

HB 1317

2008

1 A bill to be entitled
 2 An act relating to the Florida Retirement System DROP
 3 Program; amending s. 121.091, F.S.; including among
 4 eligible participants pre-kindergarten instructional
 5 personnel; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Subsection (13) of section 121.091, Florida
 10 Statutes, is amended to read:

11 121.091 Benefits payable under the system.--Benefits may
 12 not be paid under this section unless the member has terminated
 13 employment as provided in s. 121.021(39) (a) or begun
 14 participation in the Deferred Retirement Option Program as
 15 provided in subsection (13), and a proper application has been
 16 filed in the manner prescribed by the department. The department
 17 may cancel an application for retirement benefits when the
 18 member or beneficiary fails to timely provide the information
 19 and documents required by this chapter and the department's
 20 rules. The department shall adopt rules establishing procedures
 21 for application for retirement benefits and for the cancellation
 22 of such application when the required information or documents
 23 are not received.

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

HB 1317

2008

29 retirement benefits while continuing employment with his or her
30 Florida Retirement System employer. The deferred monthly
31 benefits shall accrue in the System Trust Fund on behalf of the
32 participant, plus interest compounded monthly, for the specified
33 period of the DROP participation, as provided in paragraph (c).
34 Upon termination of employment, the participant shall receive
35 the total DROP benefits and begin to receive the previously
36 determined normal retirement benefits. Participation in the DROP
37 does not guarantee employment for the specified period of DROP.
38 Participation in the DROP by an eligible member beyond the
39 initial 60-month period as authorized in this subsection shall
40 be on an annual contractual basis for all participants.

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

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

55 2. Except as provided in subparagraph 6., election to
56 participate is made within 12 months immediately following the

HB 1317

2008

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

HB 1317

2008

85 authorization by the Board of Trustees of the Florida School for
86 the Deaf and the Blind to participate in the DROP beyond 60
87 months, or who are instructional personnel as defined in s.
88 1012.01(2)(a)-(d) in grades pre-K through 12 ~~K-12~~ and who have
89 received authorization by the district school superintendent to
90 participate in the DROP beyond 60 months, the 96-month maximum
91 participation period, the member may elect to include or exclude
92 any optional service credit purchased by the member from the
93 total service used to establish the normal retirement date. A
94 member with dual normal retirement dates shall be eligible to
95 elect to participate in DROP within 12 months after attaining
96 normal retirement date in either class.

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

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

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

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

HB 1317

2008

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

117 b. Such participant and new employer shall notify the
118 division on forms required by the division as to the identity of
119 the new employer.

120 c. The new employer shall acknowledge, in writing, the
121 participant's DROP termination date, which may be extended but
122 not beyond the original 60-month or, with respect to members who
123 are instructional personnel employed by the Florida School for
124 the Deaf and the Blind and who have received authorization by
125 the Board of Trustees of the Florida School for the Deaf and the
126 Blind to participate in the DROP beyond 60 months, or who are
127 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
128 grades pre-K through 12 ~~K-12~~ and who have received authorization
129 by the district school superintendent to participate in the DROP
130 beyond 60 months, the 96-month period provided in subparagraph
131 (b)1., shall acknowledge liability for any additional retirement
132 contributions and interest required if the participant fails to
133 timely terminate employment, and shall be subject to the
134 adjustment required in sub-subparagraph (c)5.d.

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

141 establishing eligibility of the member to participate in the
 142 DROP for the 60-month or, with respect to members who are
 143 instructional personnel employed by the Florida School for the
 144 Deaf and the Blind and who have received authorization by the
 145 Board of Trustees of the Florida School for the Deaf and the
 146 Blind to participate in the DROP beyond 60 months, or who are
 147 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
 148 grades pre-K through 12 ~~K-12~~ and who have received authorization
 149 by the district school superintendent to participate in the DROP
 150 beyond 60 months, the 96-month maximum participation period, as
 151 provided in subparagraph (b)1., the member may elect to include
 152 or exclude any optional service credit purchased by the member
 153 from the total service used to establish the normal retirement
 154 date. A member with dual normal retirement dates shall be
 155 eligible to elect to participate in either class.

