

By the Committee on Criminal Justice; and Senators Baker, Rich, Bennett, Deutch, Wilson, Saunders, Diaz de la Portilla, Gaetz, Jones, Lynn, Ring and Posey

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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 ensuring  
18 the safety and welfare of the public is through the state's law  
19 enforcement agencies and correctional institutions, and

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

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

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

29 WHEREAS, because such work is physically demanding or

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30 arduous and often requires extraordinary agility and mental  
31 acuity that can diminish with age, persons employed in these  
32 positions are classified as special risk and able to retire at an  
33 earlier age, and

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

39

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

41

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

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

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

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59        (d) Notwithstanding any other provision in this section, a  
60 member of the Special Risk Class who is employed as a law  
61 enforcement officer, correctional officer, or community-based  
62 correctional probation officer, as described in s. 121.0515(2),  
63 and who has a rank or the equivalent rank of captain or below, at  
64 the conclusion of his or her participation in DROP, may not be  
65 employed, reemployed, or retained in a contractual capacity by  
66 the same employing agency from which the member retired. Any  
67 person who is reemployed or retained in a contractual capacity in  
68 violation of this paragraph shall void his or her application for  
69 retirement benefits. Any person who violates this paragraph and  
70 any employing agency that knowingly employees or contracts with  
71 such person in violation of this paragraph is jointly and  
72 severally libel for reimbursement to the Florida Retirement  
73 System Trust Fund for any retirement benefits improperly paid  
74 during the reemployment or contractual period. This provision  
75 does not otherwise limit the employment or contractual  
76 opportunities for a retiree at any other employing agency. This  
77 paragraph does not apply to a retiree who is elected to an office  
78 or appointed to an office by the Governor.

79        (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and  
80 subject to the provisions of this section, the Deferred  
81 Retirement Option Program, hereinafter referred to as the DROP,  
82 is a program under which an eligible member of the Florida  
83 Retirement System may elect to participate, deferring receipt of  
84 retirement benefits while continuing employment with his or her  
85 Florida Retirement System employer. The deferred monthly benefits  
86 shall accrue in the System Trust Fund on behalf of the  
87 participant, plus interest compounded monthly, for the specified

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88 | period of the DROP participation, as provided in paragraph (c).  
89 | Upon termination of employment, the participant shall receive the  
90 | total DROP benefits and begin to receive the previously  
91 | determined normal retirement benefits. Participation in the DROP  
92 | does not guarantee employment for the specified period of DROP.  
93 | Participation in the DROP by an eligible member beyond the  
94 | initial 60-month period as authorized in this subsection shall be  
95 | on an annual contractual basis for all participants.

96 |       (a) Eligibility of member to participate in ~~the~~ DROP.--All  
97 | active Florida Retirement System members in a regularly  
98 | established position, and all active members of ~~either~~ the  
99 | Teachers' Retirement System established in chapter 238 or the  
100 | State and County Officers' and Employees' Retirement System  
101 | established in chapter 122, which systems are consolidated within  
102 | the Florida Retirement System under s. 121.011, are eligible to  
103 | elect participation in ~~the~~ DROP if provided that:

104 |       1. The member is not a renewed member ~~of the Florida~~  
105 | ~~Retirement System~~ under s. 121.122, or a member of the State  
106 | Community College System Optional Retirement Program under s.  
107 | 121.051, the Senior Management Service Optional Annuity Program  
108 | under s. 121.055, or the optional retirement program for the  
109 | State University System under s. 121.35.

110 |       2. Except as provided in subparagraph 6., election to  
111 | participate is made within 12 months immediately following the  
112 | date on which the member first reaches normal retirement date,  
113 | or, for a member who reaches normal retirement date ~~based on~~  
114 | ~~service~~ before he or she reaches age 62, or age 55 for Special  
115 | Risk Class members, election to participate may be deferred to  
116 | the 12 months immediately following the date the member attains

