

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

29 respecting applications for qualifying injured special
 30 risk membership; amending s. 121.4501, F.S.; providing the
 31 benefit commencement age for members of the Qualifying
 32 Injured Special Risk Class; amending s. 121.71, F.S.;
 33 providing for employer retirement contribution rates for
 34 the Qualifying Injured Special Risk Class; amending ss.
 35 121.72 and 121.73, F.S.; providing gross compensation
 36 percentages for the Qualifying Injured Special Risk Class
 37 for allocations from the Florida Retirement System
 38 Contributions Clearing Trust Fund for optional retirement
 39 program participant accounts and participant disability
 40 coverage; providing an effective date.

41

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

43

44 Section 1. This act may be cited as the "Adam Pierce
 45 Special Risk Retirement Act."

46 Section 2. It is declared by the Legislature that persons
 47 employed in law enforcement, firefighting, and criminal
 48 detention positions perform state and municipal functions; that
 49 it is their duty to protect life and property at their own risk
 50 and peril; that it is their duty to continuously instruct school
 51 personnel, public officials, and private citizens about safety;
 52 and that their activities are vital to public safety. Therefore,
 53 the Legislature declares that it is a proper and legitimate
 54 state purpose to provide a uniform retirement system for the
 55 benefit of persons employed in law enforcement, firefighting,
 56 and criminal detention positions and intends, in implementing

57 the provisions of s. 14, Art. X of the State Constitution as
58 they relate to pension trust fund systems and plans, that such
59 retirement systems or plans be managed, administered, operated,
60 and funded in such manner as to maximize the protection of
61 pension trust funds. Pursuant to s. 18, Art. VII of the State
62 Constitution, the Legislature determines and declares that the
63 provisions of this act fulfill an important state interest.

64 Section 3. Subsection (12) and paragraph (b) of subsection
65 (29) of section 121.021, Florida Statutes, are amended, and
66 paragraph (f) is added to subsection (15) of that section, to
67 read:

68 121.021 Definitions.--The following words and phrases as
69 used in this chapter have the respective meanings set forth
70 unless a different meaning is plainly required by the context:

71 (12) "Member" means any officer or employee who is covered
72 or who becomes covered under this system in accordance with this
73 chapter. On and after December 1, 1970, all new members and
74 those members transferring from existing systems shall be
75 divided into the following classes: "Special Risk Class," as
76 provided in s. 121.0515(2); "Special Risk Administrative Support
77 Class," as provided in s. 121.0515(7); Qualifying Injured
78 Special Risk Class, as provided in s. 121.0517; "Elected
79 Officers' Class," as provided in s. 121.052; "Senior Management
80 Service Class," as provided in s. 121.055; and "Regular Class,"
81 which consists of all members who are not in the Special Risk
82 Class, Special Risk Administrative Support Class, Qualifying
83 Injured Special Risk Class, Elected Officers' Class, or Senior
84 Management Service Class.

85 (15)

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

91 (29) "Normal retirement date" means the first day of any
 92 month following the date a member attains one of the following
 93 statuses:

94 (b) If a Special Risk Class or Qualifying Injured Special
 95 Risk Class member, the member:

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

99 2. Completes 25 years of creditable service in the Special
 100 Risk Class, the Qualifying Injured Special Risk Class, or a
 101 combination of the two, regardless of age; or

102 3. Completes 25 years of creditable service and attains
 103 age 52, which service may include a maximum of 4 years of
 104 military service credit as long as such credit is not claimed
 105 under any other system and the remaining years are in the
 106 Special Risk Class, the Qualifying Injured Special Risk Class,
 107 or a combination of the two.

108
 109 "Normal retirement age" is attained on the "normal retirement
 110 date."

111 Section 4. Subsection (9) of section 121.051, Florida
 112 Statutes, is amended to read:

113 | 121.051 Participation in the system.--

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

117 | (a) With respect to any member who is not eligible to
 118 | participate in the Elected Officers' Class, but who is
 119 | simultaneously employed in two or more positions covered by
 120 | different Florida Retirement System classes:

121 | 1. The member must participate in the membership class for
 122 | the position in which he or she is employed the majority of the
 123 | time: the Regular Class, Senior Management Service Class,
 124 | Special Risk Class, Qualifying Injured Special Risk Class, or
 125 | Special Risk Administrative Support Class; or

126 | 2. If the employment is split equally between or among
 127 | positions, the member may choose any single class of membership
 128 | for which he or she is eligible, whether or not the positions
 129 | are full-time positions. The member's choice must be made in
 130 | writing and remains in effect as long as the member is employed
 131 | equally in two or more positions.

132 | (b) Contributions shall be made and creditable service
 133 | shall be determined as follows:

134 | 1. If the member is participating in the Regular Class,
 135 | retirement contributions shall be made on the total salary the
 136 | member has received for all covered employment, and at
 137 | retirement the member's average final compensation shall be
 138 | calculated on the total salary received from all covered
 139 | employment.

140 | 2. If the member is participating in the Senior Management

141 Service Class, Special Risk Class, Qualifying Injured Special
 142 Risk Class, or Special Risk Administrative Support Class,
 143 retirement contributions shall be made only on the salary
 144 received in the designated class of membership. At retirement,
 145 the member's average final compensation shall be based only on
 146 the salary received in the designated class of membership for
 147 any period, including any period of dual employment.

