

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

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

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

25           WHEREAS, this need is projected to become more critical in  
 26          the future, and

27           WHEREAS, the most critical need is to recruit and retain  
 28          line officers who have daily and direct contact with the

CS/HB 501

2008

29 | criminal element, and

30 |       WHEREAS, because such work is physically demanding or  
 31 | arduous and often requires extraordinary agility and mental  
 32 | acuity that can diminish with age, persons employed in these  
 33 | positions are classified as special risk and able to retire at  
 34 | an earlier age, and

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

41 |

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

43 |

44 |       Section 1. Paragraph (d) is added to subsection (9) of  
 45 | section 121.091, Florida Statutes, and paragraphs (a) and (b) of  
 46 | subsection (13) of that section are amended, to read:

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

57 for application for retirement benefits and for the cancellation  
58 of such application when the required information or documents  
59 are not received.

60 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

61 (d) Notwithstanding any other provision in this section, a  
62 member of the Special Risk Class who is employed as a law  
63 enforcement officer, correctional officer, or community-based  
64 correctional probation officer, as described in s. 121.0515(2),  
65 and who has a rank or the equivalent rank of captain or below,  
66 at the conclusion of his or her participation in DROP, may not  
67 be employed, reemployed, or retained in a contractual capacity  
68 by the same employing agency from which the member retired;  
69 however, the member may be retained by the employing agency as a  
70 part-time or auxiliary law enforcement officer, as those terms  
71 are defined in s. 943.10, if the member is serving on a  
72 voluntary basis and receives no more than \$1 per calendar year  
73 in remuneration for services rendered directly for the employing  
74 agency. Any person who is reemployed or retained in a  
75 contractual capacity in violation of this paragraph shall void  
76 his or her application for retirement benefits. Any person who  
77 violates this paragraph and any employing agency that knowingly  
78 employs or contracts with such person in violation of this  
79 paragraph is jointly and severally liable for reimbursement to  
80 the Florida Retirement System Trust Fund for any retirement  
81 benefits improperly paid during the reemployment or contractual  
82 period. This provision does not otherwise limit the employment  
83 or contractual opportunities for a retiree at any other  
84 employing agency. This paragraph does not apply to a retiree who

85 is elected to an office or appointed to an office by the  
 86 Governor.

87 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and  
 88 subject to the provisions of this section, the Deferred  
 89 Retirement Option Program, hereinafter referred to as the DROP,  
 90 is a program under which an eligible member of the Florida  
 91 Retirement System may elect to participate, deferring receipt of  
 92 retirement benefits while continuing employment with his or her  
 93 Florida Retirement System employer. The deferred monthly  
 94 benefits shall accrue in the System Trust Fund on behalf of the  
 95 participant, plus interest compounded monthly, for the specified  
 96 period of the DROP participation, as provided in paragraph (c).  
 97 Upon termination of employment, the participant shall receive  
 98 the total DROP benefits and begin to receive the previously  
 99 determined normal retirement benefits. Participation in the DROP  
 100 does not guarantee employment for the specified period of DROP.  
 101 Participation in the DROP by an eligible member beyond the  
 102 initial 60-month period as authorized in this subsection shall  
 103 be on an annual contractual basis for all participants.

104 (a) Eligibility of member to participate in ~~the~~ DROP.--All  
 105 active Florida Retirement System members in a regularly  
 106 established position, and all active members of ~~either~~ the  
 107 Teachers' Retirement System established in chapter 238 or the  
 108 State and County Officers' and Employees' Retirement System  
 109 established in chapter 122, which systems are consolidated  
 110 within the Florida Retirement System under s. 121.011, are  
 111 eligible to elect participation in ~~the~~ DROP if provided that:

112 1. The member is not a renewed member ~~of the Florida~~

113 ~~Retirement System~~ under s. 121.122, or a member of the State  
114 Community College System Optional Retirement Program under s.  
115 121.051, the Senior Management Service Optional Annuity Program  
116 under s. 121.055, or the optional retirement program for the  
117 State University System under s. 121.35.