156 (b) Participation in the DROP.--

157 1. An eligible member may elect to participate in the DROP
 158 for a period not to exceed a maximum of 60 calendar months or,
 159 with respect to members who are instructional personnel employed
 160 by the Florida School for the Deaf and the Blind and who have
 161 received authorization by the Board of Trustees of the Florida
 162 School for the Deaf and the Blind to participate in the DROP
 163 beyond 60 months, or who are instructional personnel as defined
 164 in s. 1012.01(2)(a)-(d) in grades pre-K through 12 ~~K-12~~ and who
 165 have received authorization by the district school
 166 superintendent to participate in the DROP beyond 60 calendar
 167 months, 96 calendar months immediately following the date on
 168 which the member first reaches his or her normal retirement date

HB 1317

2008

169 or the date to which he or she is eligible to defer his or her
170 election to participate as provided in subparagraph (a)2.
171 However, a member who has reached normal retirement date prior
172 to the effective date of the DROP shall be eligible to
173 participate in the DROP for a period of time not to exceed 60
174 calendar months or, with respect to members who are
175 instructional personnel employed by the Florida School for the
176 Deaf and the Blind and who have received authorization by the
177 Board of Trustees of the Florida School for the Deaf and the
178 Blind to participate in the DROP beyond 60 months, or who are
179 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
180 grades pre-K through 12 ~~K-12~~ and who have received authorization
181 by the district school superintendent to participate in the DROP
182 beyond 60 calendar months, 96 calendar months immediately
183 following the effective date of the DROP, except a member of the
184 Special Risk Class who has reached normal retirement date prior
185 to the effective date of the DROP and whose total accrued value
186 exceeds 75 percent of average final compensation as of his or
187 her effective date of retirement shall be eligible to
188 participate in the DROP for no more than 36 calendar months
189 immediately following the effective date of the DROP.

190 2. Upon deciding to participate in the DROP, the member
191 shall submit, on forms required by the division:
192 a. A written election to participate in the DROP;
193 b. Selection of the DROP participation and termination
194 dates, which satisfy the limitations stated in paragraph (a) and
195 subparagraph 1. Such termination date shall be in a binding
196 letter of resignation with the employer, establishing a deferred

HB 1317

2008

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

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

202 d. Any other information required by the division.

203 3. The DROP participant shall be a retiree under the
204 Florida Retirement System for all purposes, except for paragraph
205 (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
206 and 121.122. However, participation in the DROP does not alter
207 the participant's employment status and such employee shall not
208 be deemed retired from employment until his or her deferred
209 resignation is effective and termination occurs as provided in
210 s. 121.021(39).

211 4. Elected officers shall be eligible to participate in
212 the DROP subject to the following:

213 a. An elected officer who reaches normal retirement date
214 during a term of office may defer the election to participate in
215 the DROP until the next succeeding term in that office. Such
216 elected officer who exercises this option may participate in the
217 DROP for up to 60 calendar months or a period of no longer than
218 such succeeding term of office, whichever is less.

219 b. An elected or a nonelected participant may run for a
220 term of office while participating in DROP and, if elected,
221 extend the DROP termination date accordingly, except, however,
222 if such additional term of office exceeds the 60-month
223 limitation established in subparagraph 1., and the officer does
224 not resign from office within such 60-month limitation, the

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

227 c. An elected officer who is dually employed and elects to
 228 participate in DROP shall be required to satisfy the definition
 229 of termination within the 60-month or, with respect to members
 230 who are instructional personnel employed by the Florida School
 231 for the Deaf and the Blind and who have received authorization
 232 by the Board of Trustees of the Florida School for the Deaf and
 233 the Blind to participate in the DROP beyond 60 months, or who
 234 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
 235 in grades pre-K through 12 ~~K-12~~ and who have received
 236 authorization by the district school superintendent to
 237 participate in the DROP beyond 60 months, the 96-month
 238 limitation period as provided in subparagraph 1. for the
 239 nonelected position and may continue employment as an elected
 240 officer as provided in s. 121.053. The elected officer will be
 241 enrolled as a renewed member in the Elected Officers' Class or
 242 the Regular Class, as provided in ss. 121.053 and 121.122, on
 243 the first day of the month after termination of employment in
 244 the nonelected position and termination of DROP. Distribution of
 245 the DROP benefits shall be made as provided in paragraph (c).

