

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:

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
 22 is 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
 25 Legislature finds that it is a proper and legitimate state
 26 purpose to provide a uniform retirement system for the benefit
 27 of persons employed in law enforcement, firefighting, and
 28 criminal detention positions and finds, in implementing the

29 provisions of s. 14, Art. X of the State Constitution as they
 30 relate to pension trust fund systems and plans, that such
 31 retirement systems or plans be managed, administered, operated,
 32 and funded in such manner as to maximize the protection of
 33 pension trust funds. Pursuant to s. 18, Art. VII of the State
 34 Constitution, the Legislature determines and declares that the
 35 provisions of this act fulfill 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, 2008, "special risk member"
 43 includes any member who meets the special criteria for continued
 44 membership set forth in s. 121.0515(2) (k).

45 Section 4. Paragraphs (g) through (j) of subsection (2) of
 46 section 121.0515, Florida Statutes, are amended, paragraph (k)
 47 is 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
 51 risk 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
 54 with 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~~

58 (h) Effective October 1, 2005, through June 30, 2008, the
 59 member must be employed by a law enforcement agency or medical
 60 examiner's office in a forensic discipline recognized by the
 61 International Association for Identification and must qualify
 62 for active membership in the International Association for
 63 Identification. The member's primary duties and responsibilities
 64 must include the collection, examination, preservation,
 65 documentation, preparation, or analysis of physical evidence or
 66 testimony, or both, or the member must be the direct supervisor,
 67 quality management supervisor, or command officer of one or more
 68 individuals with such responsibility. Administrative support
 69 personnel, including, but not limited to, those whose primary
 70 responsibilities are clerical or in accounting, purchasing,
 71 legal, and personnel, shall not be included;:-

72 (i) Effective July 1, 2008, the member must be employed by
 73 the Department of Law Enforcement in the crime laboratory or by
 74 the Division of State Fire Marshal in the forensic laboratory in
 75 one of the following classes:

- 76 1. Forensic technologist (class code 8459);
- 77 2. Crime laboratory technician (class code 8461);
- 78 3. Crime laboratory analyst (class code 8463);
- 79 4. Senior crime laboratory analyst (class code 8464);
- 80 5. Crime laboratory analyst supervisor (class code 8466);
- 81 6. Forensic chief (class code 9602); or
- 82 7. Forensic services quality manager (class code 9603);:-

83 (j) Effective July 1, 2008, the member must be employed by

HB 1027

2009

84 a local government law enforcement agency or medical examiner's
85 office and must spend at least 65 percent of his or her time
86 performing duties that involve the collection, examination,
87 preservation, documentation, preparation, or analysis of human
88 tissues or fluids or physical evidence having potential
89 biological, chemical, or radiological hazard or contamination,
90 or use chemicals, processes, or materials that may have
91 carcinogenic or health-damaging properties in the analysis of
92 such evidence, or the member must be the direct supervisor of
93 one or more individuals having such responsibility. If a special
94 risk member changes to another position within the same agency,
95 he or she must submit a complete application as provided in
96 paragraph (3) (a); ~~or-~~

97 (k) The member must have already qualified for and be
98 actively participating in special risk membership under
99 paragraph (a), paragraph (b), or paragraph (c), must have
100 suffered a qualifying injury as defined in this paragraph, must
101 not be receiving disability retirement benefits as provided in
102 s. 121.091(4), and must satisfy the requirements of this
103 paragraph.

104 1. The ability to qualify for the class of membership
105 defined in s. 121.021(15)(f) shall occur when two licensed
106 medical physicians, one of whom is a primary treating physician
107 of the member, certify the existence of the physical injury and
108 medical condition that constitute a qualifying injury as defined
109 in this paragraph and that the member has reached maximum
110 medical improvement after August 1, 2008. The certifications
111 from the licensed medical physicians must include, at a minimum,

HB 1027

2009

112 that the injury to the special risk member has resulted in a
113 physical loss, or loss of use, of one or both arms, legs, hands,
114 or feet, and:

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

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

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

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

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

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

132 e. That the physical loss or loss of use of one or both
133 arms, legs, hands, or feet is a direct result of a physical
134 injury and not a result of any mental, psychological, or
135 emotional injury.

136 2. For the purposes of this paragraph, "qualifying injury"
137 means an injury sustained in the line of duty, as certified by
138 the member's employing agency, by a special risk member that
139 does not result in total and permanent disability as defined in

HB 1027

2009

140 s. 121.091(4)(b). An injury is a qualifying injury when the
141 injury is a physical injury to the member's physical body
142 resulting in a physical loss, or loss of use, of one or both
143 arms, legs, hands, or feet. Notwithstanding anything in this
144 section to the contrary, an injury that would otherwise qualify
145 as a qualifying injury shall not be considered a qualifying
146 injury if and when the member ceases employment with the
147 employer for whom he or she was providing special risk services
148 on the date the injury occurred.

149 3. The new position, as described in sub-subparagraph
150 1.c., that is required for qualification as a special risk
151 member under this paragraph is not required to be a position
152 whose essential job functions entitle an individual to special
153 risk membership. Whether a new position as described in sub-
154 subparagraph 1.c. exists and is available to the special risk
155 member is a decision to be made solely by the employer in
156 accordance with its hiring practices and applicable law.

157 4. This paragraph does not grant or create additional
158 rights for any individual to continued employment, to be hired,
159 or to be rehired by his or her employer that are not already
160 provided within the Florida Statutes, the State Constitution,
161 the Americans with Disabilities Act, if applicable, or any other
162 applicable state or federal law.

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

164 (d) Notwithstanding any provision of this subsection to
165 the contrary, this subsection does not apply to any special risk
166 member who qualifies for continued membership pursuant to the
167 provisions of paragraph (2)(k).

HB 1027

2009

168

Section 5. This act shall take effect October 1, 2009.