118 2. Except as provided in subparagraph 6., election to  
119 participate is made within 12 months immediately following the  
120 date on which the member first reaches normal retirement date,  
121 or, for a member who reaches normal retirement date ~~based on~~  
122 ~~service~~ before he or she reaches age 62, or age 55 for Special  
123 Risk Class members, election to participate may be deferred to  
124 the 12 months immediately following the date the member attains  
125 57, or age 52 for Special Risk Class members. ~~For a member who~~  
126 ~~first reached normal retirement date or the deferred eligibility~~  
127 ~~date described above prior to the effective date of this~~  
128 ~~section, election to participate shall be made within 12 months~~  
129 ~~after the effective date of this section.~~ A member who fails to  
130 make an election within the ~~such~~ 12-month limitation period  
131 forfeits ~~shall forfeit~~ all rights to participate in ~~the~~ DROP.  
132 The member shall advise his or her employer and the division in  
133 writing of the date on which ~~the~~ DROP shall begin. The ~~Such~~  
134 beginning date may be subsequent to the 12-month election  
135 period, but must be within the maximum participation ~~60 month~~  
136 ~~or, with respect to members who are instructional personnel~~  
137 ~~employed by the Florida School for the Deaf and the Blind and~~  
138 ~~who have received authorization by the Board of Trustees of the~~  
139 ~~Florida School for the Deaf and the Blind to participate in the~~  
140 ~~DROP beyond 60 months, or who are instructional personnel as~~

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

161 3. The employer of a member electing to participate in ~~the~~  
162 DROP, or employers if dually employed, shall acknowledge in  
163 writing to the division the date the member's participation in  
164 ~~the~~ DROP begins and the date the member's employment and DROP  
165 participation will terminate.

166 4. Simultaneous employment of a participant by additional  
167 Florida Retirement System employers subsequent to the  
168 commencement of participation in ~~the~~ DROP is ~~shall be~~

169 permissible if provided such employers acknowledge in writing a  
170 DROP termination date no later than the participant's existing  
171 termination date or the maximum participation 60-month  
172 ~~limitation~~ period as provided in subparagraph (b)1.

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

175 a. A change of employment must take place without a break  
176 in service so that the member receives salary for each month of  
177 continuous DROP participation. If a member receives no salary  
178 during a month, DROP participation shall cease unless the  
179 employer verifies a continuation of the employment relationship  
180 for such participant pursuant to s. 121.021(39)(b).

181 b. Such participant and new employer shall notify the  
182 division of the identity of the new employer on forms required  
183 by the division ~~as to the identity of the new employer~~.

184 c. The new employer shall acknowledge, in writing, the  
185 participant's DROP termination date, which may be extended but  
186 not beyond the maximum participation original 60-month ~~or, with~~  
187 ~~respect to members who are instructional personnel employed by~~  
188 ~~the Florida School for the Deaf and the Blind and who have~~  
189 ~~received authorization by the Board of Trustees of the Florida~~  
190 ~~School for the Deaf and the Blind to participate in the DROP~~  
191 ~~beyond 60 months, or who are instructional personnel as defined~~  
192 ~~in s. 1012.01(2)(a)-(d) in grades K-12 and who have received~~  
193 ~~authorization by the district school superintendent to~~  
194 ~~participate in the DROP beyond 60 months, the 96-month period~~  
195 provided in subparagraph (b)1., shall acknowledge liability for  
196 any additional retirement contributions and interest required if

197 the participant fails to timely terminate employment, and shall  
 198 be subject to the adjustment required in sub-subparagraph  
 199 (c)5.d.