148 Section 5. Subsection (4) of section 121.0511, Florida
 149 Statutes, is amended to read:

150 121.0511 Revocation of election and alternative plan.--The
 151 governing body of any municipality or independent special
 152 district that has elected to participate in the Florida
 153 Retirement System may revoke its election in accordance with the
 154 following procedure:

155 (4) A copy of the proposed alternative plan and report
 156 must be given to each representative of each certified
 157 bargaining unit before adoption of a revocation resolution under
 158 subsection (5). A municipality or independent special district
 159 that has a collective bargaining agreement with a certified
 160 bargaining agent may not exercise the right of revocation for
 161 future members of any covered class within the unit without
 162 negotiating such revocation and proposed alternative plan, as
 163 provided in chapter 447, with each bargaining unit covering such
 164 classes of employees. If more than one bargaining unit exists,
 165 each unit must negotiate independently. The new retirement plan
 166 for special risk employees or qualifying injured special risk
 167 employees must provide benefits which meet or exceed the minimum
 168 benefits contained in chapter plans under chapter 175 or chapter

169 185, as appropriate. For purposes of this subsection, "chapter
 170 plans" means those plans having minimum benefits required
 171 generally under these chapters, and not local law plans having
 172 variant benefits permissible under s. 175.351 or s. 185.35.

173 Section 6. Section 121.0517, Florida Statutes, is created
 174 to read:

175 121.0517 Qualifying injured special risk membership.--

176 (1) In creating the Qualifying Injured Special Risk Class
 177 of membership within the Florida Retirement System, it is the
 178 intent and purpose of the Legislature to recognize that persons
 179 employed in the categories of law enforcement, firefighting, and
 180 criminal detention positions are required as one of the
 181 essential functions of their positions to perform work that is
 182 unusually dangerous, that is physically demanding or arduous, or
 183 that requires extraordinary agility. The Legislature further
 184 recognizes that such persons, because their jobs expose them to
 185 such risk, may suffer a disability in line of duty, as defined
 186 in s. 121.021(13), that requires them to work in a new position
 187 to continue to work for the same employer. It is the intent of
 188 the Legislature that if such disability in line of duty is a
 189 qualifying injury as defined in subsection (3), a special risk
 190 member may be reclassified as a qualifying injured special risk
 191 member. The purpose of the Qualifying Injured Special Risk Class
 192 is to rectify situations in which a special risk member is not
 193 receiving disability retirement benefits but, due to a
 194 qualifying injury, will suffer a severe economic deprivation due
 195 to the loss of future benefit accruals at the special risk
 196 membership rate. Therefore, as a means of recognizing the

197 peculiar and special risk of this class of employees, it is the
198 intent and purpose of the Legislature to establish a class of
199 retirement membership that continues to award retirement
200 benefits at the special risk membership rate for those public
201 servants identified in this section who sustain qualifying
202 injuries in line of duty and to avoid penalizing them because of
203 qualifying injuries for which the members do not receive
204 disability retirement benefits. Nothing contained in this
205 section shall require ineligibility for qualifying injured
206 special risk membership or special risk membership upon reaching
207 age 55.

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

210 (a) The member must have already qualified for and be
211 actively participating in special risk membership under s.
212 121.0515 at the time of the qualifying injury and must not be
213 receiving disability retirement benefits as provided in s.
214 121.091(4).

215 (b) Two licensed medical physicians, one of whom is a
216 primary treating physician of the member, must certify the
217 existence of the physical injury and medical condition that
218 constitute a qualifying injury as defined in subsection (3) and
219 that the member has reached Maximum Medical Improvement (MMI)
220 after July 1, 2007. The certifications from the licensed medical
221 physicians must include, at a minimum, all of the following:

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

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

228 a. Permanent and total with respect to at least one hand
229 or foot; or

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

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

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

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

241 6. That the physical loss or loss of use of one or both
242 arms, legs, hands, or feet is a direct result of a physical
243 injury and not of any mental, psychological, or emotional
244 injury.

245 (3) For the purposes of this section, "qualifying injury"
246 means an injury in line of duty, as certified by the member's
247 employing agency, to a special risk member that does not result
248 in total and permanent disability as defined in s.

249 121.091(4)(b). An injury is not a qualifying injury unless the
250 injury is a physical injury to the member's physical body
251 resulting in a physical loss, or loss of use, of one or both
252 arms, legs, hands, or feet. Notwithstanding anything in this

253 section to the contrary, an injury that would otherwise qualify
 254 as a qualifying injury shall not be considered a qualifying
 255 injury if and when the member ceases employment with the
 256 employer for whom he or she was providing special risk services
 257 on the date the injury occurred.

