is amended to read:

244 121.052 Membership class of elected officers.--

245 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.--Effective
 246 July 1, 1990, participation in the Elected Officers' Class shall
 247 be compulsory for elected officers listed in paragraphs (2)(a)-
 248 (d) and (f) assuming office on or after said date, unless the
 249 elected officer elects membership in another class or withdraws
 250 from the Florida Retirement System as provided in paragraphs
 251 (3)(a) - (d):

252 (b) Upon assuming office, any sheriff shall have a period

253 of 6 months to notify the administrator of his or her decision
 254 to remain or elect membership in the Special Risk Class or the
 255 Qualifying Injured Special Risk Class in lieu of membership in
 256 the Elected Officers' Class.

257 Section 6. Paragraph (c) of subsection (6) of section
 258 121.055, Florida Statutes, is amended to read:

259 121.055 Senior Management Service Class.--There is hereby
 260 established a separate class of membership within the Florida
 261 Retirement System to be known as the "Senior Management Service
 262 Class," which shall become effective February 1, 1987.

263 (6)

264 (c) Participation.--

265 1. Any eligible employee who is employed on or before
 266 February 1, 1987, may elect to participate in the optional
 267 annuity program in lieu of participation in the Senior
 268 Management Service Class. Such election shall be made in writing
 269 and filed with the department and the personnel officer of the
 270 employer on or before May 1, 1987. Any eligible employee who is
 271 employed on or before February 1, 1987, and who fails to make an
 272 election to participate in the optional annuity program by May
 273 1, 1987, shall be deemed to have elected membership in the
 274 Senior Management Service Class.

275 2. Any employee who becomes eligible to participate in the
 276 optional annuity program by reason of initial employment
 277 commencing after February 1, 1987, may, within 90 days after the
 278 date of commencement of employment, elect to participate in the
 279 optional annuity program. Such election shall be made in writing
 280 and filed with the personnel officer of the employer. Any

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281 eligible employee who does not within 90 days after commencement
282 of such employment elect to participate in the optional annuity
283 program shall be deemed to have elected membership in the Senior
284 Management Service Class.

285 3. A person who is appointed to a position in the Senior
286 Management Service Class and who is a member of an existing
287 retirement system or the Special Risk Class, Qualifying Injured
288 Special Risk Class, or Special Risk Administrative Support Class
289 ~~Classes~~ of the Florida Retirement System may elect to remain in
290 such system or class in lieu of participation in the Senior
291 Management Service Class or optional annuity program. Such
292 election shall be made in writing and filed with the department
293 and the personnel officer of the employer within 90 days after
294 ~~of~~ such appointment. Any eligible employee who fails to make an
295 election to participate in the existing system, the Special Risk
296 Class of the Florida Retirement System, the Qualifying Injured
297 Special Risk Class of the Florida Retirement System, the Special
298 Risk Administrative Support Class of the Florida Retirement
299 System, or the optional annuity program shall be deemed to have
300 elected membership in the Senior Management Service Class.

301 4. Except as provided in subparagraph 5., an employee's
302 election to participate in the optional annuity program is
303 irrevocable as long as such employee continues to be employed in
304 an eligible position and continues to meet the eligibility
305 requirements set forth in this paragraph.

306 5. Effective from July 1, 2002, through September 30,
307 2002, any active employee in a regularly established position
308 who has elected to participate in the Senior Management Service

309 Optional Annuity Program has one opportunity to choose to move
310 from the Senior Management Service Optional Annuity Program to
311 the Florida Retirement System defined benefit program.

312 a. The election must be made in writing and must be filed
313 with the department and the personnel officer of the employer
314 before October 1, 2002, or, in the case of an active employee
315 who is on a leave of absence on July 1, 2002, within 90 days
316 after the conclusion of the leave of absence. This election is
317 irrevocable.

318 b. The employee will receive service credit under the
319 defined benefit program of the Florida Retirement System equal
320 to his or her years of service under the Senior Management
321 Service Optional Annuity Program. The cost for such credit shall
322 be an amount representing the present value of that employee's
323 accumulated benefit obligation for the affected period of
324 service.

