

1 A bill to be entitled
2 An act relating to Special Risk Class retirement benefits;
3 amending s. 121.091, F.S.; extending the period of time
4 during which certain Special Risk Class members may
5 participate in the Florida Retirement System Deferred
6 Retirement Option Program; providing requirements for
7 extended participation; deleting obsolete provisions;
8 providing legislative findings with respect to the state's
9 interest in protecting the public's safety and welfare by
10 extending retirement benefits for officers and funding
11 increased retirement benefits in an actuarially sound
12 manner; providing an effective date.

13
14 WHEREAS, one of the most fundamental mechanisms for
15 ensuring the safety and welfare of the public is through the
16 state's law enforcement agencies and correctional institutions,
17 and

18 WHEREAS, law enforcement agencies and correctional
19 institutions throughout this state and the nation are
20 experiencing great difficulty in recruiting and retaining well-
21 qualified law enforcement and correctional officers, and

22 WHEREAS, this need is projected to become more critical in
23 the future, and

24 WHEREAS, the most critical need is to recruit and retain
25 line officers who have daily and direct contact with the
26 criminal element, and

27 WHEREAS, because such work is physically demanding or
28 arduous and often requires extraordinary agility and mental

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29 acuity that can diminish with age, persons employed in these
30 positions are classified as special risk and able to retire at
31 an earlier age, and

32 WHEREAS, one mechanism for retaining qualified officers is
33 to extend the amount of time that such officers can remain in
34 the Deferred Retirement Option Program (DROP) if such officers
35 can demonstrate that they retain the necessary physical and
36 mental capacity to competently perform their job duties, NOW,
37 THEREFORE,

38

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

40

41 Section 1. Paragraphs (a) and (b) of subsection (13) of
42 section 121.091, Florida Statutes, are amended to read:

43 121.091 Benefits payable under the system.--Benefits may
44 not be paid under this section unless the member has terminated
45 employment as provided in s. 121.021(39)(a) or begun
46 participation in the Deferred Retirement Option Program as
47 provided in subsection (13), and a proper application has been
48 filed in the manner prescribed by the department. The department
49 may cancel an application for retirement benefits when the
50 member or beneficiary fails to timely provide the information
51 and documents required by this chapter and the department's
52 rules. The department shall adopt rules establishing procedures
53 for application for retirement benefits and for the cancellation
54 of such application when the required information or documents
55 are not received.

56 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
 57 subject to the provisions of this section, the Deferred
 58 Retirement Option Program, hereinafter referred to as the DROP,
 59 is a program under which an eligible member of the Florida
 60 Retirement System may elect to participate, deferring receipt of
 61 retirement benefits while continuing employment with his or her
 62 Florida Retirement System employer. The deferred monthly
 63 benefits shall accrue in the System Trust Fund on behalf of the
 64 participant, plus interest compounded monthly, for the specified
 65 period of the DROP participation, as provided in paragraph (c).
 66 Upon termination of employment, the participant shall receive
 67 the total DROP benefits and begin to receive the previously
 68 determined normal retirement benefits. Participation in the DROP
 69 does not guarantee employment for the specified period of DROP.
 70 Participation in the DROP by an eligible member beyond the
 71 initial 60-month period as authorized in this subsection shall
 72 be on an annual contractual basis for all participants.

73 (a) Eligibility of member to participate in ~~the~~ DROP.--All
 74 active Florida Retirement System members in a regularly
 75 established position, and all active members of ~~either~~ the
 76 Teachers' Retirement System established in chapter 238 or the
 77 State and County Officers' and Employees' Retirement System
 78 established in chapter 122, which systems are consolidated
 79 within the Florida Retirement System under s. 121.011, are
 80 eligible to elect participation in ~~the~~ DROP if ~~provided that:~~

81 1. The member is not a renewed member ~~of the Florida~~
 82 ~~Retirement System~~ under s. 121.122, or a member of the State
 83 Community College System Optional Retirement Program under s.

84 121.051, the Senior Management Service Optional Annuity Program
 85 under s. 121.055, or the optional retirement program for the
 86 State University System under s. 121.35.

