

By Senator Rich

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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 member
18 or beneficiary fails to timely provide the information and
19 documents required by this chapter and the department's rules.
20 The department shall adopt rules establishing procedures for
21 application for retirement benefits and for the cancellation of
22 such application when the required information or documents are
23 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
29 retirement benefits while continuing employment with his or her

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30 Florida Retirement System employer. The deferred monthly benefits
31 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 the
35 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 be
40 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
57 date on which the member first reaches normal retirement date,
58 or, for a member who reaches normal retirement date based on

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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 section,
65 | election to participate shall be made within 12 months after the
66 | effective date of this section. A member who fails to make an
67 | election within such 12-month limitation period shall forfeit all
68 | rights to participate in the DROP. The member shall advise his or
69 | her employer and the division in writing of the date on which the
70 | DROP shall begin. Such beginning date may be subsequent to the
71 | 12-month election period, but must be within the 60-month or,
72 | with respect to members who are instructional personnel employed
73 | by the Florida School for the Deaf and the Blind and who have
74 | received authorization by the Board of Trustees of the Florida
75 | School for the Deaf and the Blind to participate in the DROP
76 | beyond 60 months, or who are instructional personnel as defined
77 | in s. 1012.01(2)(a)-(d) in grades pre-K through 12 ~~K-12~~ and who
78 | have received authorization by the district school superintendent
79 | to participate in the DROP beyond 60 months, the 96-month
80 | limitation period as provided in subparagraph (b)1. When
81 | establishing eligibility of the member to participate in the DROP
82 | for the 60-month or, with respect to members who are
83 | instructional personnel employed by the Florida School for the
84 | Deaf and the Blind and who have received authorization by the
85 | Board of Trustees of the Florida School for the Deaf and the
86 | Blind to participate in the DROP beyond 60 months, or who are
87 | instructional personnel as defined in s. 1012.01(2)(a)-(d) in

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88 | grades pre-K through 12 ~~K-12~~ and who have received authorization
89 | by the district school superintendent to participate in the DROP
90 | beyond 60 months, the 96-month maximum participation period, the
91 | member may elect to include or exclude any optional service
92 | credit purchased by the member from the total service used to
93 | establish the normal retirement date. A member with dual normal
94 | retirement dates shall be eligible to elect to participate in
95 | DROP within 12 months after attaining normal retirement date in
96 | 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 termination
106 | date no later than the participant's existing termination date or
107 | the 60-month limitation period as provided in subparagraph (b)1.

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

110 | a. A change of employment must take place without a break
111 | in service so that the member receives salary for each month of
112 | continuous DROP participation. If a member receives no salary
113 | during a month, DROP participation shall cease unless the
114 | employer verifies a continuation of the employment relationship
115 | for such participant pursuant to s. 121.021(39)(b).

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

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

134 6. Effective July 1, 2001, for instructional personnel as
135 defined in s. 1012.01(2), election to participate in the DROP
136 shall be made at any time following the date on which the member
137 first reaches normal retirement date. The member shall advise his
138 or her employer and the division in writing of the date on which
139 the Deferred Retirement Option Program shall begin. When
140 establishing eligibility of the member to participate in the DROP
141 for the 60-month or, with respect to members who are
142 instructional personnel employed by the Florida School for the
143 Deaf and the Blind and who have received authorization by the
144 Board of Trustees of the Florida School for the Deaf and the

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

155 (b) Participation in the DROP.--

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

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174 the Deaf and the Blind and who have received authorization by the
175 Board of Trustees of the Florida School for the Deaf and the
176 Blind to participate in the DROP beyond 60 months, or who are
177 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
178 grades pre-K through 12 ~~K-12~~ and who have received authorization
179 by the district school superintendent to participate in the DROP
180 beyond 60 calendar months, 96 calendar months immediately
181 following the effective date of the DROP, except a member of the
182 Special Risk Class who has reached normal retirement date prior
183 to the effective date of the DROP and whose total accrued value
184 exceeds 75 percent of average final compensation as of his or her
185 effective date of retirement shall be eligible to participate in
186 the DROP for no more than 36 calendar months immediately
187 following the effective date of the DROP.

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

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

191 b. Selection of the DROP participation and termination
192 dates, which satisfy the limitations stated in paragraph (a) and
193 subparagraph 1. Such termination date shall be in a binding
194 letter of resignation with the employer, establishing a deferred
195 termination date. The member may change the termination date
196 within the limitations of subparagraph 1., but only with the
197 written approval of his or her employer;

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

200 d. Any other information required by the division.

201 3. The DROP participant shall be a retiree under the
202 Florida Retirement System for all purposes, except for paragraph

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203 (5) (f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and
204 121.122. However, participation in the DROP does not alter the
205 participant's employment status and such employee shall not be
206 deemed retired from employment until his or her deferred
207 resignation is effective and termination occurs as provided in s.
208 121.021(39).

209 4. Elected officers shall be eligible to participate in the
210 DROP subject to the following:

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

217 b. An elected or a nonelected participant may run for a
218 term of office while participating in DROP and, if elected,
219 extend the DROP termination date accordingly, except, however, if
220 such additional term of office exceeds the 60-month limitation
221 established in subparagraph 1., and the officer does not resign
222 from office within such 60-month limitation, the retirement and
223 the participant's DROP shall be null and void as provided in sub-
224 subparagraph (c)5.d.