325 c. The employee must transfer the total accumulated
326 employer contributions and earnings on deposit in his or her
327 Senior Management Service Optional Annuity Program account. If
328 the transferred amount is not sufficient to pay the amount due,
329 the employee must pay a sum representing the remainder of the
330 amount due. In no case may the employee retain any employer
331 contributions or earnings thereon from the Senior Management
332 Service Optional Annuity Program account.

333 Section 7. Paragraph (a) of subsection (1), subsection
334 (2), paragraph (a) of subsection (3), and paragraphs (a) and (b)
335 of subsection (13) of section 121.091, Florida Statutes, are
336 amended to read:

337 121.091 Benefits payable under the system.--Benefits may
338 not be paid under this section unless the member has terminated
339 employment as provided in s. 121.021(39)(a) or begun
340 participation in the Deferred Retirement Option Program as
341 provided in subsection (13), and a proper application has been
342 filed in the manner prescribed by the department. The department
343 may cancel an application for retirement benefits when the
344 member or beneficiary fails to timely provide the information
345 and documents required by this chapter and the department's
346 rules. The department shall adopt rules establishing procedures
347 for application for retirement benefits and for the cancellation
348 of such application when the required information or documents
349 are not received.

350 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or her
351 normal retirement date, the member, upon application to the
352 administrator, shall receive a monthly benefit which shall begin
353 to accrue on the first day of the month of retirement and be
354 payable on the last day of that month and each month thereafter
355 during his or her lifetime. The normal retirement benefit,
356 including any past or additional retirement credit, may not
357 exceed 100 percent of the average final compensation. The amount
358 of monthly benefit shall be calculated as the product of A and
359 B, subject to the adjustment of C, if applicable, as set forth
360 below:

361 (a)1. For creditable years of Regular Class service, A is
362 1.60 percent of the member's average final compensation, up to
363 the member's normal retirement date. Upon completion of the
364 first year after the normal retirement date, A is 1.63 percent

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365 of the member's average final compensation. Following the second
366 year after the normal retirement date, A is 1.65 percent of the
367 member's average final compensation. Following the third year
368 after the normal retirement date, and for subsequent years, A is
369 1.68 percent of the member's average final compensation.

370 2. For creditable years of special risk service or,
371 effective July 1, 2007, qualifying injured special risk service,
372 A is:

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

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

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

381 d. Two and two-tenths percent of the member's final
382 monthly compensation for all creditable years after December 31,
383 1988, and before January 1, 1990;

384 e. Two and four-tenths percent of the member's average
385 final compensation for all creditable years after December 31,
386 1989, and before January 1, 1991;

387 f. Two and six-tenths percent of the member's average
388 final compensation for all creditable years after December 31,
389 1990, and before January 1, 1992;

390 g. Two and eight-tenths percent of the member's average
391 final compensation for all creditable years after December 31,
392 1991, and before January 1, 1993;

393 h. Three percent of the member's average final
 394 compensation for all creditable years after December 31, 1992;
 395 and

396 i. Three percent of the member's average final
 397 compensation for all creditable years of service after September
 398 30, 1978, and before January 1, 1993, for any special risk
 399 member who retires after July 1, 2000, or any member of the
 400 Special Risk Administrative Support Class entitled to retain the
 401 special risk normal retirement date who was a member of the
 402 Special Risk Class during the time period and who retires after
 403 July 1, 2000.

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

406 4. For creditable years of Elected Officers' Class service
 407 as a Supreme Court Justice, district court of appeal judge,
 408 circuit judge, or county court judge, A is 31/3 percent of the
 409 member's average final compensation, and for all other
 410 creditable service in such class, A is 3 percent of average
 411 final compensation;

412 (2) BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT AGES.--If
 413 a member accumulates retirement benefits to commence at
 414 different normal retirement ages by virtue of having performed
 415 duties for an employer which would entitle him or her to
 416 benefits as both a member of the Special Risk Class or the
 417 Qualifying Injured Special Risk Class and a member of either the
 418 Regular Class, Senior Management Service Class, or Elected
 419 Officers' Class, the amount of benefits payable shall be
 420 computed separately with respect to each such age and the sum of

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421 such computed amounts shall be paid as provided in this section.

