

By the Committees on Governmental Operations; Criminal Justice; and Senators Baker, Rich, Bennett, Deutch, Wilson, Saunders, Diaz de la Portilla, Gaetz, Jones, Lynn, Ring, Posey, (Additional Introducers on Last Printed Page)

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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; however,
67 the member may be retained by the employing agency as a part-time
68 or auxiliary law enforcement officer, as those terms are defined
69 in s. 943.10, if the member is serving on a voluntary basis and
70 receives no more than \$1 per calendar year in remuneration for
71 services rendered. Any person who is reemployed or retained in a
72 contractual capacity in violation of this paragraph shall void
73 his or her application for retirement benefits. Any person who
74 violates this paragraph and any employing agency that knowingly
75 employees or contracts with such person in violation of this
76 paragraph is jointly and severally liable for reimbursement to the
77 Florida Retirement System Trust Fund for any retirement benefits
78 improperly paid during the reemployment or contractual period.
79 This provision does not otherwise limit the employment or
80 contractual opportunities for a retiree at any other employing
81 agency. This paragraph does not apply to a retiree who is elected
82 to an office or appointed to an office by the Governor.

83 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
84 subject to the provisions of this section, the Deferred
85 Retirement Option Program, hereinafter referred to as the DROP,
86 is a program under which an eligible member of the Florida
87 Retirement System may elect to participate, deferring receipt of

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88 retirement benefits while continuing employment with his or her
89 Florida Retirement System employer. The deferred monthly benefits
90 shall accrue in the System Trust Fund on behalf of the
91 participant, plus interest compounded monthly, for the specified
92 period of the DROP participation, as provided in paragraph (c).
93 Upon termination of employment, the participant shall receive the
94 total DROP benefits and begin to receive the previously
95 determined normal retirement benefits. Participation in the DROP
96 does not guarantee employment for the specified period of DROP.
97 Participation in the DROP by an eligible member beyond the
98 initial 60-month period as authorized in this subsection shall be
99 on an annual contractual basis for all participants.

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

108 1. The member is not a renewed member ~~of the Florida~~
109 ~~Retirement System~~ under s. 121.122, or a member of the State
110 Community College System Optional Retirement Program under s.
111 121.051, the Senior Management Service Optional Annuity Program
112 under s. 121.055, or the optional retirement program for the
113 State University System under s. 121.35.

114 2. Except as provided in subparagraph 6., election to
115 participate is made within 12 months immediately following the
116 date on which the member first reaches normal retirement date,

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117 or, for a member who reaches normal retirement date ~~based on~~
118 ~~service~~ before he or she reaches age 62, or age 55 for Special
119 Risk Class members, election to participate may be deferred to
120 the 12 months immediately following the date the member attains
121 57, or age 52 for Special Risk Class members. ~~For a member who~~
122 ~~first reached normal retirement date or the deferred eligibility~~
123 ~~date described above prior to the effective date of this section,~~
124 ~~election to participate shall be made within 12 months after the~~
125 ~~effective date of this section.~~ A member who fails to make an
126 election within the ~~such~~ 12-month limitation period forfeits
127 ~~shall forfeit~~ all rights to participate in ~~the~~ DROP. The member
128 shall advise his or her employer and the division in writing of
129 the date on which ~~the~~ DROP shall begin. The ~~Such~~ beginning date
130 may be subsequent to the 12-month election period, but must be
131 within the maximum participation ~~60-month or, with respect to~~
132 ~~members who are instructional personnel employed by the Florida~~
133 ~~School for the Deaf and the Blind and who have received~~
134 ~~authorization by the Board of Trustees of the Florida School for~~
135 ~~the Deaf and the Blind to participate in the DROP beyond 60~~
136 ~~months, or who are instructional personnel as defined in s.~~
137 ~~1012.01(2)(a)-(d) in grades K-12 and who have received~~
138 ~~authorization by the district school superintendent to~~
139 ~~participate in the DROP beyond 60 months, the 96-month limitation~~
140 ~~period as provided in subparagraph (b)1. When establishing~~
141 ~~eligibility of the member to participate in the DROP for the 60-~~
142 ~~month or, with respect to members who are instructional personnel~~
143 ~~employed by the Florida School for the Deaf and the Blind and who~~
144 ~~have received authorization by the Board of Trustees of the~~
145 ~~Florida School for the Deaf and the Blind to participate in the~~

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146 ~~DROP beyond 60 months, or who are instructional personnel as~~
147 ~~defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have~~
148 ~~received authorization by the district school superintendent to~~
149 ~~participate in the DROP beyond 60 months, the 96-month maximum~~
150 ~~participation period,~~ the member may elect to include or exclude
151 any optional service credit purchased by the member from the
152 total service used to establish the normal retirement date. A
153 member who has ~~with~~ dual normal retirement dates is ~~shall be~~
154 eligible to elect to participate in DROP within 12 months after
155 attaining normal retirement date in either class.