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

264 Section 7. Paragraph (b) of subsection (3) of section
 265 121.052, Florida Statutes, is amended to read:

266 121.052 Membership class of elected officers.--

267 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.--Effective
 268 July 1, 1990, participation in the Elected Officers' Class shall
 269 be compulsory for elected officers listed in paragraphs (2) (a)-
 270 (d) and (f) assuming office on or after said date, unless the
 271 elected officer elects membership in another class or withdraws
 272 from the Florida Retirement System as provided in paragraphs
 273 (3) (a) - (d) :

274 (b) Upon assuming office, any sheriff shall have a period
 275 of 6 months to notify the administrator of his or her decision
 276 to remain or elect membership in the Special Risk Class or the
 277 Qualifying Injured Special Risk Class in lieu of membership in
 278 the Elected Officers' Class.

279 Section 8. Paragraph (c) of subsection (6) of section
 280 121.055, Florida Statutes, is amended to read:

281 121.055 Senior Management Service Class.--There is hereby
 282 established a separate class of membership within the Florida
 283 Retirement System to be known as the "Senior Management Service
 284 Class," which shall become effective February 1, 1987.

285 (6)

286 (c) Participation.--

287 1. Any eligible employee who is employed on or before
 288 February 1, 1987, may elect to participate in the optional
 289 annuity program in lieu of participation in the Senior
 290 Management Service Class. Such election shall be made in writing
 291 and filed with the department and the personnel officer of the
 292 employer on or before May 1, 1987. Any eligible employee who is
 293 employed on or before February 1, 1987, and who fails to make an
 294 election to participate in the optional annuity program by May
 295 1, 1987, shall be deemed to have elected membership in the
 296 Senior Management Service Class.

297 2. Any employee who becomes eligible to participate in the
 298 optional annuity program by reason of initial employment
 299 commencing after February 1, 1987, may, within 90 days after the
 300 date of commencement of employment, elect to participate in the
 301 optional annuity program. Such election shall be made in writing
 302 and filed with the personnel officer of the employer. Any
 303 eligible employee who does not within 90 days after commencement
 304 of such employment elect to participate in the optional annuity
 305 program shall be deemed to have elected membership in the Senior
 306 Management Service Class.

307 3. A person who is appointed to a position in the Senior
 308 Management Service Class and who is a member of an existing

309 retirement system or the Special Risk Class, Qualifying Injured
 310 Special Risk Class, or Special Risk Administrative Support Class
 311 ~~Classes~~ of the Florida Retirement System may elect to remain in
 312 such system or class in lieu of participation in the Senior
 313 Management Service Class or optional annuity program. Such
 314 election shall be made in writing and filed with the department
 315 and the personnel officer of the employer within 90 days after
 316 ~~of~~ such appointment. Any eligible employee who fails to make an
 317 election to participate in the existing system, the Special Risk
 318 Class of the Florida Retirement System, the Qualifying Injured
 319 Special Risk Class of the Florida Retirement System, the Special
 320 Risk Administrative Support Class of the Florida Retirement
 321 System, or the optional annuity program shall be deemed to have
 322 elected membership in the Senior Management Service Class.

323 4. Except as provided in subparagraph 5., an employee's
 324 election to participate in the optional annuity program is
 325 irrevocable as long as such employee continues to be employed in
 326 an eligible position and continues to meet the eligibility
 327 requirements set forth in this paragraph.

328 5. Effective from July 1, 2002, through September 30,
 329 2002, any active employee in a regularly established position
 330 who has elected to participate in the Senior Management Service
 331 Optional Annuity Program has one opportunity to choose to move
 332 from the Senior Management Service Optional Annuity Program to
 333 the Florida Retirement System defined benefit program.

334 a. The election must be made in writing and must be filed
 335 with the department and the personnel officer of the employer
 336 before October 1, 2002, or, in the case of an active employee

337 who is on a leave of absence on July 1, 2002, within 90 days
338 after the conclusion of the leave of absence. This election is
339 irrevocable.

340 b. The employee will receive service credit under the
341 defined benefit program of the Florida Retirement System equal
342 to his or her years of service under the Senior Management
343 Service Optional Annuity Program. The cost for such credit shall
344 be an amount representing the present value of that employee's
345 accumulated benefit obligation for the affected period of
346 service.

347 c. The employee must transfer the total accumulated
348 employer contributions and earnings on deposit in his or her
349 Senior Management Service Optional Annuity Program account. If
350 the transferred amount is not sufficient to pay the amount due,
351 the employee must pay a sum representing the remainder of the
352 amount due. In no case may the employee retain any employer
353 contributions or earnings thereon from the Senior Management
354 Service Optional Annuity Program account.

355 Section 9. Paragraph (a) of subsection (1), subsection
356 (2), paragraph (a) of subsection (3), and paragraphs (a) and (b)
357 of subsection (13) of section 121.091, Florida Statutes, are
358 amended to read:

359 121.091 Benefits payable under the system.--Benefits may
360 not be paid under this section unless the member has terminated
361 employment as provided in s. 121.021(39)(a) or begun
362 participation in the Deferred Retirement Option Program as
363 provided in subsection (13), and a proper application has been
364 filed in the manner prescribed by the department. The department

365 may cancel an application for retirement benefits when the
366 member or beneficiary fails to timely provide the information
367 and documents required by this chapter and the department's
368 rules. The department shall adopt rules establishing procedures
369 for application for retirement benefits and for the cancellation
370 of such application when the required information or documents
371 are not received.