422 (3) EARLY RETIREMENT BENEFIT.--Upon retirement on his or
423 her early retirement date, the member shall receive an immediate
424 monthly benefit that shall begin to accrue on the first day of
425 the month of the retirement date and be payable on the last day
426 of that month and each month thereafter during his or her
427 lifetime. Such benefit shall be calculated as follows:

428 (a) The amount of each monthly payment shall be computed
429 in the same manner as for a normal retirement benefit, in
430 accordance with subsection (1), but shall be based on the
431 member's average monthly compensation and creditable service as
432 of the member's early retirement date. The benefit so computed
433 shall be reduced by five-twelfths of 1 percent for each complete
434 month by which the early retirement date precedes the normal
435 retirement date of age 62 for a member of the Regular Class,
436 Senior Management Service Class, or the Elected Officers' Class,
437 and age 55 for a member of the Special Risk Class or the
438 Qualifying Injured Special Risk Class, or age 52 if a Special
439 Risk member or Qualifying Injured Special Risk member has
440 completed 25 years of creditable service in accordance with s.
441 121.021(29)(b)3.

442 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
443 subject to the provisions of this section, the Deferred
444 Retirement Option Program, hereinafter referred to as the DROP,
445 is a program under which an eligible member of the Florida
446 Retirement System may elect to participate, deferring receipt of
447 retirement benefits while continuing employment with his or her
448 Florida Retirement System employer. The deferred monthly

449 benefits shall accrue in the System Trust Fund on behalf of the
450 participant, plus interest compounded monthly, for the specified
451 period of the DROP participation, as provided in paragraph (c).
452 Upon termination of employment, the participant shall receive
453 the total DROP benefits and begin to receive the previously
454 determined normal retirement benefits. Participation in the DROP
455 does not guarantee employment for the specified period of DROP.
456 Participation in the DROP by an eligible member beyond the
457 initial 60-month period as authorized in this subsection shall
458 be on an annual contractual basis for all participants.

459 (a) Eligibility of member to participate in the DROP.--All
460 active Florida Retirement System members in a regularly
461 established position, and all active members of either the
462 Teachers' Retirement System established in chapter 238 or the
463 State and County Officers' and Employees' Retirement System
464 established in chapter 122 which systems are consolidated within
465 the Florida Retirement System under s. 121.011, are eligible to
466 elect participation in the DROP provided that:

467 1. The member is not a renewed member of the Florida
468 Retirement System under s. 121.122, or a member of the State
469 Community College System Optional Retirement Program under s.
470 121.051, the Senior Management Service Optional Annuity Program
471 under s. 121.055, or the optional retirement program for the
472 State University System under s. 121.35.

473 2. Except as provided in subparagraph 6., election to
474 participate is made within 12 months immediately following the
475 date on which the member first reaches normal retirement date,
476 or, for a member who reaches normal retirement date based on

477 service before he or she reaches age 62, or age 55 for Special
478 Risk Class members or Qualifying Injured Special Risk Class
479 members, election to participate may be deferred to the 12
480 months immediately following the date the member attains 57, or
481 age 52 for Special Risk Class members or Qualifying Injured
482 Special Risk Class members. For a member who first reached
483 normal retirement date or the deferred eligibility date
484 described above prior to the effective date of this section,
485 election to participate shall be made within 12 months after the
486 effective date of this section. A member who fails to make an
487 election within such 12-month limitation period shall forfeit
488 all rights to participate in the DROP. The member shall advise
489 his or her employer and the division in writing of the date on
490 which the DROP shall begin. Such beginning date may be
491 subsequent to the 12-month election period, but must be within
492 the 60-month or, with respect to members who are instructional
493 personnel employed by the Florida School for the Deaf and the
494 Blind and who have received authorization by the Board of
495 Trustees of the Florida School for the Deaf and the Blind to
496 participate in the DROP beyond 60 months, or who are
497 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
498 grades K-12 and who have received authorization by the district
499 school superintendent to participate in the DROP beyond 60
500 months, the 96-month limitation period as provided in
501 subparagraph (b)1. When establishing eligibility of the member
502 to participate in the DROP for the 60-month or, with respect to
503 members who are instructional personnel employed by the Florida
504 School for the Deaf and the Blind and who have received