87 2. Except as provided in subparagraph 6., election to
 88 participate is made within 12 months immediately following the
 89 date on which the member first reaches normal retirement date,
 90 or, for a member who reaches normal retirement date ~~based on~~
 91 ~~service~~ before he or she reaches age 62, or age 55 for Special
 92 Risk Class members, election to participate may be deferred to
 93 the 12 months immediately following the date the member attains
 94 57, or age 52 for Special Risk Class members. ~~For a member who~~
 95 ~~first reached normal retirement date or the deferred eligibility~~
 96 ~~date described above prior to the effective date of this~~
 97 ~~section, election to participate shall be made within 12 months~~
 98 ~~after the effective date of this section.~~ A member who fails to
 99 make an election within the ~~such~~ 12-month limitation period
 100 forfeits ~~shall forfeit~~ all rights to participate in the DROP.
 101 The member shall advise his or her employer and the division in
 102 writing of the date on which ~~the~~ DROP shall begin. The ~~Such~~
 103 beginning date may be subsequent to the 12-month election
 104 period, but must be within the maximum participation ~~60-month~~
 105 ~~or, with respect to members who are instructional personnel~~
 106 ~~employed by the Florida School for the Deaf and the Blind and~~
 107 ~~who have received authorization by the Board of Trustees of the~~
 108 ~~Florida School for the Deaf and the Blind to participate in the~~
 109 ~~DROP beyond 60 months, or who are instructional personnel as~~
 110 ~~defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have~~
 111 ~~received authorization by the district school superintendent to~~

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112 ~~participate in the DROP beyond 60 months, the 96 month~~
113 ~~limitation period as provided in subparagraph (b)1. When~~
114 ~~establishing eligibility of the member to participate in the~~
115 ~~DROP for the 60 month or, with respect to members who are~~
116 ~~instructional personnel employed by the Florida School for the~~
117 ~~Deaf and the Blind and who have received authorization by the~~
118 ~~Board of Trustees of the Florida School for the Deaf and the~~
119 ~~Blind to participate in the DROP beyond 60 months, or who are~~
120 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~
121 ~~grades K-12 and who have received authorization by the district~~
122 ~~school superintendent to participate in the DROP beyond 60~~
123 ~~months, the 96 month maximum participation period, the member~~
124 may elect to include or exclude any optional service credit
125 purchased by the member from the total service used to establish
126 the normal retirement date. A member who has ~~with~~ dual normal
127 retirement dates is ~~shall be~~ eligible to elect to participate in
128 DROP within 12 months after attaining normal retirement date in
129 either class.

130 3. The employer of a member electing to participate in ~~the~~
131 DROP, or employers if dually employed, shall acknowledge in
132 writing to the division the date the member's participation in
133 ~~the~~ DROP begins and the date the member's employment and DROP
134 participation will terminate.

135 4. Simultaneous employment of a participant by additional
136 Florida Retirement System employers subsequent to the
137 commencement of participation in ~~the~~ DROP is ~~shall be~~
138 permissible if ~~provided~~ such employers acknowledge in writing a
139 DROP termination date no later than the participant's existing

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140 termination date or the maximum participation ~~60-month~~
141 ~~limitation~~ period as provided in subparagraph (b)1.

142 5. A DROP participant may change employers while
143 participating in ~~the~~ DROP, subject to the following:

144 a. A change of employment must take place without a break
145 in service so that the member receives salary for each month of
146 continuous DROP participation. If a member receives no salary
147 during a month, DROP participation shall cease unless the
148 employer verifies a continuation of the employment relationship
149 for such participant pursuant to s. 121.021(39)(b).

150 b. Such participant and new employer shall notify the
151 division of the identity of the new employer on forms required
152 by the division ~~as to the identity of the new employer~~.

153 c. The new employer shall acknowledge, in writing, the
154 participant's DROP termination date, which may be extended but
155 not beyond the maximum participation ~~original 60-month or, with~~
156 ~~respect to members who are instructional personnel employed by~~
157 ~~the Florida School for the Deaf and the Blind and who have~~
158 ~~received authorization by the Board of Trustees of the Florida~~
159 ~~School for the Deaf and the Blind to participate in the DROP~~
160 ~~beyond 60 months, or who are instructional personnel as defined~~
161 ~~in s. 1012.01(2)(a)-(d) in grades K-12 and who have received~~
162 ~~authorization by the district school superintendent to~~
163 ~~participate in the DROP beyond 60 months, the 96-month period~~
164 provided in subparagraph (b)1., shall acknowledge liability for
165 any additional retirement contributions and interest required if
166 the participant fails to timely terminate employment, and shall

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167 be subject to the adjustment required in sub-subparagraph
 168 (c)5.d.