372 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or her
373 normal retirement date, the member, upon application to the
374 administrator, shall receive a monthly benefit which shall begin
375 to accrue on the first day of the month of retirement and be
376 payable on the last day of that month and each month thereafter
377 during his or her lifetime. The normal retirement benefit,
378 including any past or additional retirement credit, may not
379 exceed 100 percent of the average final compensation. The amount
380 of monthly benefit shall be calculated as the product of A and
381 B, subject to the adjustment of C, if applicable, as set forth
382 below:

383 (a)1. For creditable years of Regular Class service, A is
384 1.60 percent of the member's average final compensation, up to
385 the member's normal retirement date. Upon completion of the
386 first year after the normal retirement date, A is 1.63 percent
387 of the member's average final compensation. Following the second
388 year after the normal retirement date, A is 1.65 percent of the
389 member's average final compensation. Following the third year
390 after the normal retirement date, and for subsequent years, A is
391 1.68 percent of the member's average final compensation.

392 2. For creditable years of special risk service or,

393 effective July 1, 2007, qualifying injured special risk service,

394 A is:

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

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

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

403 d. Two and two-tenths percent of the member's final
404 monthly compensation for all creditable years after December 31,
405 1988, and before January 1, 1990;

406 e. Two and four-tenths percent of the member's average
407 final compensation for all creditable years after December 31,
408 1989, and before January 1, 1991;

409 f. Two and six-tenths percent of the member's average
410 final compensation for all creditable years after December 31,
411 1990, and before January 1, 1992;

412 g. Two and eight-tenths percent of the member's average
413 final compensation for all creditable years after December 31,
414 1991, and before January 1, 1993;

415 h. Three percent of the member's average final
416 compensation for all creditable years after December 31, 1992;
417 and

418 i. Three percent of the member's average final
419 compensation for all creditable years of service after September
420 30, 1978, and before January 1, 1993, for any special risk

421 member who retires after July 1, 2000, or any member of the
422 Special Risk Administrative Support Class entitled to retain the
423 special risk normal retirement date who was a member of the
424 Special Risk Class during the time period and who retires after
425 July 1, 2000.

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

428 4. For creditable years of Elected Officers' Class service
429 as a Supreme Court Justice, district court of appeal judge,
430 circuit judge, or county court judge, A is 31/3 percent of the
431 member's average final compensation, and for all other
432 creditable service in such class, A is 3 percent of average
433 final compensation;

434 (2) BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT AGES.--If
435 a member accumulates retirement benefits to commence at
436 different normal retirement ages by virtue of having performed
437 duties for an employer which would entitle him or her to
438 benefits as both a member of the Special Risk Class or the
439 Qualifying Injured Special Risk Class and a member of either the
440 Regular Class, Senior Management Service Class, or Elected
441 Officers' Class, the amount of benefits payable shall be
442 computed separately with respect to each such age and the sum of
443 such computed amounts shall be paid as provided in this section.

444 (3) EARLY RETIREMENT BENEFIT.--Upon retirement on his or
445 her early retirement date, the member shall receive an immediate
446 monthly benefit that shall begin to accrue on the first day of
447 the month of the retirement date and be payable on the last day
448 of that month and each month thereafter during his or her

449 lifetime. Such benefit shall be calculated as follows:

450 (a) The amount of each monthly payment shall be computed
 451 in the same manner as for a normal retirement benefit, in
 452 accordance with subsection (1), but shall be based on the
 453 member's average monthly compensation and creditable service as
 454 of the member's early retirement date. The benefit so computed
 455 shall be reduced by five-twelfths of 1 percent for each complete
 456 month by which the early retirement date precedes the normal
 457 retirement date of age 62 for a member of the Regular Class,
 458 Senior Management Service Class, or the Elected Officers' Class,
 459 and age 55 for a member of the Special Risk Class or the
 460 Qualifying Injured Special Risk Class, or age 52 if a Special
 461 Risk member or Qualifying Injured Special Risk member has
 462 completed 25 years of creditable service in accordance with s.
 463 121.021(29)(b)3.

464 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
 465 subject to the provisions of this section, the Deferred
 466 Retirement Option Program, hereinafter referred to as the DROP,
 467 is a program under which an eligible member of the Florida
 468 Retirement System may elect to participate, deferring receipt of
 469 retirement benefits while continuing employment with his or her
 470 Florida Retirement System employer. The deferred monthly
 471 benefits shall accrue in the System Trust Fund on behalf of the
 472 participant, plus interest compounded monthly, for the specified
 473 period of the DROP participation, as provided in paragraph (c).
 474 Upon termination of employment, the participant shall receive
 475 the total DROP benefits and begin to receive the previously
 476 determined normal retirement benefits. Participation in the DROP

477 does not guarantee employment for the specified period of DROP.
 478 Participation in the DROP by an eligible member beyond the
 479 initial 60-month period as authorized in this subsection shall
 480 be on an annual contractual basis for all participants.