505 authorization by the Board of Trustees of the Florida School for
506 the Deaf and the Blind to participate in the DROP beyond 60
507 months, or who are instructional personnel as defined in s.
508 1012.01(2)(a)-(d) in grades K-12 and who have received
509 authorization by the district school superintendent to
510 participate in the DROP beyond 60 months, the 96-month maximum
511 participation period, the member may elect to include or exclude
512 any optional service credit purchased by the member from the
513 total service used to establish the normal retirement date. A
514 member with dual normal retirement dates shall be eligible to
515 elect to participate in DROP within 12 months after attaining
516 normal retirement date in either class.

517 3. The employer of a member electing to participate in the
518 DROP, or employers if dually employed, shall acknowledge in
519 writing to the division the date the member's participation in
520 the DROP begins and the date the member's employment and DROP
521 participation will terminate.

522 4. Simultaneous employment of a participant by additional
523 Florida Retirement System employers subsequent to the
524 commencement of participation in the DROP shall be permissible
525 provided such employers acknowledge in writing a DROP
526 termination date no later than the participant's existing
527 termination date or the 60-month limitation period as provided
528 in subparagraph (b)1.

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

531 a. A change of employment must take place without a break
532 in service so that the member receives salary for each month of

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533 continuous DROP participation. If a member receives no salary
534 during a month, DROP participation shall cease unless the
535 employer verifies a continuation of the employment relationship
536 for such participant pursuant to s. 121.021(39)(b).

537 b. Such participant and new employer shall notify the
538 division on forms required by the division as to the identity of
539 the new employer.

540 c. The new employer shall acknowledge, in writing, the
541 participant's DROP termination date, which may be extended but
542 not beyond the original 60-month or, with respect to members who
543 are instructional personnel employed by the Florida School for
544 the Deaf and the Blind and who have received authorization by
545 the Board of Trustees of the Florida School for the Deaf and the
546 Blind to participate in the DROP beyond 60 months, or who are
547 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
548 grades K-12 and who have received authorization by the district
549 school superintendent to participate in the DROP beyond 60
550 months, the 96-month period provided in subparagraph (b)1.,
551 shall acknowledge liability for any additional retirement
552 contributions and interest required if the participant fails to
553 timely terminate employment, and shall be subject to the
554 adjustment required in sub-subparagraph (c)5.d.

555 6. Effective July 1, 2001, for instructional personnel as
556 defined in s. 1012.01(2), election to participate in the DROP
557 shall be made at any time following the date on which the member
558 first reaches normal retirement date. The member shall advise
559 his or her employer and the division in writing of the date on
560 which the Deferred Retirement Option Program shall begin. When

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561 establishing eligibility of the member to participate in the
562 DROP for the 60-month or, with respect to members who are
563 instructional personnel employed by the Florida School for the
564 Deaf and the Blind and who have received authorization by the
565 Board of Trustees of the Florida School for the Deaf and the
566 Blind to participate in the DROP beyond 60 months, or who are
567 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
568 grades K-12 and who have received authorization by the district
569 school superintendent to participate in the DROP beyond 60
570 months, the 96-month maximum participation period, as provided
571 in subparagraph (b)1., the member may elect to include or
572 exclude any optional service credit purchased by the member from
573 the total service used to establish the normal retirement date.
574 A member with dual normal retirement dates shall be eligible to
575 elect to participate in either class.