200 6. Effective July 1, 2001, for instructional personnel as  
 201 defined in s. 1012.01 ~~s. 1012.01(2)~~, election to participate in  
 202 ~~the~~ DROP ~~may shall~~ be made at any time following the date on  
 203 which the member first reaches normal retirement date. The  
 204 member shall advise his or her employer and the division in  
 205 writing of the date on which DROP ~~the Deferred Retirement Option~~  
 206 ~~Program~~ shall begin. When establishing eligibility of the member  
 207 to participate in ~~the~~ DROP for the 60-month or, ~~with respect to~~  
 208 ~~members who are instructional personnel employed by the Florida~~  
 209 ~~School for the Deaf and the Blind and who have received~~  
 210 ~~authorization by the Board of Trustees of the Florida School for~~  
 211 ~~the Deaf and the Blind to participate in the DROP beyond 60~~  
 212 ~~months, or who are instructional personnel as defined in s.~~  
 213 ~~1012.01(2)(a) (d) in grades K 12 and who have received~~  
 214 ~~authorization by the district school superintendent to~~  
 215 ~~participate in the DROP beyond 60 months,~~ the 96-month maximum  
 216 participation period, as provided in subparagraph (b)1., the  
 217 member may elect to include or exclude any optional service  
 218 credit purchased by the member from the total service used to  
 219 establish the normal retirement date. A member who has ~~with~~ dual  
 220 normal retirement dates is ~~shall be~~ eligible to elect to  
 221 participate in either class.

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

223 1. Subject to the following exceptions, an eligible member  
 224 may elect to participate in ~~the~~ DROP for a period not to exceed



225 a maximum of 60 calendar months. ~~or, with respect to~~  
 226 a. Eligible members who are instructional personnel  
 227 employed by the Florida School for the Deaf and the Blind and  
 228 who have received authorization by the Board of Trustees of the  
 229 Florida School for the Deaf and the Blind to participate in the  
 230 DROP beyond 60 months, or who are instructional personnel as  
 231 defined in s. 1012.01(2)(a)-(d) ~~in grades K-12~~ and who have  
 232 received authorization by the district school superintendent to  
 233 participate in ~~the~~ DROP beyond 60 calendar months, may elect to  
 234 participate for a period up to 96 calendar months immediately  
 235 following the date on which the member first reaches his or her  
 236 normal retirement date or the date ~~to which~~ he or she is  
 237 eligible to defer his or her election to participate as provided  
 238 in subparagraph (a)2. ~~However, a member who has reached normal~~  
 239 ~~retirement date prior to the effective date of the DROP shall be~~  
 240 ~~eligible to participate in the DROP for a period of time not to~~  
 241 ~~exceed 60 calendar months or, with respect to members who are~~  
 242 ~~instructional personnel employed by the Florida School for the~~  
 243 ~~Deaf and the Blind and who have received authorization by the~~  
 244 ~~Board of Trustees of the Florida School for the Deaf and the~~  
 245 ~~Blind to participate in the DROP beyond 60 months, or who are~~  
 246 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~  
 247 ~~grades K-12 and who have received authorization by the district~~  
 248 ~~school superintendent to participate in the DROP beyond 60~~  
 249 ~~calendar months, 96 calendar months immediately following the~~  
 250 ~~effective date of the DROP, except a member of the Special Risk~~  
 251 ~~Class who has reached normal retirement date prior to the~~  
 252 ~~effective date of the DROP and whose total accrued value exceeds~~

253 ~~75 percent of average final compensation as of his or her~~  
 254 ~~effective date of retirement shall be eligible to participate in~~  
 255 ~~the DROP for no more than 36 calendar months immediately~~  
 256 ~~following the effective date of the DROP.~~

257 b. Special Risk Class members who are employed as law  
 258 enforcement officers, correctional officers, or community-based  
 259 correctional probation officers, as described in s. 121.0515(2),  
 260 who have a rank or the equivalent rank of captain or below, and  
 261 who are currently participating in DROP for up to 60 months may  
 262 participate for an additional 36 calendar months. However, in  
 263 order to participate the member must, before beginning the  
 264 additional 36 months, receive authorization from the member's  
 265 employer to participate in DROP beyond 60 months, and pass the  
 266 same physical examination required for new officers under s.  
 267 943.13(6) and provide an accompanying statement from the  
 268 officer's examining physician, physician assistant, or certified  
 269 advanced registered nurse practitioner that the officer is  
 270 capable of performing the essential functions of his or her  
 271 duties as a law enforcement officer, correctional officer, or  
 272 probation officer. The member's rank at the time of entering  
 273 DROP shall be used for determining eligibility for the  
 274 additional 36 calendar months of DROP.