481 (a) Eligibility of member to participate in the DROP.--All
 482 active Florida Retirement System members in a regularly
 483 established position, and all active members of either the
 484 Teachers' Retirement System established in chapter 238 or the
 485 State and County Officers' and Employees' Retirement System
 486 established in chapter 122 which systems are consolidated within
 487 the Florida Retirement System under s. 121.011, are eligible to
 488 elect participation in the DROP provided that:

489 1. The member is not a renewed member of the Florida
 490 Retirement System under s. 121.122, or a member of the State
 491 Community College System Optional Retirement Program under s.
 492 121.051, the Senior Management Service Optional Annuity Program
 493 under s. 121.055, or the optional retirement program for the
 494 State University System under s. 121.35.

495 2. Except as provided in subparagraph 6., election to
 496 participate is made within 12 months immediately following the
 497 date on which the member first reaches normal retirement date,
 498 or, for a member who reaches normal retirement date based on
 499 service before he or she reaches age 62, or age 55 for Special
 500 Risk Class members or Qualifying Injured Special Risk Class
 501 members, election to participate may be deferred to the 12
 502 months immediately following the date the member attains 57, or
 503 age 52 for Special Risk Class members or Qualifying Injured
 504 Special Risk Class members. For a member who first reached

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505 normal retirement date or the deferred eligibility date
506 described above prior to the effective date of this section,
507 election to participate shall be made within 12 months after the
508 effective date of this section. A member who fails to make an
509 election within such 12-month limitation period shall forfeit
510 all rights to participate in the DROP. The member shall advise
511 his or her employer and the division in writing of the date on
512 which the DROP shall begin. Such beginning date may be
513 subsequent to the 12-month election period, but must be within
514 the 60-month or, with respect to members who are instructional
515 personnel employed by the Florida School for the Deaf and the
516 Blind and who have received authorization by the Board of
517 Trustees of the Florida School for the Deaf and the Blind to
518 participate in the DROP beyond 60 months, or who are
519 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
520 grades K-12 and who have received authorization by the district
521 school superintendent to participate in the DROP beyond 60
522 months, the 96-month limitation period as provided in
523 subparagraph (b)1. When establishing eligibility of the member
524 to participate in the DROP for the 60-month or, with respect to
525 members who are instructional personnel employed by the Florida
526 School for the Deaf and the Blind and who have received
527 authorization by the Board of Trustees of the Florida School for
528 the Deaf and the Blind to participate in the DROP beyond 60
529 months, or who are instructional personnel as defined in s.
530 1012.01(2)(a)-(d) in grades K-12 and who have received
531 authorization by the district school superintendent to
532 participate in the DROP beyond 60 months, the 96-month maximum

533 participation period, the member may elect to include or exclude
534 any optional service credit purchased by the member from the
535 total service used to establish the normal retirement date. A
536 member with dual normal retirement dates shall be eligible to
537 elect to participate in DROP within 12 months after attaining
538 normal retirement date in either class.

539 3. The employer of a member electing to participate in the
540 DROP, or employers if dually employed, shall acknowledge in
541 writing to the division the date the member's participation in
542 the DROP begins and the date the member's employment and DROP
543 participation will terminate.

544 4. Simultaneous employment of a participant by additional
545 Florida Retirement System employers subsequent to the
546 commencement of participation in the DROP shall be permissible
547 provided such employers acknowledge in writing a DROP
548 termination date no later than the participant's existing
549 termination date or the 60-month limitation period as provided
550 in subparagraph (b)1.

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

553 a. A change of employment must take place without a break
554 in service so that the member receives salary for each month of
555 continuous DROP participation. If a member receives no salary
556 during a month, DROP participation shall cease unless the
557 employer verifies a continuation of the employment relationship
558 for such participant pursuant to s. 121.021(39)(b).

559 b. Such participant and new employer shall notify the
560 division on forms required by the division as to the identity of

561 the new employer.

562 c. The new employer shall acknowledge, in writing, the
563 participant's DROP termination date, which may be extended but
564 not beyond the original 60-month or, with respect to members who
565 are instructional personnel employed by the Florida School for
566 the Deaf and the Blind and who have received authorization by
567 the Board of Trustees of the Florida School for the Deaf and the
568 Blind to participate in the DROP beyond 60 months, or who are
569 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
570 grades K-12 and who have received authorization by the district
571 school superintendent to participate in the DROP beyond 60
572 months, the 96-month period provided in subparagraph (b)1.,
573 shall acknowledge liability for any additional retirement
574 contributions and interest required if the participant fails to
575 timely terminate employment, and shall be subject to the
576 adjustment required in sub-subparagraph (c)5.d.

577 6. Effective July 1, 2001, for instructional personnel as
578 defined in s. 1012.01(2), election to participate in the DROP
579 shall be made at any time following the date on which the member
580 first reaches normal retirement date. The member shall advise
581 his or her employer and the division in writing of the date on
582 which the Deferred Retirement Option Program shall begin. When
583 establishing eligibility of the member to participate in the
584 DROP for the 60-month or, with respect to members who are
585 instructional personnel employed by the Florida School for the
586 Deaf and the Blind and who have received authorization by the
587 Board of Trustees of the Florida School for the Deaf and the
588 Blind to participate in the DROP beyond 60 months, or who are

589 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
590 grades K-12 and who have received authorization by the district
591 school superintendent to participate in the DROP beyond 60
592 months, the 96-month maximum participation period, as provided
593 in subparagraph (b)1., the member may elect to include or
594 exclude any optional service credit purchased by the member from
595 the total service used to establish the normal retirement date.
596 A member with dual normal retirement dates shall be eligible to
597 elect to participate in either class.