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117 57, or age 52 for Special Risk Class members. For ~~a member who~~  
118 ~~first reached normal retirement date or the deferred eligibility~~  
119 ~~date described above prior to the effective date of this section,~~  
120 ~~election to participate shall be made within 12 months after the~~  
121 ~~effective date of this section.~~ A member who fails to make an  
122 election within the such 12-month limitation period forfeits  
123 ~~shall forfeit~~ all rights to participate in ~~the~~ DROP. The member  
124 shall advise his or her employer and the division in writing of  
125 the date on which ~~the~~ DROP shall begin. The Such beginning date  
126 may be subsequent to the 12-month election period, but must be  
127 within the maximum participation ~~60-month or, with respect to~~  
128 ~~members who are instructional personnel employed by the Florida~~  
129 ~~School for the Deaf and the Blind and who have received~~  
130 ~~authorization by the Board of Trustees of the Florida School for~~  
131 ~~the Deaf and the Blind to participate in the DROP beyond 60~~  
132 ~~months, or who are instructional personnel as defined in s.~~  
133 ~~1012.01(2)(a)-(d) in grades K-12 and who have received~~  
134 ~~authorization by the district school superintendent to~~  
135 ~~participate in the DROP beyond 60 months, the 96-month limitation~~  
136 ~~period as provided in subparagraph (b)1. When establishing~~  
137 ~~eligibility of the member to participate in the DROP for the 60-~~  
138 ~~month or, with respect to members who are instructional personnel~~  
139 ~~employed by the Florida School for the Deaf and the Blind and who~~  
140 ~~have received authorization by the Board of Trustees of the~~  
141 ~~Florida School for the Deaf and the Blind to participate in the~~  
142 ~~DROP beyond 60 months, or who are instructional personnel as~~  
143 ~~defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have~~  
144 ~~received authorization by the district school superintendent to~~  
145 ~~participate in the DROP beyond 60 months, the 96-month maximum~~

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146 ~~participation period~~, the member may elect to include or exclude  
147 any optional service credit purchased by the member from the  
148 total service used to establish the normal retirement date. A  
149 member who has ~~with~~ dual normal retirement dates is ~~shall be~~  
150 eligible to elect to participate in DROP within 12 months after  
151 attaining normal retirement date in either class.

152 3. The employer of a member electing to participate in ~~the~~  
153 DROP, or employers if dually employed, shall acknowledge in  
154 writing to the division the date the member's participation in  
155 ~~the~~ DROP begins and the date the member's employment and DROP  
156 participation will terminate.

157 4. Simultaneous employment of a participant by additional  
158 Florida Retirement System employers subsequent to the  
159 commencement of participation in ~~the~~ DROP is ~~shall be~~ permissible  
160 if provided such employers acknowledge in writing a DROP  
161 termination date no later than the participant's existing  
162 termination date or the maximum participation ~~60-month limitation~~  
163 period ~~as~~ provided in subparagraph (b)1.

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

166 a. A change of employment must take place without a break  
167 in service so that the member receives salary for each month of  
168 continuous DROP participation. If a member receives no salary  
169 during a month, DROP participation shall cease unless the  
170 employer verifies a continuation of the employment relationship  
171 for such participant pursuant to s. 121.021(39)(b).

172 b. Such participant and new employer shall notify the  
173 division of the identity of the new employer on forms required by  
174 the division ~~as to the identity of the new employer~~.

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175 c. The new employer shall acknowledge, in writing, the  
176 participant's DROP termination date, which may be extended but  
177 not beyond the maximum participation ~~original 60-month or, with~~  
178 ~~respect to members who are instructional personnel employed by~~  
179 ~~the Florida School for the Deaf and the Blind and who have~~  
180 ~~received authorization by the Board of Trustees of the Florida~~  
181 ~~School for the Deaf and the Blind to participate in the DROP~~  
182 ~~beyond 60 months, or who are instructional personnel as defined~~  
183 ~~in s. 1012.01(2) (a)-(d) in grades K-12 and who have received~~  
184 ~~authorization by the district school superintendent to~~  
185 ~~participate in the DROP beyond 60 months, the 96-month period~~  
186 provided in subparagraph (b)1., shall acknowledge liability for  
187 any additional retirement contributions and interest required if  
188 the participant fails to timely terminate employment, and shall  
189 be subject to the adjustment required in sub-subparagraph (c)5.d.