169 6. Effective July 1, 2001, for instructional personnel as
 170 defined in s. 1012.01 ~~s. 1012.01(2)~~, election to participate in
 171 ~~the~~ DROP may ~~shall~~ be made at any time following the date on
 172 which the member first reaches normal retirement date. The
 173 member shall advise his or her employer and the division in
 174 writing of the date on which DROP ~~the Deferred Retirement Option~~
 175 ~~Program~~ shall begin. When establishing eligibility of the member
 176 to participate in ~~the~~ DROP for the 60-month or, ~~with respect to~~
 177 ~~members who are instructional personnel employed by the Florida~~
 178 ~~School for the Deaf and the Blind and who have received~~
 179 ~~authorization by the Board of Trustees of the Florida School for~~
 180 ~~the Deaf and the Blind to participate in the DROP beyond 60~~
 181 ~~months, or who are instructional personnel as defined in s.~~
 182 ~~1012.01(2) (a) - (d) in grades K-12 and who have received~~
 183 ~~authorization by the district school superintendent to~~
 184 ~~participate in the DROP beyond 60 months,~~ the 96-month maximum
 185 participation period, as provided in subparagraph (b)1., the
 186 member may elect to include or exclude any optional service
 187 credit purchased by the member from the total service used to
 188 establish the normal retirement date. A member who has ~~with~~ dual
 189 normal retirement dates is ~~shall be~~ eligible to elect to
 190 participate in either class.

191 (b) Participation in ~~the~~ DROP.--

192 1. Subject to the following exceptions, an eligible member
 193 may elect to participate in ~~the~~ DROP for a period not to exceed
 194 a maximum of 60 calendar months. ~~or, with respect to~~

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195 a. Eligible members who are instructional personnel
196 employed by the Florida School for the Deaf and the Blind and
197 who have received authorization by the Board of Trustees of the
198 Florida School for the Deaf and the Blind to participate in the
199 DROP beyond 60 months, or who are instructional personnel as
200 defined in s. 1012.01(2)(a)-(d) ~~in grades K-12~~ and who have
201 received authorization by the district school superintendent to
202 participate in ~~the~~ DROP beyond 60 calendar months, may elect to
203 participate for a period up to 96 calendar months immediately
204 following the date on which the member first reaches his or her
205 normal retirement date or the date ~~to which~~ he or she is
206 eligible to defer his or her election to participate as provided
207 in subparagraph (a)2. ~~However, a member who has reached normal~~
208 ~~retirement date prior to the effective date of the DROP shall be~~
209 ~~eligible to participate in the DROP for a period of time not to~~
210 ~~exceed 60 calendar months or, with respect to members who are~~
211 ~~instructional personnel employed by the Florida School for the~~
212 ~~Deaf and the Blind and who have received authorization by the~~
213 ~~Board of Trustees of the Florida School for the Deaf and the~~
214 ~~Blind to participate in the DROP beyond 60 months, or who are~~
215 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~
216 ~~grades K-12 and who have received authorization by the district~~
217 ~~school superintendent to participate in the DROP beyond 60~~
218 ~~calendar months, 96 calendar months immediately following the~~
219 ~~effective date of the DROP, except a member of the Special Risk~~
220 ~~Class who has reached normal retirement date prior to the~~
221 ~~effective date of the DROP and whose total accrued value exceeds~~
222 ~~75 percent of average final compensation as of his or her~~

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223 ~~effective date of retirement shall be eligible to participate in~~
224 ~~the DROP for no more than 36 calendar months immediately~~
225 ~~following the effective date of the DROP.~~

226 b. Special Risk Class members who are employed as law
227 enforcement officers, correctional officers, or community-based
228 correctional probation officers, as described in s. 121.0515(2),
229 having a rank or the equivalent rank of captain or below, and
230 who are currently participating in DROP for up to 60 months may
231 elect to participate for an additional 36 calendar months.
232 However, in order to participate the member must, before
233 beginning the additional 36 months, pass the same physical
234 examination required for new officers under s. 943.13(6) and
235 provide an accompanying statement from the officer's examining
236 physician, physician assistant, or certified advanced registered
237 nurse practitioner that the officer is capable of performing the
238 essential functions of his or her duties as a law enforcement
239 officer, correctional officer, or probation officer.