598 (b) Participation in the DROP.--

599 1. An eligible member may elect to participate in the DROP
600 for a period not to exceed a maximum of 60 calendar months or,
601 with respect to members who are instructional personnel employed
602 by the Florida School for the Deaf and the Blind and who have
603 received authorization by the Board of Trustees of the Florida
604 School for the Deaf and the Blind to participate in the DROP
605 beyond 60 months, or who are instructional personnel as defined
606 in s. 1012.01(2)(a)-(d) in grades K-12 and who have received
607 authorization by the district school superintendent to
608 participate in the DROP beyond 60 calendar months, 96 calendar
609 months immediately following the date on which the member first
610 reaches his or her normal retirement date or the date to which
611 he or she is eligible to defer his or her election to
612 participate as provided in subparagraph (a)2. However, a member
613 who has reached normal retirement date prior to the effective
614 date of the DROP shall be eligible to participate in the DROP
615 for a period of time not to exceed 60 calendar months or, with
616 respect to members who are instructional personnel employed by

617 the Florida School for the Deaf and the Blind and who have
618 received authorization by the Board of Trustees of the Florida
619 School for the Deaf and the Blind to participate in the DROP
620 beyond 60 months, or who are instructional personnel as defined
621 in s. 1012.01(2)(a)-(d) in grades K-12 and who have received
622 authorization by the district school superintendent to
623 participate in the DROP beyond 60 calendar months, 96 calendar
624 months immediately following the effective date of the DROP,
625 except a member of the Special Risk Class or the Qualifying
626 Injured Special Risk Class who has reached normal retirement
627 date prior to the effective date of the DROP and whose total
628 accrued value exceeds 75 percent of average final compensation
629 as of his or her effective date of retirement shall be eligible
630 to participate in the DROP for no more than 36 calendar months
631 immediately following the effective date of the DROP.

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

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

635 b. Selection of the DROP participation and termination
636 dates, which satisfy the limitations stated in paragraph (a) and
637 subparagraph 1. Such termination date shall be in a binding
638 letter of resignation with the employer, establishing a deferred
639 termination date. The member may change the termination date
640 within the limitations of subparagraph 1., but only with the
641 written approval of his or her employer;

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

644 d. Any other information required by the division.

645 3. The DROP participant shall be a retiree under the
646 Florida Retirement System for all purposes, except for paragraph
647 (5) (f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
648 and 121.122. However, participation in the DROP does not alter
649 the participant's employment status and such employee shall not
650 be deemed retired from employment until his or her deferred
651 resignation is effective and termination occurs as provided in
652 s. 121.021(39).

653 4. Elected officers shall be eligible to participate in
654 the DROP subject to the following:

655 a. An elected officer who reaches normal retirement date
656 during a term of office may defer the election to participate in
657 the DROP until the next succeeding term in that office. Such
658 elected officer who exercises this option may participate in the
659 DROP for up to 60 calendar months or a period of no longer than
660 such succeeding term of office, whichever is less.

661 b. An elected or a nonelected participant may run for a
662 term of office while participating in DROP and, if elected,
663 extend the DROP termination date accordingly, except, however,
664 if such additional term of office exceeds the 60-month
665 limitation established in subparagraph 1., and the officer does
666 not resign from office within such 60-month limitation, the
667 retirement and the participant's DROP shall be null and void as
668 provided in sub-subparagraph (c)5.d.

669 c. An elected officer who is dually employed and elects to
670 participate in DROP shall be required to satisfy the definition
671 of termination within the 60-month or, with respect to members
672 who are instructional personnel employed by the Florida School

673 for the Deaf and the Blind and who have received authorization
 674 by the Board of Trustees of the Florida School for the Deaf and
 675 the Blind to participate in the DROP beyond 60 months, or who
 676 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
 677 in grades K-12 and who have received authorization by the
 678 district school superintendent to participate in the DROP beyond
 679 60 months, the 96-month limitation period as provided in
 680 subparagraph 1. for the nonelected position and may continue
 681 employment as an elected officer as provided in s. 121.053. The
 682 elected officer will be enrolled as a renewed member in the
 683 Elected Officers' Class or the Regular Class, as provided in ss.
 684 121.053 and 121.122, on the first day of the month after
 685 termination of employment in the nonelected position and
 686 termination of DROP. Distribution of the DROP benefits shall be
 687 made as provided in paragraph (c).

688 Section 10. Section 121.23, Florida Statutes, is amended
 689 to read:

690 121.23 Disability retirement, and special risk membership,
 691 and qualifying injured special risk membership applications;
 692 Retirement Commission; powers and duties; judicial review.--The
 693 provisions of this section apply to all proceedings in which the
 694 administrator has made a written final decision on the merits
 695 respecting applications for disability retirement, reexamination
 696 of retired members receiving disability benefits, applications
 697 for special risk membership and qualifying injured special risk
 698 membership, and reexamination of special risk members in the
 699 Florida Retirement System. The jurisdiction of the State
 700 Retirement Commission under this section shall be limited to

701 written final decisions of the administrator on the merits.