225 c. An elected officer who is dually employed and elects to
226 participate in DROP shall be required to satisfy the definition
227 of termination within the 60-month or, with respect to members
228 who are instructional personnel employed by the Florida School
229 for the Deaf and the Blind and who have received authorization by
230 the Board of Trustees of the Florida School for the Deaf and the
231 Blind to participate in the DROP beyond 60 months, or who are

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232 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
233 grades pre-K through 12 ~~K-12~~ and who have received authorization
234 by the district school superintendent to participate in the DROP
235 beyond 60 months, the 96-month limitation period as provided in
236 subparagraph 1. for the nonelected position and may continue
237 employment as an elected officer as provided in s. 121.053. The
238 elected officer will be enrolled as a renewed member in the
239 Elected Officers' Class or the Regular Class, as provided in ss.
240 121.053 and 121.122, on the first day of the month after
241 termination of employment in the nonelected position and
242 termination of DROP. Distribution of the DROP benefits shall be
243 made as provided in paragraph (c).

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

245 1. Effective with the date of DROP participation, the
246 member's initial normal monthly benefit, including creditable
247 service, optional form of payment, and average final
248 compensation, and the effective date of retirement shall be
249 fixed. The beneficiary established under the Florida Retirement
250 System shall be the beneficiary eligible to receive any DROP
251 benefits payable if the DROP participant dies prior to the
252 completion of the period of DROP participation. In the event a
253 joint annuitant predeceases the member, the member may name a
254 beneficiary to receive accumulated DROP benefits payable. Such
255 retirement benefit, the annual cost of living adjustments
256 provided in s. 121.101, and interest shall accrue monthly in the
257 System Trust Fund. Such interest shall accrue at an effective
258 annual rate of 6.5 percent compounded monthly, on the prior
259 month's accumulated ending balance, up to the month of
260 termination or death.

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

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

287 4. Normal retirement benefits and interest thereon shall
288 continue to accrue in the DROP until the established termination
289 date of the DROP, or until the participant terminates employment

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290 or dies prior to such date. Although individual DROP accounts
291 shall not be established, a separate accounting of each
292 participant's accrued benefits under the DROP shall be calculated
293 and provided to participants.

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

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

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

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

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

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

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

333 d. A DROP participant who fails to terminate employment as
334 defined in s. 121.021(39)(b) shall be deemed not to be retired,
335 and the DROP election shall be null and void. Florida Retirement
336 System membership shall be reestablished retroactively to the
337 date of the commencement of the DROP, and each employer with whom
338 the participant continues employment shall be required to pay to
339 the System Trust Fund the difference between the DROP
340 contributions paid in paragraph (i) and the contributions
341 required for the applicable Florida Retirement System class of
342 membership during the period the member participated in the DROP,
343 plus 6.5 percent interest compounded annually.

344 6. The accrued benefits of any DROP participant, and any
345 contributions accumulated under such program, shall not be
346 subject to assignment, execution, attachment, or to any legal

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347 | process whatsoever, except for qualified domestic relations
348 | orders by a court of competent jurisdiction, income deduction
349 | orders as provided in s. 61.1301, and federal income tax levies.

350 | 7. DROP participants shall not be eligible for disability
351 | retirement benefits as provided in subsection (4).

352 | (d) Death benefits under the DROP.--

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

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

360 | 3. Eligibility to participate in the DROP terminates upon
361 | death of the participant. If the participant dies on or after the
362 | effective date of enrollment in the DROP, but prior to the first
363 | monthly benefit being credited to the DROP, Florida Retirement
364 | System benefits shall be paid in accordance with subparagraph
365 | (7)(c)1. or subparagraph 2.

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

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

372 | (f) Retiree health insurance subsidy.--DROP participants
373 | are not eligible to apply for the retiree health insurance
374 | subsidy payments as provided in s. 112.363 until such

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375 participants have terminated employment and participation in the
376 DROP.

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

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

388 (i) Contributions.--

389 1. All employers paying the salary of a DROP participant
390 filling a regularly established position shall contribute 8.0
391 percent of such participant's gross compensation for the period
392 of July 1, 2002, through June 30, 2003, and 11.56 percent of such
393 compensation thereafter, which shall constitute the entire
394 employer DROP contribution with respect to such participant. Such
395 contributions, payable to the System Trust Fund in the same
396 manner as required in s. 121.071, shall be made as appropriate
397 for each pay period and are in addition to contributions required
398 for social security and the Retiree Health Insurance Subsidy
399 Trust Fund. Such employer, social security, and health insurance
400 subsidy contributions are not included in the DROP.

401 2. The employer shall, in addition to subparagraph 1., also
402 withhold one-half of the entire social security contribution
403 required for the participant. Contributions for social security

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404 by each participant and each employer, in the amount required for
405 social security coverage as now or hereafter provided by the
406 federal Social Security Act, shall be in addition to
407 contributions specified in subparagraph 1.

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

415 (j) Forfeiture of retirement benefits.--Nothing in this
416 section shall be construed to remove DROP participants from the
417 scope of s. 8(d), Art. II of the State Constitution, s. 112.3173,
418 and paragraph (5)(f). DROP participants who commit a specified
419 felony offense while employed will be subject to forfeiture of
420 all retirement benefits, including DROP benefits, pursuant to
421 those provisions of law.

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

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