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

- 277 a. A written election to participate in ~~the~~ DROP;
- 278 b. Selection of the DROP participation and termination
- 279 dates, which satisfy the limitations stated in paragraph (a) and
- 280 subparagraph 1. The ~~Such~~ termination date must ~~shall~~ be in a

281 binding letter of resignation to ~~with~~ the employer, establishing  
282 a deferred termination date. The member may change the  
283 termination date within the limitations of subparagraph 1., but  
284 only with the written approval of the ~~his or her~~ employer;

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

287 d. Any other information required by the division.

288 3. The DROP participant shall be a retiree under the  
289 Florida Retirement System for all purposes, except for paragraph  
290 (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053,  
291 and 121.122. However, participation in ~~the~~ DROP does not alter  
292 the participant's employment status and the member is such  
293 ~~employee shall~~ not be deemed retired from employment until his  
294 or her deferred resignation is effective and termination occurs  
295 as provided in s. 121.021(39).

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

298 a. An elected officer who reaches normal retirement date  
299 during a term of office may defer the election to participate in  
300 ~~the~~ DROP until the next succeeding term in that office. An Such  
301 elected officer who exercises this option may participate in ~~the~~  
302 DROP for up to 60 calendar months or for a period of no longer  
303 than the ~~such~~ succeeding term of office, whichever is less.

304 b. An elected or a nonelected participant may run for a  
305 term of office while participating in DROP and, if elected,  
306 extend ~~the~~ DROP termination date accordingly, except that,  
307 ~~however,~~ if such additional term of office exceeds the 60-month  
308 limitation established in subparagraph 1., and the officer does

309 not resign from office within such 60-month limitation, the  
 310 retirement and the participant's DROP shall be null and void as  
 311 provided in sub-subparagraph (c)5.d.

312 c. An elected officer who is dually employed and elects to  
 313 participate in DROP must ~~shall be required to~~ satisfy the  
 314 definition of termination within the maximum participation 60-  
 315 ~~month or, with respect to members who are instructional~~  
 316 ~~personnel employed by the Florida School for the Deaf and the~~  
 317 ~~Blind and who have received authorization by the Board of~~  
 318 ~~Trustees of the Florida School for the Deaf and the Blind to~~  
 319 ~~participate in the DROP beyond 60 months, or who are~~  
 320 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~  
 321 ~~grades K-12 and who have received authorization by the district~~  
 322 ~~school superintendent to participate in the DROP beyond 60~~  
 323 ~~months, the 96 month limitation period as provided in~~  
 324 subparagraph 1. for the nonelected position and may continue  
 325 employment as an elected officer as provided in s. 121.053. The  
 326 elected officer shall ~~will~~ be enrolled as a renewed member in  
 327 the Elected Officers' Class or the Regular Class, as provided in  
 328 ss. 121.053 and 121.122, on the first day of the month after  
 329 termination of employment in the nonelected position and  
 330 termination of DROP. Distribution of ~~the~~ DROP benefits shall be  
 331 made as provided in paragraph (c).

332 Section 2. The Legislature finds and declares that  
 333 ensuring the availability of experienced law enforcement,  
 334 correctional, and probation officers to protect the safety and  
 335 welfare of the public is an important state interest. Providing  
 336 such officers who are members of the Florida Retirement System

CS/HB 501

2008

337 with an opportunity to extend their employment as law  
338 enforcement officers, correctional officers, or probation  
339 officers by increasing the maximum participation period in the  
340 Deferred Retirement Option Program will help serve that  
341 interest. Funding for such retirement benefits must be made,  
342 administered, and funded in an actuarially sound manner as  
343 required by s. 14, Art. X of the State Constitution and part VII  
344 of chapter 112, Florida Statutes.

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