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

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

707 (b) Give affected members, or their counsel, an
708 opportunity to present to the division written evidence in
709 opposition to the proposed action or refusal to act or a written
710 statement challenging the grounds upon which the administrator
711 has chosen to justify his or her action or inaction.

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

714 (2) A member shall be entitled to a hearing before the
715 State Retirement Commission pursuant to ss. 120.569 and
716 120.57(1) on the merits of any written adverse decision of the
717 administrator, if he or she files with the commission a written
718 request for such hearing within 21 days after receipt of such
719 written decision from the administrator. For the purpose of such
720 hearings, the commission shall be an "agency head" as defined by
721 s. 120.52.

722 (a) The commission shall have the authority to issue
723 orders as a result of a hearing that shall be binding on all
724 parties to the dispute. The commission may order any action that
725 it deems appropriate. Any disability retirement order of the
726 commission issued pursuant to this subsection which sustains the
727 application of the member may include an amount, to be
728 determined by the commission, for reasonable attorney's fees and

729 taxable costs, which shall be calculated in accordance with the
 730 statewide uniform guidelines for taxation of costs in civil
 731 actions. The amount of the attorney's fee may not exceed 50
 732 percent of the initial yearly benefit awarded under s.
 733 121.091(4). In cases involving disability retirement, the State
 734 Retirement Commission shall require the member to present
 735 competent medical evidence and may require vocational evidence
 736 before awarding disability retirement benefits.

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

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

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

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

750 (b) The decision of the commission was not in accordance
 751 with existing statutes or rules and regulations promulgated
 752 thereunder; or

753 (c) The decision of the commission was not based on
 754 substantial evidence.

755

756 The court shall not, however, substitute its judgment for that

757 of the commission as to the weight of the evidence on any
758 disputed finding of fact where the decision of the commission
759 was supported by substantial evidence; nor shall the court
760 substitute its judgment for that of the commission on an issue
761 of discretion.

762 Section 11. Paragraph (c) of subsection (3) of section
763 121.4501, Florida Statutes, is amended to read:

764 121.4501 Public Employee Optional Retirement Program.--

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

766 (c)1. Notwithstanding paragraph (b), each eligible
767 employee who elects to participate in the Public Employee
768 Optional Retirement Program and establishes one or more
769 individual participant accounts under the optional program may
770 elect to transfer to the optional program a sum representing the
771 present value of the employee's accumulated benefit obligation
772 under the defined benefit retirement program of the Florida
773 Retirement System. Upon such transfer, all service credit
774 previously earned under the defined benefit program of the
775 Florida Retirement System shall be nullified for purposes of
776 entitlement to a future benefit under the defined benefit
777 program of the Florida Retirement System. A participant is
778 precluded from transferring the accumulated benefit obligation
779 balance from the defined benefit program upon the expiration of
780 the period afforded to enroll in the optional program.

781 2. For purposes of this subsection, the present value of
782 the member's accumulated benefit obligation is based upon the
783 member's estimated creditable service and estimated average
784 final compensation under the defined benefit program, subject to

785 recomputation under subparagraph 3. For state employees
786 enrolling under subparagraph (4)(a)1., initial estimates will be
787 based upon creditable service and average final compensation as
788 of midnight on June 30, 2002; for district school board
789 employees enrolling under subparagraph (4)(b)1., initial
790 estimates will be based upon creditable service and average
791 final compensation as of midnight on September 30, 2002; and for
792 local government employees enrolling under subparagraph
793 (4)(c)1., initial estimates will be based upon creditable
794 service and average final compensation as of midnight on
795 December 31, 2002. The dates respectively specified above shall
796 be construed as the "estimate date" for these employees. The
797 actuarial present value of the employee's accumulated benefit
798 obligation shall be based on the following:

799 a. The discount rate and other relevant actuarial
800 assumptions used to value the Florida Retirement System Trust
801 Fund at the time the amount to be transferred is determined,
802 consistent with the factors provided in sub-subparagraphs b. and
803 c.

804 b. A benefit commencement age, based on the member's
805 estimated creditable service as of the estimate date. The
806 benefit commencement age shall be the younger of the following,
807 but shall not be younger than the member's age as of the
808 estimate date:

809 (I) Age 62; or

810 (II) The age the member would attain if the member
811 completed 30 years of service with an employer, assuming the
812 member worked continuously from the estimate date, and

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813 disregarding any vesting requirement that would otherwise apply
814 under the defined benefit program of the Florida Retirement
815 System.

816 c. For members of the Special Risk Class and the
817 Qualifying Injured Special Risk Class and for members of the
818 Special Risk Administrative Support Class entitled to retain
819 special risk normal retirement date, the benefit commencement
820 age shall be the younger of the following, but shall not be
821 younger than the member's age as of the estimate date:

822 (I) Age 55; or

823 (II) The age the member would attain if the member
824 completed 25 years of service with an employer, assuming the
825 member worked continuously from the estimate date, and
826 disregarding any vesting requirement that would otherwise apply
827 under the defined benefit program of the Florida Retirement
828 System.

829 d. The calculation shall disregard vesting requirements
830 and early retirement reduction factors that would otherwise
831 apply under the defined benefit retirement program.

