

By Senator Baker

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1 A bill to be entitled
2 An act relating to Special Risk Class retirement
3 benefits; amending s. 121.091, F.S.; prohibiting
4 certain members of the Special Risk Class from being
5 reemployed or contracting with the same employing
6 agency from which the member retired; extending the
7 period of time during which certain Special Risk Class
8 members may participate in the Florida Retirement
9 System Deferred Retirement Option program; deleting
10 obsolete provisions; providing legislative findings
11 with respect to the state's interest in protecting the
12 public's safety and welfare by extending retirement
13 benefits for officers and funding increased retirement
14 benefits in an actuarially sound manner; providing an
15 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

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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), NOW, THEREFORE,

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Paragraph (d) is added to subsection (9) of
42 section 121.091, Florida Statutes, and paragraphs (a) and (b) of
43 subsection (13) of that section are amended, to read:

44 121.091 Benefits payable under the system.—Benefits may not
45 be paid under this section unless the member has terminated
46 employment as provided in s. 121.021(39) (a) or begun
47 participation in the Deferred Retirement Option Program as
48 provided in subsection (13), and a proper application has been
49 filed in the manner prescribed by the department. The department
50 may cancel an application for retirement benefits when the
51 member or beneficiary fails to timely provide the information
52 and documents required by this chapter and the department's
53 rules. The department shall adopt rules establishing procedures
54 for application for retirement benefits and for the cancellation
55 of such application when the required information or documents
56 are not received.

57 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

58 (d) Notwithstanding any other provision in this section, a

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59 member of the Special Risk Class who is employed as a law
60 enforcement officer, correctional officer, or community-based
61 correctional probation officer, as described in s. 121.0515(2),
62 at the conclusion of his or her participation in DROP, may not
63 be employed, reemployed, or retained in a contractual capacity
64 by the same employing agency from which the member retired;
65 however, the member may be retained by the employing agency as a
66 part-time or auxiliary law enforcement officer, as those terms
67 are defined in s. 943.10, if the member is serving on a
68 voluntary basis and receives no more than \$1 per calendar year
69 for services rendered directly for the employing agency. A
70 member who is reemployed or retained in a contractual capacity
71 in violation of this paragraph voids his or her application for
72 retirement benefits. Any person who violates this paragraph and
73 any employing agency that knowingly employs or contracts with
74 such person in violation of this paragraph is jointly and
75 severally liable for reimbursement to the Florida Retirement
76 System Trust Fund for any retirement benefits improperly paid
77 during the reemployment or contractual period. This provision
78 does not otherwise limit the employment or contractual
79 opportunities for a retiree at any other employing agency. This
80 paragraph does not apply to a retiree who is elected to an
81 office or appointed to an office by the Governor or by the
82 Governor and Cabinet.

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
90 benefits 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
94 the 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
99 be 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
106 within the Florida Retirement System under s. 121.011, are
107 eligible to 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 age 57, or age 52 for Special Risk Class members. ~~For a member~~
122 ~~who first reached normal retirement date or the deferred~~
123 ~~eligibility date described above prior to the effective date of~~
124 ~~this section, election to participate shall be made within 12~~
125 ~~months after the effective date of this section.~~ A member who
126 fails to make an election within the such 12-month limitation
127 period forfeits ~~shall forfeit~~ all rights to participate in the
128 DROP. The member shall advise his or her employer and the
129 division in writing of the date ~~on which the~~ DROP begins ~~shall~~
130 ~~begin.~~ The Such beginning date may be subsequent to the 12-month
131 election period, but must be within the maximum participation
132 ~~60-month or, with respect to members who are instructional~~
133 ~~personnel employed by the Florida School for the Deaf and the~~
134 ~~Blind and who have received authorization by the Board of~~
135 ~~Trustees of the Florida School for the Deaf and the Blind to~~
136 ~~participate in the DROP beyond 60 months, or who are~~
137 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~
138 ~~grades K-12 and who have received authorization by the district~~
139 ~~school superintendent to participate in the DROP beyond 60~~
140 ~~months, the 96-month limitation period as provided in~~
141 subparagraph (b)1. When establishing eligibility of the member
142 to participate in the DROP ~~for the 60-month or, with respect to~~
143 ~~members who are instructional personnel employed by the Florida~~
144 ~~School for the Deaf and the Blind and who have received~~
145 ~~authorization by the Board of Trustees of the Florida School for~~

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

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

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

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

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

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

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

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

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

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

218 (b) *Participation in ~~the~~ DROP.-*

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

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

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

254 b. Special Risk Class members who are employed as law
255 enforcement officers, correctional officers, or community-based
256 correctional probation officers, as described in s. 121.0515(2),
257 and who are currently participating in DROP for up to 60 months
258 may participate for an additional 36 calendar months.

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

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

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262 b. Selection of ~~the~~ DROP participation and termination
263 dates, which satisfy the limitations stated in paragraph (a) and
264 subparagraph 1. The ~~Such~~ termination date must ~~shall~~ be
265 specified in a binding letter of resignation to ~~with~~ the
266 employer, establishing a deferred termination date. The member
267 may change the termination date within the limitations of
268 subparagraph 1., but only with the written approval of the ~~his~~
269 ~~or her~~ employer;

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

272 d. Any other information required by the division.

273 3. The DROP participant shall be a retiree under the
274 Florida Retirement System for all purposes, except for paragraph
275 (5) (f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
276 and 121.122. However, participation in ~~the~~ DROP does not alter
277 the participant's employment status and the member is ~~such~~
278 ~~employee shall~~ not be deemed retired from employment until his
279 or her deferred resignation is effective and termination occurs
280 as provided in s. 121.021(39).

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

283 a. An elected officer who reaches normal retirement date
284 during a term of office may defer ~~the~~ election to participate in
285 ~~the~~ DROP until the next succeeding term in that office. An ~~Such~~
286 elected officer who exercises this option may participate in ~~the~~
287 DROP for up to 60 calendar months or for a period ~~of~~ no longer
288 than the ~~such~~ succeeding term of office, whichever is less.

289 b. An elected or a nonelected participant may run for a
290 term of office while participating in DROP and, if elected,

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

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

317 Section 2. The Legislature finds and declares that ensuring
318 the availability of experienced law enforcement, correctional,
319 and probation officers to protect the safety and welfare of the

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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,
328 Article X of the State Constitution and part VII of chapter 112,
329 Florida Statutes.

330 Section 3. This act shall take effect July 1, 2009.