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

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

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

170 a. A change of employment must take place without a break
171 in service so that the member receives salary for each month of
172 continuous DROP participation. If a member receives no salary
173 during a month, DROP participation shall cease unless the

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174 employer verifies a continuation of the employment relationship
175 for such participant pursuant to s. 121.021(39)(b).

176 b. Such participant and new employer shall notify the
177 division of the identity of the new employer on forms required by
178 the division ~~as to the identity of the new employer.~~

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

194 6. Effective July 1, 2001, for instructional personnel as
195 defined in s. 1012.01 ~~s. 1012.01(2)~~, election to participate in
196 ~~the~~ DROP may ~~shall~~ be made at any time following the date on
197 which the member first reaches normal retirement date. The member
198 shall advise his or her employer and the division in writing of
199 the date on which DROP ~~the Deferred Retirement Option Program~~
200 shall begin. When establishing eligibility of the member to
201 participate in ~~the~~ DROP for the 60-month or, ~~with respect to~~
202 ~~members who are instructional personnel employed by the Florida~~

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203 ~~School for the Deaf and the Blind and who have received~~
204 ~~authorization by the Board of Trustees of the Florida School for~~
205 ~~the Deaf and the Blind to participate in the DROP beyond 60~~
206 ~~months, or who are instructional personnel as defined in s.~~
207 ~~1012.01(2) (a) - (d) in grades K-12 and who have received~~
208 ~~authorization by the district school superintendent to~~
209 ~~participate in the DROP beyond 60 months,~~ the 96-month maximum
210 participation period, as provided in subparagraph (b)1., the
211 member may elect to include or exclude any optional service
212 credit purchased by the member from the total service used to
213 establish the normal retirement date. A member who has ~~with~~ dual
214 normal retirement dates is ~~shall be~~ eligible to elect to
215 participate in either class.

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

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

220 a. Eligible members who are instructional personnel
221 employed by the Florida School for the Deaf and the Blind and who
222 have received authorization by the Board of Trustees of the
223 Florida School for the Deaf and the Blind to participate in the
224 DROP beyond 60 months, or who are instructional personnel as
225 defined in s. 1012.01(2) (a) - (d) ~~in grades K-12~~ and who have
226 received authorization by the district school superintendent to
227 participate in ~~the~~ DROP beyond 60 calendar months, may elect to
228 participate for a period up to 96 calendar months immediately
229 following the date on which the member first reaches his or her
230 normal retirement date or the date ~~to which~~ he or she is eligible
231 to defer his or her election to participate as provided in

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232 subparagraph (a)2. However, ~~a member who has reached normal~~
233 ~~retirement date prior to the effective date of the DROP shall be~~
234 ~~eligible to participate in the DROP for a period of time not to~~
235 ~~exceed 60 calendar months or, with respect to members who are~~
236 ~~instructional personnel employed by the Florida School for the~~
237 ~~Deaf and the Blind and who have received authorization by the~~
238 ~~Board of Trustees of the Florida School for the Deaf and the~~
239 ~~Blind to participate in the DROP beyond 60 months, or who are~~
240 ~~instructional personnel as defined in s. 1012.01(2) (a)-(d) in~~
241 ~~grades K-12 and who have received authorization by the district~~
242 ~~school superintendent to participate in the DROP beyond 60~~
243 ~~calendar months, 96 calendar months immediately following the~~
244 ~~effective date of the DROP, except a member of the Special Risk~~
245 ~~Class who has reached normal retirement date prior to the~~
246 ~~effective date of the DROP and whose total accrued value exceeds~~
247 ~~75 percent of average final compensation as of his or her~~
248 ~~effective date of retirement shall be eligible to participate in~~
249 ~~the DROP for no more than 36 calendar months immediately~~
250 ~~following the effective date of the DROP.~~

251 b. Special Risk Class members who are employed as law
252 enforcement officers, correctional officers, or community-based
253 correctional probation officers, as described in s. 121.0515(2),
254 who have a rank or the equivalent rank of captain or below, and
255 who are currently participating in DROP for up to 60 months may
256 participate for an additional 36 calendar months. However, in
257 order to participate the member must, before beginning the
258 additional 36 months, receive authorization from the member's
259 employer to participate in DROP beyond 60 months, and pass the
260 same physical examination required for new officers under s.

