

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

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

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 upon becoming a law.