

1 A bill to be entitled
 2 An act relating to retirement; providing a short title;
 3 providing legislative findings; providing a statement of
 4 important state interest; amending s. 121.021, F.S.;
 5 revising the definition of "special risk member" to
 6 include certain members suffering a qualifying injury;
 7 amending s. 121.0515, F.S.; providing eligibility
 8 requirements for membership in the Special Risk Class for
 9 certain members suffering a qualifying injury; providing
 10 medical certification requirements; defining "qualifying
 11 injury"; prohibiting the grant or creation of additional
 12 rights; providing retroactive effect; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

17 Section 1. This act may be cited as the "Adam Pierce Act."

18 Section 2. The Legislature finds that persons employed in
 19 law enforcement, firefighting, and criminal detention positions
 20 perform state and municipal functions; that it is their duty to
 21 protect life and property at their own risk and peril; that it
 22 is their duty to continuously instruct school personnel, public
 23 officials, and private citizens about safety; and that their
 24 activities are vital to public safety. Therefore, the
 25 Legislature finds that it is a proper and legitimate state
 26 purpose to provide a uniform retirement system for the benefit
 27 of persons employed in law enforcement, firefighting, and
 28 criminal detention positions and finds, in implementing the

29 provisions of s. 14, Art. X of the State Constitution as they
 30 relate to pension trust fund systems and plans, that such
 31 retirement systems or plans be managed, administered, operated,
 32 and funded in such manner as to maximize the protection of
 33 pension trust funds. Pursuant to s. 18, Art. VII of the State
 34 Constitution, the Legislature determines and declares that the
 35 provisions of this act fulfill an important state interest.

36 Section 3. Paragraph (f) is added to subsection (15) of
 37 section 121.021, Florida Statutes, to read:

38 121.021 Definitions.--The following words and phrases as
 39 used in this chapter have the respective meanings set forth
 40 unless a different meaning is plainly required by the context:

41 (15)

42 (f) Effective August 1, 2007, "special risk member"
 43 includes any member who meets the special criteria for continued
 44 membership set forth in s. 121.0515(2) (i).

45 Section 4. Paragraphs (g) and (h) of subsection (2) of
 46 section 121.0515, Florida Statutes, are amended, paragraph (i)
 47 is added to that subsection, and paragraph (d) is added to
 48 subsection (7) of that section, to read:

49 121.0515 Special risk membership.--

50 (2) CRITERIA.--A member, to be designated as a special
 51 risk member, must meet the following criteria:

52 (g) The member must be employed as a youth custody officer
 53 and be certified, or required to be certified, in compliance
 54 with s. 943.1395. In addition, the member's primary duties and
 55 responsibilities must be the supervised custody, surveillance,

56 control, investigation, apprehension, arrest, and counseling of
 57 assigned juveniles within the community; ~~or~~

58 (h) The member must be employed by a law enforcement
 59 agency or medical examiner's office in a forensic discipline
 60 recognized by the International Association for Identification
 61 and must qualify for active membership in the International
 62 Association for Identification. The member's primary duties and
 63 responsibilities must include the collection, examination,
 64 preservation, documentation, preparation, or analysis of
 65 physical evidence or testimony, or both, or the member must be
 66 the direct supervisor, quality management supervisor, or command
 67 officer of one or more individuals with such responsibility.
 68 Administrative support personnel, including, but not limited to,
 69 those whose primary responsibilities are clerical or in
 70 accounting, purchasing, legal, and personnel, shall not be
 71 included; or-

72 (i) The member must have already qualified for and be
 73 actively participating in special risk membership under
 74 paragraph (a), paragraph (b), or paragraph (c), must have
 75 suffered a qualifying injury as defined in this paragraph, must
 76 not be receiving disability retirement benefits as provided in
 77 s. 121.091(4), and must satisfy the requirements of this
 78 paragraph.

79 1. The ability to qualify for the class of membership
 80 defined in s. 121.021(15)(f) shall occur when two licensed
 81 medical physicians, one of whom is a primary treating physician
 82 of the member, certify the existence of the physical injury and
 83 medical condition that constitute a qualifying injury as defined

84 in this paragraph and that the member has reached maximum
85 medical improvement after August 1, 2007. The certifications
86 from the licensed medical physicians must include, at a minimum,
87 that the injury to the special risk member has resulted in a
88 physical loss, or loss of use, of one or both arms, legs, hands,
89 or feet, and:

90 a. That this physical loss or loss of use is total and
91 permanent, except in the event of a physical injury to the
92 member's brain, in which event the loss of use is:

93 (I) Permanent and total with respect to at least one hand
94 or foot; or

95 (II) Permanent with at least 75-percent loss of motor
96 function with respect to at least one arm or leg.

97 b. That this physical loss or loss of use renders the
98 member physically unable to perform the essential job functions
99 of his or her special risk position.

100 c. That, notwithstanding this physical loss or loss of
101 use, the individual is able to perform the essential job
102 functions required by the member's new position, as provided in
103 subparagraph 3.

104 d. That use of artificial limbs is either not possible or
105 does not alter the member's ability to perform the essential job
106 functions of the member's position.

107 e. That the physical loss or loss of use of one or both
108 arms, legs, hands, or feet is a direct result of a physical
109 injury and not a result of any mental, psychological, or
110 emotional injury.

111 2. For the purposes of this paragraph, "qualifying injury"
112 means an injury sustained in the line of duty, as certified by
113 the member's employing agency, by a special risk member that
114 does not result in total and permanent disability as defined in
115 s. 121.091(4)(b). An injury is a qualifying injury when the
116 injury is a physical injury to the member's physical body
117 resulting in a physical loss, or loss of use, of one or both
118 arms, legs, hands, or feet. Notwithstanding anything in this
119 section to the contrary, an injury that would otherwise qualify
120 as a qualifying injury shall not be considered a qualifying
121 injury if and when the member ceases employment with the
122 employer for whom he or she was providing special risk services
123 on the date the injury occurred.

124 3. The new position, as described in sub-subparagraph
125 1.c., that is required for qualification as a special risk
126 member under this paragraph is not required to be a position
127 whose essential job functions entitle an individual to special
128 risk membership. Whether a new position as described in sub-
129 subparagraph 1.c. exists and is available to the special risk
130 member is a decision to be made solely by the employer in
131 accordance with its hiring practices and applicable law.

132 4. Nothing in this paragraph shall grant or create
133 additional rights for any individual to continued employment, to
134 be hired, or to be rehired by his or her employer that are not
135 already provided within the Florida Statutes, the State
136 Constitution, the Americans with Disabilities Act, if
137 applicable, or any other applicable state or federal law.

138 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.--

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139 (d) Notwithstanding any provision in this subsection to
140 the contrary, this subsection shall not apply to any special
141 risk member who qualifies for continued membership pursuant to
142 the provisions of paragraph (2)(i).

143 Section 5. This act shall take effect October 1, 2008.