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261 943.13(6) and provide an accompanying statement from the
262 officer's examining physician, physician assistant, or certified
263 advanced registered nurse practitioner that the officer is
264 capable of performing the essential functions of his or her
265 duties as a law enforcement officer, correctional officer, or
266 probation officer. The member's rank at the time of entering DROP
267 shall be used for determining eligibility for the additional 36
268 calendar months of DROP.

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

271 a. A written election to participate in ~~the~~ DROP;

272 b. Selection of the DROP participation and termination
273 dates, which satisfy the limitations stated in paragraph (a) and
274 subparagraph 1. The ~~Such~~ termination date must ~~shall~~ be in a
275 binding letter of resignation to ~~with~~ the employer, establishing
276 a deferred termination date. The member may change the
277 termination date within the limitations of subparagraph 1., but
278 only with the written approval of the ~~his or her~~ employer;

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

281 d. Any other information required by the division.

282 3. The DROP participant shall be a retiree under the
283 Florida Retirement System for all purposes, except for paragraph
284 (5) (f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and
285 121.122. However, participation in ~~the~~ DROP does not alter the
286 participant's employment status and the member is ~~such employee~~
287 ~~shall~~ not ~~be~~ deemed retired from employment until his or her
288 deferred resignation is effective and termination occurs as
289 provided in s. 121.021(39).

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

292 a. An elected officer who reaches normal retirement date
293 during a term of office may defer the election to participate in
294 ~~the~~ DROP until the next succeeding term in that office. An ~~Such~~
295 elected officer who exercises this option may participate in ~~the~~
296 DROP for up to 60 calendar months or for a period of no longer
297 than the ~~such~~ succeeding term of office, whichever is less.

298 b. An elected or a nonelected participant may run for a
299 term of office while participating in DROP and, if elected,
300 extend ~~the~~ DROP termination date accordingly, except that,
301 ~~however~~, if such additional term of office exceeds the 60-month
302 limitation established in subparagraph 1., and the officer does
303 not resign from office within such 60-month limitation, the
304 retirement and the participant's DROP shall be null and void as
305 provided in sub-subparagraph (c)5.d.

306 c. An elected officer who is dually employed and elects to
307 participate in DROP must ~~shall be required to~~ satisfy the
308 definition of termination within the maximum participation ~~60-~~
309 ~~month or, with respect to members who are instructional personnel~~
310 ~~employed by the Florida School for the Deaf and the Blind and who~~
311 ~~have received authorization by the Board of Trustees of the~~
312 ~~Florida School for the Deaf and the Blind to participate in the~~
313 ~~DROP beyond 60 months, or who are instructional personnel as~~
314 ~~defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have~~
315 ~~received authorization by the district school superintendent to~~
316 ~~participate in the DROP beyond 60 months, the 96-month limitation~~
317 ~~period as~~ provided in subparagraph 1. for the nonelected position
318 and may continue employment as an elected officer as provided in

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319 s. 121.053. The elected officer shall ~~will~~ be enrolled as a
 320 renewed member in the Elected Officers' Class or the Regular
 321 Class, as provided in ss. 121.053 and 121.122, on the first day
 322 of the month after termination of employment in the nonelected
 323 position and termination of DROP. Distribution of ~~the~~ DROP
 324 benefits shall be made as provided in paragraph (c).

325 Section 2. The Legislature finds and declares that ensuring
 326 the availability of experienced law enforcement, correctional,
 327 and probation officers to protect the safety and welfare of the
 328 public is an important state interest. Providing such officers
 329 who are members of the Florida Retirement System with an
 330 opportunity to extend their employment as law enforcement
 331 officers, correctional officers, or probation officers by
 332 increasing the maximum participation period in the Deferred
 333 Retirement Option Program will help serve that interest. Funding
 334 for such retirement benefits must be made, administered, and
 335 funded in an actuarially sound manner as required by s. 14, Art.
 336 X of the State Constitution and part VII of chapter 112, Florida
 337 Statutes.

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

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341 ADDITIONAL INTRODUCERS

342 Aronberg and Atwater