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

247 1. Effective with the date of DROP participation, the
 248 member's initial normal monthly benefit, including creditable
 249 service, optional form of payment, and average final
 250 compensation, and the effective date of retirement shall be
 251 fixed. The beneficiary established under the Florida Retirement
 252 System shall be the beneficiary eligible to receive any DROP

HB 1317

2008

253 benefits payable if the DROP participant dies prior to the
254 completion of the period of DROP participation. In the event a
255 joint annuitant predeceases the member, the member may name a
256 beneficiary to receive accumulated DROP benefits payable. Such
257 retirement benefit, the annual cost of living adjustments
258 provided in s. 121.101, and interest shall accrue monthly in the
259 System Trust Fund. Such interest shall accrue at an effective
260 annual rate of 6.5 percent compounded monthly, on the prior
261 month's accumulated ending balance, up to the month of
262 termination or death.

263 2. Each employee who elects to participate in the DROP
264 shall be allowed to elect to receive a lump-sum payment for
265 accrued annual leave earned in accordance with agency policy
266 upon beginning participation in the DROP. Such accumulated leave
267 payment certified to the division upon commencement of DROP
268 shall be included in the calculation of the member's average
269 final compensation. The employee electing such lump-sum payment
270 upon beginning participation in DROP will not be eligible to
271 receive a second lump-sum payment upon termination, except to
272 the extent the employee has earned additional annual leave which
273 combined with the original payment does not exceed the maximum
274 lump-sum payment allowed by the employing agency's policy or
275 rules. Such early lump-sum payment shall be based on the hourly
276 wage of the employee at the time he or she begins participation
277 in the DROP. If the member elects to wait and receive such lump-
278 sum payment upon termination of DROP and termination of
279 employment with the employer, any accumulated leave payment made
280 at that time cannot be included in the member's retirement

281 benefit, which was determined and fixed by law when the employee
282 elected to participate in the DROP.

283 3. The effective date of DROP participation and the
284 effective date of retirement of a DROP participant shall be the
285 first day of the month selected by the member to begin
286 participation in the DROP, provided such date is properly
287 established, with the written confirmation of the employer, and
288 the approval of the division, on forms required by the division.

289 4. Normal retirement benefits and interest thereon shall
290 continue to accrue in the DROP until the established termination
291 date of the DROP, or until the participant terminates employment
292 or dies prior to such date. Although individual DROP accounts
293 shall not be established, a separate accounting of each
294 participant's accrued benefits under the DROP shall be
295 calculated and provided to participants.

296 5. At the conclusion of the participant's DROP, the
297 division shall distribute the participant's total accumulated
298 DROP benefits, subject to the following provisions:

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

302 b. The terminated DROP participant or, if deceased, such
303 participant's named beneficiary, shall elect on forms provided
304 by the division to receive payment of the DROP benefits in
305 accordance with one of the options listed below. For a
306 participant or beneficiary who fails to elect a method of
307 payment within 60 days of termination of the DROP, the division
308 will pay a lump sum as provided in sub-sub-subparagraph (I).

HB 1317

2008

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

312 (II) Direct rollover.--All accrued DROP benefits, plus
313 interest, shall be paid from the DROP directly to the custodian
314 of an eligible retirement plan as defined in s. 402(c)(8)(B) of
315 the Internal Revenue Code. However, in the case of an eligible
316 rollover distribution to the surviving spouse of a deceased
317 participant, an eligible retirement plan is an individual
318 retirement account or an individual retirement annuity as
319 described in s. 402(c)(9) of the Internal Revenue Code.