576 (b) Participation in the DROP.--

577 1. An eligible member may elect to participate in the DROP
578 for a period not to exceed a maximum of 60 calendar months or,
579 with respect to members who are instructional personnel employed
580 by the Florida School for the Deaf and the Blind and who have
581 received authorization by the Board of Trustees of the Florida
582 School for the Deaf and the Blind to participate in the DROP
583 beyond 60 months, or who are instructional personnel as defined
584 in s. 1012.01(2)(a)-(d) in grades K-12 and who have received
585 authorization by the district school superintendent to
586 participate in the DROP beyond 60 calendar months, 96 calendar
587 months immediately following the date on which the member first
588 reaches his or her normal retirement date or the date to which

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589 he or she is eligible to defer his or her election to
590 participate as provided in subparagraph (a)2. However, a member
591 who has reached normal retirement date prior to the effective
592 date of the DROP shall be eligible to participate in the DROP
593 for a period of time not to exceed 60 calendar months or, with
594 respect to members who are instructional personnel employed by
595 the Florida School for the Deaf and the Blind and who have
596 received authorization by the Board of Trustees of the Florida
597 School for the Deaf and the Blind to participate in the DROP
598 beyond 60 months, or who are instructional personnel as defined
599 in s. 1012.01(2)(a)-(d) in grades K-12 and who have received
600 authorization by the district school superintendent to
601 participate in the DROP beyond 60 calendar months, 96 calendar
602 months immediately following the effective date of the DROP,
603 except a member of the Special Risk Class or the Qualifying
604 Injured Special Risk Class who has reached normal retirement
605 date prior to the effective date of the DROP and whose total
606 accrued value exceeds 75 percent of average final compensation
607 as of his or her effective date of retirement shall be eligible
608 to participate in the DROP for no more than 36 calendar months
609 immediately following the effective date of the DROP.

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

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

613 b. Selection of the DROP participation and termination
614 dates, which satisfy the limitations stated in paragraph (a) and
615 subparagraph 1. Such termination date shall be in a binding
616 letter of resignation with the employer, establishing a deferred

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617 termination date. The member may change the termination date
618 within the limitations of subparagraph 1., but only with the
619 written approval of his or her employer;

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

622 d. Any other information required by the division.

623 3. The DROP participant shall be a retiree under the
624 Florida Retirement System for all purposes, except for paragraph
625 (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
626 and 121.122. However, participation in the DROP does not alter
627 the participant's employment status and such employee shall not
628 be deemed retired from employment until his or her deferred
629 resignation is effective and termination occurs as provided in
630 s. 121.021(39).

631 4. Elected officers shall be eligible to participate in
632 the DROP subject to the following:

633 a. An elected officer who reaches normal retirement date
634 during a term of office may defer the election to participate in
635 the DROP until the next succeeding term in that office. Such
636 elected officer who exercises this option may participate in the
637 DROP for up to 60 calendar months or a period of no longer than
638 such succeeding term of office, whichever is less.

639 b. An elected or a nonelected participant may run for a
640 term of office while participating in DROP and, if elected,
641 extend the DROP termination date accordingly, except, however,
642 if such additional term of office exceeds the 60-month
643 limitation established in subparagraph 1., and the officer does
644 not resign from office within such 60-month limitation, the

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645 retirement and the participant's DROP shall be null and void as
646 provided in sub-subparagraph (c)5.d.

647 c. An elected officer who is dually employed and elects to
648 participate in DROP shall be required to satisfy the definition
649 of termination within the 60-month or, with respect to members
650 who are instructional personnel employed by the Florida School
651 for the Deaf and the Blind and who have received authorization
652 by the Board of Trustees of the Florida School for the Deaf and
653 the Blind to participate in the DROP beyond 60 months, or who
654 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
655 in grades K-12 and who have received authorization by the
656 district school superintendent to participate in the DROP beyond
657 60 months, the 96-month limitation period as provided in
658 subparagraph 1. for the nonelected position and may continue
659 employment as an elected officer as provided in s. 121.053. The
660 elected officer will be enrolled as a renewed member in the
661 Elected Officers' Class or the Regular Class, as provided in ss.
662 121.053 and 121.122, on the first day of the month after
663 termination of employment in the nonelected position and
664 termination of DROP. Distribution of the DROP benefits shall be
665 made as provided in paragraph (c).

