

By Senators Dean and Gaetz

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1 A bill to be entitled

2 An act relating to retirement; providing a short title;
3 providing legislative findings; providing a statement of
4 important state interest; amending s. 121.021, F.S.;
5 revising the definition of "special risk member" to
6 include certain members suffering a qualifying injury;
7 amending s. 121.0515, F.S.; providing eligibility
8 requirements for membership in the Special Risk Class for
9 certain members suffering a qualifying injury; providing
10 medical certification requirements; defining "qualifying
11 injury"; prohibiting the grant or creation of additional
12 rights; providing retroactive effect; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. This act may be cited as the "Adam Pierce Act."

18 Section 2. The Legislature finds that persons employed in
19 law enforcement, firefighting, and criminal detention positions
20 perform state and municipal functions; that it is their duty to
21 protect life and property at their own risk and peril; that it is
22 their duty to continuously instruct school personnel, public
23 officials, and private citizens about safety; and that their
24 activities are vital to public safety. Therefore, the Legislature
25 finds that it is a proper and legitimate state purpose to provide
26 a uniform retirement system for the benefit of persons employed
27 in law enforcement, firefighting, and criminal detention
28 positions and finds, in implementing the provisions of s. 14,
29 Art. X of the State Constitution as they relate to pension trust

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30 fund systems and plans, that such retirement systems or plans be
31 managed, administered, operated, and funded in such manner as to
32 maximize the protection of pension trust funds. Pursuant to s.
33 18, Art. VII of the State Constitution, the Legislature
34 determines and declares that the provisions of this act fulfill
35 an important state interest.

36 Section 3. Paragraph (f) is added to subsection (15) of
37 section 121.021, Florida Statutes, to read:

38 121.021 Definitions.--The following words and phrases as
39 used in this chapter have the respective meanings set forth
40 unless a different meaning is plainly required by the context:

41 (15)

42 (f) Effective August 1, 2007, "special risk member"
43 includes any member who meets the special criteria for continued
44 membership set forth in s. 121.0515(2)(i).

45 Section 4. Paragraphs (g) and (h) of subsection (2) of
46 section 121.0515, Florida Statutes, are amended, paragraph (i) is
47 added to that subsection, and paragraph (d) is added to
48 subsection (7) of that section, to read:

49 121.0515 Special risk membership.--

50 (2) CRITERIA.--A member, to be designated as a special risk
51 member, must meet the following criteria:

52 (g) The member must be employed as a youth custody officer
53 and be certified, or required to be certified, in compliance with
54 s. 943.1395. In addition, the member's primary duties and
55 responsibilities must be the supervised custody, surveillance,
56 control, investigation, apprehension, arrest, and counseling of
57 assigned juveniles within the community; ~~or~~

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58 (h) The member must be employed by a law enforcement agency
59 or medical examiner's office in a forensic discipline recognized
60 by the International Association for Identification and must
61 qualify for active membership in the International Association
62 for Identification. The member's primary duties and
63 responsibilities must include the collection, examination,
64 preservation, documentation, preparation, or analysis of physical
65 evidence or testimony, or both, or the member must be the direct
66 supervisor, quality management supervisor, or command officer of
67 one or more individuals with such responsibility. Administrative
68 support personnel, including, but not limited to, those whose
69 primary responsibilities are clerical or in accounting,
70 purchasing, legal, and personnel, shall not be included; ~~or~~

71 (i) The member must have already qualified for and be
72 actively participating in special risk membership under paragraph
73 (a), paragraph (b), or paragraph (c), must have suffered a
74 qualifying injury as defined in this paragraph, must not be
75 receiving disability retirement benefits as provided in s.
76 121.091(4), and must satisfy the requirements of this paragraph.

77 1. The ability to qualify for the class of membership
78 defined in s. 121.021(15)(f) shall occur when two licensed
79 medical physicians, one of whom is a primary treating physician
80 of the member, certify the existence of the physical injury and
81 medical condition that constitute a qualifying injury as defined
82 in this paragraph and that the member has reached maximum medical
83 improvement after August 1, 2007. The certifications from the
84 licensed medical physicians must include, at a minimum, that the
85 injury to the special risk member has resulted in a physical

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86 loss, or loss of use, of one or both arms, legs, hands, or feet,
87 and:

88 a. That this physical loss or loss of use is total and
89 permanent, except in the event of a physical injury to the
90 member's brain, in which event the loss of use is:

91 (I) Permanent and total with respect to at least one hand
92 or foot; or

93 (II) Permanent with at least 75 percent loss of motor
94 function with respect to at least one arm or leg.

95 b. That this physical loss or loss of use renders the
96 member physically unable to perform the essential job functions
97 of his or her special risk position.

98 c. That, notwithstanding this physical loss or loss of use,
99 the individual is able to perform the essential job functions
100 required by the member's new position, as provided in
101 subparagraph 3.

102 d. That use of artificial limbs is either not possible or
103 does not alter the member's ability to perform the essential job
104 functions of the member's position.

105 e. That the physical loss or loss of use of one or both
106 arms, legs, hands, or feet is a direct result of a physical
107 injury and not a result of any mental, psychological, or
108 emotional injury.

109 2. For the purposes of this paragraph, "qualifying injury"
110 means an injury sustained in the line of duty, as certified by
111 the member's employing agency, by a special risk member that does
112 not result in total and permanent disability as defined in s.
113 121.091(4)(b). An injury is a qualifying injury when the injury
114 is a physical injury to the member's physical body resulting in a

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115 physical loss, or loss of use, of one or both arms, legs, hands,
116 or feet. Notwithstanding anything in this section to the
117 contrary, an injury that would otherwise qualify as a qualifying
118 injury shall not be considered a qualifying injury if and when
119 the member ceases employment with the employer for whom he or she
120 was providing special risk services on the date the injury
121 occurred.

122 3. The new position, as described in sub-subparagraph 1.c.,
123 which is required for qualification as a special risk member
124 under this paragraph is not required to be a position whose
125 essential job functions entitle an individual to special risk
126 membership. Whether a new position as described in sub-
127 subparagraph 1.c. exists and is available to the special risk
128 member is a decision to be made solely by the employer in
129 accordance with its hiring practices and applicable law.

130 4. This paragraph does not grant or create additional
131 rights for any individual to continued employment, to be hired,
132 or to be rehired by his or her employer which are not already
133 provided within the Florida Statutes, the State Constitution, the
134 Americans with Disabilities Act, if applicable, or any other
135 applicable state or federal law.

136 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.--

137 (d) Notwithstanding any provision in this subsection to the
138 contrary, this subsection does not apply to any special risk
139 member who qualifies for continued membership pursuant to the
140 provisions of paragraph (2) (i).

141 Section 5. This act shall take effect October 1, 2008.