190 6. Effective July 1, 2001, for instructional personnel as  
191 defined in s. 1012.01 ~~s. 1012.01(2)~~, election to participate in  
192 the DROP may ~~shall~~ be made at any time following the date on  
193 which the member first reaches normal retirement date. The member  
194 shall advise his or her employer and the division in writing of  
195 the date on which DROP ~~the Deferred Retirement Option Program~~  
196 shall begin. When establishing eligibility of the member to  
197 participate in the DROP for the 60-month or, ~~with respect to~~  
198 ~~members who are instructional personnel employed by the Florida~~  
199 ~~School for the Deaf and the Blind and who have received~~  
200 ~~authorization by the Board of Trustees of the Florida School for~~  
201 ~~the Deaf and the Blind to participate in the DROP beyond 60~~  
202 ~~months, or who are instructional personnel as defined in s.~~  
203 ~~1012.01(2) (a)-(d) in grades K-12 and who have received~~

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204 ~~authorization by the district school superintendent to~~  
205 ~~participate in the DROP beyond 60 months,~~ the 96-month maximum  
206 participation period, as provided in subparagraph (b)1., the  
207 member may elect to include or exclude any optional service  
208 credit purchased by the member from the total service used to  
209 establish the normal retirement date. A member who has ~~with~~ dual  
210 normal retirement dates is ~~shall be~~ eligible to elect to  
211 participate in either class.

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

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

216 a. Eligible members who are instructional personnel  
217 employed by the Florida School for the Deaf and the Blind and who  
218 have received authorization by the Board of Trustees of the  
219 Florida School for the Deaf and the Blind to participate in the  
220 DROP beyond 60 months, or who are instructional personnel as  
221 defined in s. 1012.01(2)(a)-(d) ~~in grades K-12~~ and who have  
222 received authorization by the district school superintendent to  
223 participate in ~~the~~ DROP beyond 60 calendar months, may elect to  
224 participate for a period up to 96 calendar months immediately  
225 following the date on which the member first reaches his or her  
226 normal retirement date or the date ~~to which~~ he or she is eligible  
227 to defer his or her election to participate as provided in  
228 subparagraph (a)2. ~~However, a member who has reached normal~~  
229 ~~retirement date prior to the effective date of the DROP shall be~~  
230 ~~eligible to participate in the DROP for a period of time not to~~  
231 ~~exceed 60 calendar months or, with respect to members who are~~  
232 ~~instructional personnel employed by the Florida School for the~~



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233 ~~Deaf and the Blind and who have received authorization by the~~  
234 ~~Board of Trustees of the Florida School for the Deaf and the~~  
235 ~~Blind to participate in the DROP beyond 60 months, or who are~~  
236 ~~instructional personnel as defined in s. 1012.01(2) (a)-(d) in~~  
237 ~~grades K-12 and who have received authorization by the district~~  
238 ~~school superintendent to participate in the DROP beyond 60~~  
239 ~~calendar months, 96 calendar months immediately following the~~  
240 ~~effective date of the DROP, except a member of the Special Risk~~  
241 ~~Class who has reached normal retirement date prior to the~~  
242 ~~effective date of the DROP and whose total accrued value exceeds~~  
243 ~~75 percent of average final compensation as of his or her~~  
244 ~~effective date of retirement shall be eligible to participate in~~  
245 ~~the DROP for no more than 36 calendar months immediately~~  
246 ~~following the effective date of the DROP.~~

247 b. Special Risk Class members who are employed as law  
248 enforcement officers, correctional officers, or community-based  
249 correctional probation officers, as described in s. 121.0515(2),  
250 having a rank or the equivalent rank of captain or below, and who  
251 are currently participating in DROP for up to 60 months may elect  
252 to participate for an additional 36 calendar months. However, in  
253 order to participate the member must, before beginning the  
254 additional 36 months, pass the same physical examination required  
255 for new officers under s. 943.13(6) and provide an accompanying  
256 statement from the officer's examining physician, physician  
257 assistant, or certified advanced registered nurse practitioner  
258 that the officer is capable of performing the essential functions  
259 of his or her duties as a law enforcement officer, correctional  
260 officer, or probation officer.