666 Section 8. Section 121.23, Florida Statutes, is amended to
667 read:

668 121.23 Disability retirement, ~~and~~ special risk membership,
669 and qualifying injured special risk membership applications;
670 Retirement Commission; powers and duties; judicial review.--The
671 provisions of this section apply to all proceedings in which the
672 administrator has made a written final decision on the merits

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673 respecting applications for disability retirement, reexamination
674 of retired members receiving disability benefits, applications
675 for special risk membership and qualifying injured special risk
676 membership, and reexamination of special risk members in the
677 Florida Retirement System. The jurisdiction of the State
678 Retirement Commission under this section shall be limited to
679 written final decisions of the administrator on the merits.

680 (1) In accordance with the rules of procedure adopted by
681 the Department of Management Services, the administrator shall:

682 (a) Give reasonable notice of his or her proposed action,
683 or decision to refuse action, together with a summary of the
684 factual, legal, and policy grounds therefor.

685 (b) Give affected members, or their counsel, an
686 opportunity to present to the division written evidence in
687 opposition to the proposed action or refusal to act or a written
688 statement challenging the grounds upon which the administrator
689 has chosen to justify his or her action or inaction.

690 (c) If the objections of the member are overruled, provide
691 a written explanation within 21 days.

692 (2) A member shall be entitled to a hearing before the
693 State Retirement Commission pursuant to ss. 120.569 and
694 120.57(1) on the merits of any written adverse decision of the
695 administrator, if he or she files with the commission a written
696 request for such hearing within 21 days after receipt of such
697 written decision from the administrator. For the purpose of such
698 hearings, the commission shall be an "agency head" as defined by
699 s. 120.52.

700 (a) The commission shall have the authority to issue

701 orders as a result of a hearing that shall be binding on all
 702 parties to the dispute. The commission may order any action that
 703 it deems appropriate. Any disability retirement order of the
 704 commission issued pursuant to this subsection which sustains the
 705 application of the member may include an amount, to be
 706 determined by the commission, for reasonable attorney's fees and
 707 taxable costs, which shall be calculated in accordance with the
 708 statewide uniform guidelines for taxation of costs in civil
 709 actions. The amount of the attorney's fee may not exceed 50
 710 percent of the initial yearly benefit awarded under s.
 711 121.091(4). In cases involving disability retirement, the State
 712 Retirement Commission shall require the member to present
 713 competent medical evidence and may require vocational evidence
 714 before awarding disability retirement benefits.

715 (b) Any person who fails to appear in response to a
 716 subpoena, answer any question, or produce any evidence pertinent
 717 to any hearing or who knowingly gives false testimony therein
 718 commits a misdemeanor of the first degree, punishable as
 719 provided in s. 775.082 or s. 775.083.

720 (3) The exercise by the State Retirement Commission of the
 721 powers, duties, and functions prescribed by this section shall
 722 be reviewable by the district court of appeal.

723 (4) The exercise by the State Retirement Commission of the
 724 powers, duties, and functions prescribed by this section shall
 725 be reviewable by the judiciary on the grounds that:

726 (a) The commission did not afford a fair and equitable
 727 hearing in accordance with chapter 120;

728 (b) The decision of the commission was not in accordance

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729 with existing statutes or rules and regulations promulgated
730 thereunder; or

731 (c) The decision of the commission was not based on
732 substantial evidence.

733
734 The court shall not, however, substitute its judgment for that
735 of the commission as to the weight of the evidence on any
736 disputed finding of fact where the decision of the commission
737 was supported by substantial evidence; nor shall the court
738 substitute its judgment for that of the commission on an issue
739 of discretion.

740 Section 9. Paragraph (c) of subsection (3) of section
741 121.4501, Florida Statutes, is amended to read:

742 121.4501 Public Employee Optional Retirement Program.--

743 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.--

744 (c)1. Notwithstanding paragraph (b), each eligible
745 employee who elects to participate in the Public Employee
746 Optional Retirement Program and establishes one or more
747 individual participant accounts under the optional program may
748 elect to transfer to the optional program a sum representing the
749 present value of the employee's accumulated benefit obligation
750 under the defined benefit retirement program of the Florida
751 Retirement System. Upon such transfer, all service credit
752 previously earned under the defined benefit program of the
753 Florida Retirement System shall be nullified for purposes of
754 entitlement to a future benefit under the defined benefit
755 program of the Florida Retirement System. A participant is
756 precluded from transferring the accumulated benefit obligation

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757 balance from the defined benefit program upon the expiration of
758 the period afforded to enroll in the optional program.