320 (III) Partial lump sum.--A portion of the accrued DROP
321 benefits shall be paid to the DROP participant or surviving
322 spouse, less withholding taxes remitted to the Internal Revenue
323 Service, and the remaining DROP benefits shall be transferred
324 directly to the custodian of an eligible retirement plan as
325 defined in s. 402(c)(8)(B) of the Internal Revenue Code.
326 However, in the case of an eligible rollover distribution to the
327 surviving spouse of a deceased participant, an eligible
328 retirement plan is an individual retirement account or an
329 individual retirement annuity as described in s. 402(c)(9) of
330 the Internal Revenue Code. The proportions shall be specified by
331 the DROP participant or surviving beneficiary.

332 c. The form of payment selected by the DROP participant or
333 surviving beneficiary complies with the minimum distribution
334 requirements of the Internal Revenue Code.

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

337 and the DROP election shall be null and void. Florida Retirement
338 System membership shall be reestablished retroactively to the
339 date of the commencement of the DROP, and each employer with
340 whom the participant continues employment shall be required to
341 pay to the System Trust Fund the difference between the DROP
342 contributions paid in paragraph (i) and the contributions
343 required for the applicable Florida Retirement System class of
344 membership during the period the member participated in the
345 DROP, plus 6.5 percent interest compounded annually.

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

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

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

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

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

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

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

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

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

374 (f) Retiree health insurance subsidy.--DROP participants
 375 are not eligible to apply for the retiree health insurance
 376 subsidy payments as provided in s. 112.363 until such
 377 participants have terminated employment and participation in the
 378 DROP.

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

383 (h) Employment limitation after DROP participation.--Upon
 384 satisfying the definition of termination of employment as
 385 provided in s. 121.021(39)(b), DROP participants shall be
 386 subject to such reemployment limitations as other retirees.
 387 Reemployment restrictions applicable to retirees as provided in
 388 subsection (9) shall not apply to DROP participants until their
 389 employment and participation in the DROP are terminated.

390 (i) Contributions.--

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

393 percent of such participant's gross compensation for the period
 394 of July 1, 2002, through June 30, 2003, and 11.56 percent of
 395 such compensation thereafter, which shall constitute the entire
 396 employer DROP contribution with respect to such participant.
 397 Such contributions, payable to the System Trust Fund in the same
 398 manner as required in s. 121.071, shall be made as appropriate
 399 for each pay period and are in addition to contributions
 400 required for social security and the Retiree Health Insurance
 401 Subsidy Trust Fund. Such employer, social security, and health
 402 insurance subsidy contributions are not included in the DROP.

403 2. The employer shall, in addition to subparagraph 1.,
 404 also withhold one-half of the entire social security
 405 contribution required for the participant. Contributions for
 406 social security by each participant and each employer, in the
 407 amount required for social security coverage as now or hereafter
 408 provided by the federal Social Security Act, shall be in
 409 addition to contributions specified in subparagraph 1.

410 3. All employers paying the salary of a DROP participant
 411 filling a regularly established position shall contribute the
 412 percent of such participant's gross compensation required in s.
 413 121.071(4), which shall constitute the employer's health
 414 insurance subsidy contribution with respect to such participant.
 415 Such contributions shall be deposited by the administrator in
 416 the Retiree Health Insurance Subsidy Trust Fund.

417 (j) Forfeiture of retirement benefits.--Nothing in this
 418 section shall be construed to remove DROP participants from the
 419 scope of s. 8(d), Art. II of the State Constitution, s.
 420 112.3173, and paragraph (5)(f). DROP participants who commit a

HB 1317

2008

421 specified felony offense while employed will be subject to
422 forfeiture of all retirement benefits, including DROP benefits,
423 pursuant to those provisions of law.

424 (k) Administration of program.--The division shall make
425 such rules as are necessary for the effective and efficient
426 administration of this subsection. The division shall not be
427 required to advise members of the federal tax consequences of an
428 election related to the DROP but may advise members to seek
429 independent advice.

430 Section 2. This act shall take effect July 1, 2008.