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- 261           2. Upon deciding to participate in ~~the~~ DROP, the member  
262 shall submit, on forms required by the division:
- 263           a. A written election to participate in ~~the~~ DROP;
- 264           b. Selection of the DROP participation and termination  
265 dates, which satisfy the limitations stated in paragraph (a) and  
266 subparagraph 1. The ~~Such~~ termination date must ~~shall~~ be in a  
267 binding letter of resignation to ~~with~~ the employer, establishing  
268 a deferred termination date. The member may change the  
269 termination date within the limitations of subparagraph 1., but  
270 only with the written approval of the ~~his or her~~ employer;
- 271           c. A properly completed DROP application for service  
272 retirement as provided in this section; and
- 273           d. Any other information required by the division.
- 274           3. The DROP participant shall be a retiree under the  
275 Florida Retirement System for all purposes, except for paragraph  
276 (5) (f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and  
277 121.122. However, participation in ~~the~~ DROP does not alter the  
278 participant's employment status and the member is ~~such employee~~  
279 ~~shall~~ not be deemed retired from employment until his or her  
280 deferred resignation is effective and termination occurs as  
281 provided in s. 121.021(39).
- 282           4. Elected officers are ~~shall be~~ eligible to participate in  
283 ~~the~~ DROP subject to the following:
- 284           a. An elected officer who reaches normal retirement date  
285 during a term of office may defer the election to participate in  
286 ~~the~~ DROP until the next succeeding term in that office. An ~~Such~~  
287 elected officer who exercises this option may participate in ~~the~~  
288 DROP for up to 60 calendar months or for a period of no longer  
289 than the ~~such~~ succeeding term of office, whichever is less.

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290 b. An elected or a nonelected participant may run for a  
291 term of office while participating in DROP and, if elected,  
292 extend ~~the~~ DROP termination date accordingly, except that,  
293 ~~however~~, if such additional term of office exceeds the 60-month  
294 limitation established in subparagraph 1., and the officer does  
295 not resign from office within such 60-month limitation, the  
296 retirement and the participant's DROP shall be null and void as  
297 provided in sub-subparagraph (c)5.d.

298 c. An elected officer who is dually employed and elects to  
299 participate in DROP must ~~shall be required to~~ satisfy the  
300 definition of termination within the maximum participation ~~60-~~  
301 ~~month or, with respect to members who are instructional personnel~~  
302 ~~employed by the Florida School for the Deaf and the Blind and who~~  
303 ~~have received authorization by the Board of Trustees of the~~  
304 ~~Florida School for the Deaf and the Blind to participate in the~~  
305 ~~DROP beyond 60 months, or who are instructional personnel as~~  
306 ~~defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have~~  
307 ~~received authorization by the district school superintendent to~~  
308 ~~participate in the DROP beyond 60 months, the 96-month limitation~~  
309 ~~period as~~ provided in subparagraph 1. for the nonelected position  
310 and may continue employment as an elected officer as provided in  
311 s. 121.053. The elected officer shall ~~will~~ be enrolled as a  
312 renewed member in the Elected Officers' Class or the Regular  
313 Class, as provided in ss. 121.053 and 121.122, on the first day  
314 of the month after termination of employment in the nonelected  
315 position and termination of DROP. Distribution of ~~the~~ DROP  
316 benefits shall be made as provided in paragraph (c).

317 Section 2. The Legislature finds and declares that ensuring  
318 the availability of experienced law enforcement, correctional,

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319 and probation officers to protect the safety and welfare of the  
320 public is an important state interest. Providing such officers  
321 who are members of the Florida Retirement System with an  
322 opportunity to extend their employment as law enforcement  
323 officers, correctional officers, or probation officers by  
324 increasing the maximum participation period in the Deferred  
325 Retirement Option Program will help serve that interest. Funding  
326 for such retirement benefits must be made, administered, and  
327 funded in an actuarially sound manner as required by s. 14, Art.  
328 X of the State Constitution and part VII of chapter 112, Florida  
329 Statutes.

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