759 2. For purposes of this subsection, the present value of
760 the member's accumulated benefit obligation is based upon the
761 member's estimated creditable service and estimated average
762 final compensation under the defined benefit program, subject to
763 recomputation under subparagraph 3. For state employees
764 enrolling under subparagraph (4)(a)1., initial estimates will be
765 based upon creditable service and average final compensation as
766 of midnight on June 30, 2002; for district school board
767 employees enrolling under subparagraph (4)(b)1., initial
768 estimates will be based upon creditable service and average
769 final compensation as of midnight on September 30, 2002; and for
770 local government employees enrolling under subparagraph
771 (4)(c)1., initial estimates will be based upon creditable
772 service and average final compensation as of midnight on
773 December 31, 2002. The dates respectively specified above shall
774 be construed as the "estimate date" for these employees. The
775 actuarial present value of the employee's accumulated benefit
776 obligation shall be based on the following:

777 a. The discount rate and other relevant actuarial
778 assumptions used to value the Florida Retirement System Trust
779 Fund at the time the amount to be transferred is determined,
780 consistent with the factors provided in sub-subparagraphs b. and
781 c.

782 b. A benefit commencement age, based on the member's
783 estimated creditable service as of the estimate date. The
784 benefit commencement age shall be the younger of the following,

785 but shall not be younger than the member's age as of the
 786 estimate date:

787 (I) Age 62; or

788 (II) The age the member would attain if the member
 789 completed 30 years of service with an employer, assuming the
 790 member worked continuously from the estimate date, and
 791 disregarding any vesting requirement that would otherwise apply
 792 under the defined benefit program of the Florida Retirement
 793 System.

794 c. For members of the Special Risk Class and the
 795 Qualifying Injured Special Risk Class and for members of the
 796 Special Risk Administrative Support Class entitled to retain
 797 special risk normal retirement date, the benefit commencement
 798 age shall be the younger of the following, but shall not be
 799 younger than the member's age as of the estimate date:

800 (I) Age 55; or

801 (II) The age the member would attain if the member
 802 completed 25 years of service with an employer, assuming the
 803 member worked continuously from the estimate date, and
 804 disregarding any vesting requirement that would otherwise apply
 805 under the defined benefit program of the Florida Retirement
 806 System.

807 d. The calculation shall disregard vesting requirements
 808 and early retirement reduction factors that would otherwise
 809 apply under the defined benefit retirement program.

810 3. For each participant who elects to transfer moneys from
 811 the defined benefit program to his or her account in the
 812 optional program, the division shall recompute the amount

813 transferred under subparagraph 2. not later than 60 days after
814 the actual transfer of funds based upon the participant's actual
815 creditable service and actual final average compensation as of
816 the initial date of participation in the optional program. If
817 the recomputed amount differs from the amount transferred under
818 subparagraph 2. by \$10 or more, the division shall:

819 a. Transfer, or cause to be transferred, from the Florida
820 Retirement System Trust Fund to the participant's account in the
821 optional program the excess, if any, of the recomputed amount
822 over the previously transferred amount together with interest
823 from the initial date of transfer to the date of transfer under
824 this subparagraph, based upon effective annual interest equal to
825 the assumed return on the actuarial investment which was used in
826 the most recent actuarial valuation of the system, compounded
827 annually.

828 b. Transfer, or cause to be transferred, from the
829 participant's account to the Florida Retirement System Trust
830 Fund the excess, if any, of the previously transferred amount
831 over the recomputed amount, together with interest from the
832 initial date of transfer to the date of transfer under this
833 subparagraph, based upon 6 percent effective annual interest,
834 compounded annually, pro rata based on the participant's
835 allocation plan.