832 3. For each participant who elects to transfer moneys from
833 the defined benefit program to his or her account in the
834 optional program, the division shall recompute the amount
835 transferred under subparagraph 2. not later than 60 days after
836 the actual transfer of funds based upon the participant's actual
837 creditable service and actual final average compensation as of
838 the initial date of participation in the optional program. If
839 the recomputed amount differs from the amount transferred under
840 subparagraph 2. by \$10 or more, the division shall:

841 a. Transfer, or cause to be transferred, from the Florida
842 Retirement System Trust Fund to the participant's account in the
843 optional program the excess, if any, of the recomputed amount
844 over the previously transferred amount together with interest
845 from the initial date of transfer to the date of transfer under
846 this subparagraph, based upon effective annual interest equal to
847 the assumed return on the actuarial investment which was used in
848 the most recent actuarial valuation of the system, compounded
849 annually.

850 b. Transfer, or cause to be transferred, from the
851 participant's account to the Florida Retirement System Trust
852 Fund the excess, if any, of the previously transferred amount
853 over the recomputed amount, together with interest from the
854 initial date of transfer to the date of transfer under this
855 subparagraph, based upon 6 percent effective annual interest,
856 compounded annually, pro rata based on the participant's
857 allocation plan.

858 4. As directed by the participant, the board shall
859 transfer or cause to be transferred the appropriate amounts to
860 the designated accounts. The board shall establish transfer
861 procedures by rule, but the actual transfer shall not be later
862 than 30 days after the effective date of the member's
863 participation in the optional program unless the major financial
864 markets for securities available for a transfer are seriously
865 disrupted by an unforeseen event which also causes the
866 suspension of trading on any national securities exchange in the
867 country where the securities were issued. In that event, such
868 30-day period of time may be extended by a resolution of the

869 trustees. Transfers are not commissionable or subject to other
 870 fees and may be in the form of securities or cash as determined
 871 by the state board. Such securities shall be valued as of the
 872 date of receipt in the participant's account.

873 5. If the board or the division receives notification from
 874 the United States Internal Revenue Service that this paragraph
 875 or any portion of this paragraph will cause the retirement
 876 system, or a portion thereof, to be disqualified for tax
 877 purposes under the Internal Revenue Code, then the portion that
 878 will cause the disqualification does not apply. Upon such
 879 notice, the state board and the division shall notify the
 880 presiding officers of the Legislature.

881 Section 12. Subsection (3) of section 121.71, Florida
 882 Statutes, is amended to read:

883 121.71 Uniform rates; process; calculations; levy.--

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

887

Membership Class	Percentage of Gross Compensation, Effective July 1, 2006	Percentage of Gross Compensation, Effective July 1, 2007
Regular Class	8.69%	9.55%
Special Risk Class	19.76%	21.96%

888

889

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890	<u>and Qualifying</u> <u>Injured Special Risk</u> <u>Class</u>		
	Special Risk	11.39%	12.65%
	Administrative Support Class		
891	Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.32%	14.80%
892	Elected Officers' Class - Justices, Judges	18.40%	20.44%
893	Elected Officers' Class - County Elected Officers	15.37%	17.08%
894	Senior Management	11.96%	13.29%

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Class

895

DROP 9.80% 10.89%

896

897 Section 13. Subsection (4) of section 121.72, Florida
898 Statutes, is amended to read:

899 121.72 Allocations to optional retirement program
900 participant accounts; percentage amounts.--

901 (4) Effective July 1, 2002, and effective July 1, 2007,
902 for the Qualifying Injured Special Risk Class, allocations from
903 the Florida Retirement System Contributions Clearing Trust Fund
904 to optional retirement program participant accounts shall be as
905 follows:

906

Membership Class	Percentage of Gross Compensation
------------------	-------------------------------------

907

Regular Class	9.00%
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908

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

909

Special Risk Administrative Support Class	11.35%
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910

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

911 Elected Officers' Class - 18.90%
 Justices, Judges

912 Elected Officers' Class - 16.20%
 County Elected Officers

913 Senior Management Service Class 10.95%

914
 915 Section 14. Subsection (3) of section 121.73, Florida
 916 Statutes, is amended to read:

917 121.73 Allocations for optional retirement program
 918 participant disability coverage; percentage amounts.--

919 (3) Effective July 1, 2002, and effective July 1, 2007,
 920 for the Qualifying Injured Special Risk Class, allocations from
 921 the Florida Retirement System Contributions ~~FRS Contribution~~
 922 Clearing Trust Fund to provide disability coverage for
 923 participants in the optional retirement program, and to offset
 924 the costs of administering said coverage, shall be as follows:

925
 926

Membership Class	Percentage of Gross
	Compensation

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927	Regular Class	0.25%
928	Special Risk Class <u>and</u> <u>Qualifying Injured Special Risk</u> <u>Class</u>	1.33%
929	Special Risk Administrative Support Class	0.45%
930	Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
931	Elected Officers' Class - Justices, Judges	0.73%
932	Elected Officers' Class - County Elected Officers	0.41%
933	Senior Management Service Class	0.26%

934 Section 15. This act shall take effect July 1, 2007.