240 2. Upon deciding to participate in ~~the~~ DROP, the member
241 shall submit, on forms required by the division:

- 242 a. A written election to participate in ~~the~~ DROP;
- 243 b. Selection of the DROP participation and termination
244 dates, which satisfy the limitations stated in paragraph (a) and
245 subparagraph 1. ~~The~~ Such termination date must ~~shall~~ be in a
246 binding letter of resignation to ~~with~~ the employer, establishing
247 a deferred termination date. The member may change the
248 termination date within the limitations of subparagraph 1., but
249 only with the written approval of the ~~his or her~~ employer;

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

252 d. Any other information required by the division.

253 3. The DROP participant shall be a retiree under the
 254 Florida Retirement System for all purposes, except for paragraph
 255 (5) (f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
 256 and 121.122. However, participation in ~~the~~ DROP does not alter
 257 the participant's employment status and the member is such
 258 ~~employee shall~~ not be deemed retired from employment until his
 259 or her deferred resignation is effective and termination occurs
 260 as provided in s. 121.021(39).

261 4. Elected officers are ~~shall be~~ eligible to participate
 262 in ~~the~~ DROP subject to the following:

263 a. An elected officer who reaches normal retirement date
 264 during a term of office may defer the election to participate in
 265 ~~the~~ DROP until the next succeeding term in that office. An such
 266 elected officer who exercises this option may participate in ~~the~~
 267 DROP for up to 60 calendar months or for a period of no longer
 268 than the such succeeding term of office, whichever is less.

269 b. An elected or a nonelected participant may run for a
 270 term of office while participating in DROP and, if elected,
 271 extend ~~the~~ DROP termination date accordingly, except that,
 272 ~~however~~, if such additional term of office exceeds the 60-month
 273 limitation established in subparagraph 1., and the officer does
 274 not resign from office within such 60-month limitation, the
 275 retirement and the participant's DROP shall be null and void as
 276 provided in sub-subparagraph (c)5.d.

277 c. An elected officer who is dually employed and elects to
 278 participate in DROP must ~~shall be required to~~ satisfy the
 279 definition of termination within the maximum participation ~~60-~~
 280 ~~month or, with respect to members who are instructional~~
 281 ~~personnel employed by the Florida School for the Deaf and the~~
 282 ~~Blind and who have received authorization by the Board of~~
 283 ~~Trustees of the Florida School for the Deaf and the Blind to~~
 284 ~~participate in the DROP beyond 60 months, or who are~~
 285 ~~instructional personnel as defined in s. 1012.01(2)(a) (d) in~~
 286 ~~grades K-12 and who have received authorization by the district~~
 287 ~~school superintendent to participate in the DROP beyond 60~~
 288 ~~months, the 96 month limitation period as provided in~~
 289 ~~subparagraph 1. for the nonelected position and may continue~~
 290 ~~employment as an elected officer as provided in s. 121.053. The~~
 291 ~~elected officer~~ shall ~~will~~ be enrolled as a renewed member in
 292 the Elected Officers' Class or the Regular Class, as provided in
 293 ss. 121.053 and 121.122, on the first day of the month after
 294 termination of employment in the nonelected position and
 295 termination of DROP. Distribution of ~~the~~ DROP benefits shall be
 296 made as provided in paragraph (c).

297 Section 2. The Legislature finds and declares that
 298 ensuring the availability of experienced law enforcement,
 299 correctional, and probation officers to protect the safety and
 300 welfare of the public is an important state interest. Providing
 301 such officers who are members of the Florida Retirement System
 302 with an opportunity to extend their employment as law
 303 enforcement officers, correctional officers, or probation
 304 officers by increasing the maximum participation period in the

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305 Deferred Retirement Option Program will help serve that
306 interest. Funding for such retirement benefits must be made,
307 administered, and funded in an actuarially sound manner as
308 required by s. 14, Art. X of the State Constitution and part VII
309 of chapter 112, Florida Statutes.

310 Section 3. This act shall take effect July 1, 2008.