836 4. As directed by the participant, the board shall
837 transfer or cause to be transferred the appropriate amounts to
838 the designated accounts. The board shall establish transfer
839 procedures by rule, but the actual transfer shall not be later
840 than 30 days after the effective date of the member's

841 participation in the optional program unless the major financial
 842 markets for securities available for a transfer are seriously
 843 disrupted by an unforeseen event which also causes the
 844 suspension of trading on any national securities exchange in the
 845 country where the securities were issued. In that event, such
 846 30-day period of time may be extended by a resolution of the
 847 trustees. Transfers are not commissionable or subject to other
 848 fees and may be in the form of securities or cash as determined
 849 by the state board. Such securities shall be valued as of the
 850 date of receipt in the participant's account.

851 5. If the board or the division receives notification from
 852 the United States Internal Revenue Service that this paragraph
 853 or any portion of this paragraph will cause the retirement
 854 system, or a portion thereof, to be disqualified for tax
 855 purposes under the Internal Revenue Code, then the portion that
 856 will cause the disqualification does not apply. Upon such
 857 notice, the state board and the division shall notify the
 858 presiding officers of the Legislature.

859 Section 10. Subsection (3) of section 121.71, Florida
 860 Statutes, is amended to read:

861 121.71 Uniform rates; process; calculations; levy.--

862 (3) Required employer retirement contribution rates for
 863 each membership class and subclass of the Florida Retirement
 864 System for both retirement plans are as follows:

865

Membership Class	Percentage of Gross Compensation,	Percentage of Gross Compensation,
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	Effective July 1, 2006	Effective July 1, 2007
866		
867	Regular Class 8.69%	9.55%
868	Special Risk Class 19.76%	21.96%
	<u>and Qualifying</u>	
	<u>Injured Special Risk</u>	
	<u>Class</u>	
869	Special Risk 11.39%	12.65%
	Administrative	
	Support Class	
870	Elected Officers' 13.32%	14.80%
	Class -	
	Legislators,	
	Governor,	
	Lt. Governor,	
	Cabinet Officers,	
	State Attorneys,	
	Public Defenders	
871	Elected Officers' 18.40%	20.44%
	Class -	
	Justices, Judges	

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Elected Officers' Class - County Elected Officers	15.37%	17.08%
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872

Senior Management Class	11.96%	13.29%
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873

DROP	9.80%	10.89%
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874

875 Section 11. Subsection (4) of section 121.72, Florida
876 Statutes, is amended to read:

877 121.72 Allocations to optional retirement program
878 participant accounts; percentage amounts.--

879 (4) Effective July 1, 2002, and effective July 1, 2007,
880 for the Qualifying Injured Special Risk Class, allocations from
881 the Florida Retirement System Contributions Clearing Trust Fund
882 to optional retirement program participant accounts shall be as
883 follows:

884

Membership Class	Percentage of Gross Compensation
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885

Regular Class	9.00%
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886

Special Risk Class <u>and</u> <u>Qualifying Injured Special Risk</u>	20.00%
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Class

887 Special Risk Administrative 11.35%
Support Class

888 Elected Officers' Class - 13.40%
Legislators, Governor,
Lt. Governor, Cabinet
Officers,
State Attorneys, Public
Defenders

889 Elected Officers' Class - 18.90%
Justices, Judges

890 Elected Officers' Class - 16.20%
County Elected Officers

891 Senior Management Service Class 10.95%

892
893 Section 12. Subsection (3) of section 121.73, Florida
894 Statutes, is amended to read:

895 121.73 Allocations for optional retirement program
896 participant disability coverage; percentage amounts.--

897 (3) Effective July 1, 2002, and effective July 1, 2007,
898 for the Qualifying Injured Special Risk Class, allocations from
899 the Florida Retirement System Contributions ~~FRS Contribution~~
900 Clearing Trust Fund to provide disability coverage for

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901 participants in the optional retirement program, and to offset
 902 the costs of administering said coverage, shall be as follows:

903	Membership Class	Percentage of Gross Compensation
904	Regular Class	0.25%
905	Special Risk Class <u>and</u> <u>Qualifying Injured Special Risk</u> <u>Class</u>	1.33%
906	Special Risk Administrative Support Class	0.45%
907	Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
908	Elected Officers' Class - Justices, Judges	0.73%
909	Elected Officers' Class - County Elected Officers	0.41%

910

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Senior Management Service Class 0.26%

911

912

Section 13. This act shall take effect July 1, 2007.