

By the Committee on Criminal Justice; and 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.; providing that  
4           certain members of the Special Risk Class may  
5           participate in the Deferred Retirement Option Program  
6           for an additional 36 months; prohibiting such members  
7           from being reemployed or contracting with the same  
8           employing agency from which the member retired;  
9           providing exceptions; deleting obsolete provisions;  
10          providing legislative findings with respect to the  
11          state's interest in protecting the public's safety and  
12          welfare by extending retirement benefits for officers  
13          and funding increased retirement benefits in an  
14          actuarially sound manner; providing an effective date.

15  
16          WHEREAS, one of the most fundamental mechanisms for  
17          ensuring the safety and welfare of the public is through the  
18          state's law enforcement agencies and correctional institutions,  
19          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  
28          criminal 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  
33 an 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  
36 the Deferred Retirement Option Program (DROP), NOW, THEREFORE,

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Paragraphs (a) and (b) of subsection (13) of  
41 section 121.091, Florida Statutes, are amended to read:

42 121.091 Benefits payable under the system.—Benefits may not  
43 be paid under this section unless the member has terminated  
44 employment as provided in s. 121.021(39) (a) or begun  
45 participation in the Deferred Retirement Option Program as  
46 provided in subsection (13), and a proper application has been  
47 filed in the manner prescribed by the department. The department  
48 may cancel an application for retirement benefits when the  
49 member or beneficiary fails to timely provide the information  
50 and documents required by this chapter and the department's  
51 rules. The department shall adopt rules establishing procedures  
52 for application for retirement benefits and for the cancellation  
53 of such application when the required information or documents  
54 are not received.

55 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
56 subject to the provisions of this section, the Deferred  
57 Retirement Option Program, hereinafter referred to as the DROP,  
58 is a program under which an eligible member of the Florida

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59 Retirement System may elect to participate, deferring receipt of  
60 retirement benefits while continuing employment with his or her  
61 Florida Retirement System employer. The deferred monthly  
62 benefits shall accrue in the System Trust Fund on behalf of the  
63 participant, plus interest compounded monthly, for the specified  
64 period of the DROP participation, as provided in paragraph (c).  
65 Upon termination of employment, the participant shall receive  
66 the total DROP benefits and begin to receive the previously  
67 determined normal retirement benefits. Participation in the DROP  
68 does not guarantee employment for the specified period of DROP.  
69 Participation in the DROP by an eligible member beyond the  
70 initial 60-month period as authorized in this subsection shall  
71 be on an annual contractual basis for all participants.

72 (a) *Eligibility of member to participate in ~~the~~ DROP.*—All  
73 active Florida Retirement System members in a regularly  
74 established position, and all active members of ~~either~~ the  
75 Teachers' Retirement System established in chapter 238 or the  
76 State and County Officers' and Employees' Retirement System  
77 established in chapter 122, which systems are consolidated  
78 within the Florida Retirement System under s. 121.011, are  
79 eligible to elect participation in ~~the~~ DROP if provided that:

80 1. The member is not a renewed member ~~of the Florida~~  
81 ~~Retirement System~~ under s. 121.122, or a member of the State  
82 Community College System Optional Retirement Program under s.  
83 121.051, the Senior Management Service Optional Annuity Program  
84 under s. 121.055, or the optional retirement program for the  
85 State University System under s. 121.35.

86 2. Except as provided in subparagraph 6., election to  
87 participate is made within 12 months immediately following the

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88 date on which the member first reaches normal retirement date,  
89 or, for a member who reaches normal retirement date ~~based on~~  
90 ~~service~~ before he or she reaches age 62, or age 55 for Special  
91 Risk Class members, election to participate may be deferred to  
92 the 12 months immediately following the date the member attains  
93 age 57, or age 52 for Special Risk Class members. ~~For a member~~  
94 ~~who first reached normal retirement date or the deferred~~  
95 ~~eligibility date described above prior to the effective date of~~  
96 ~~this section, election to participate shall be made within 12~~  
97 ~~months after the effective date of this section.~~ A member who  
98 fails to make an election within the ~~such~~ 12-month limitation  
99 period forfeits ~~shall forfeit~~ all rights to participate in the  
100 DROP. The member shall advise his or her employer and the  
101 division in writing of the date ~~on which the DROP begins~~ shall  
102 begin. ~~The~~ Such beginning date may be subsequent to the 12-month  
103 election period, but must be within the maximum participation  
104 ~~60-month or, with respect to members who are instructional~~  
105 ~~personnel employed by the Florida School for the Deaf and the~~  
106 ~~Blind and who have received authorization by the Board of~~  
107 ~~Trustees of the Florida School for the Deaf and the Blind to~~  
108 ~~participate in the DROP beyond 60 months, or who are~~  
109 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~  
110 ~~grades K-12 and who have received authorization by the district~~  
111 ~~school superintendent to participate in the DROP beyond 60~~  
112 ~~months, the 96-month limitation period as provided in~~  
113 subparagraph (b)1. When establishing eligibility of the member  
114 to participate in the DROP ~~for the 60-month or, with respect to~~  
115 ~~members who are instructional personnel employed by the Florida~~  
116 ~~School for the Deaf and the Blind and who have received~~

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117 ~~authorization by the Board of Trustees of the Florida School for~~  
118 ~~the Deaf and the Blind to participate in the DROP beyond 60~~  
119 ~~months, or who are instructional personnel as defined in s.~~  
120 ~~1012.01(2)(a)-(d) in grades K-12 and who have received~~  
121 ~~authorization by the district school superintendent to~~  
122 ~~participate in the DROP beyond 60 months, the 96-month maximum~~  
123 ~~participation period,~~ the member may elect to include or exclude  
124 any optional service credit purchased by the member from the  
125 total service used to establish the normal retirement date. A  
126 member who has ~~with~~ dual normal retirement dates is ~~shall be~~  
127 eligible to elect to participate in DROP within 12 months after  
128 attaining normal retirement date in either class.

129 3. The employer of a member electing to participate in ~~the~~  
130 DROP, or employers if dually employed, shall acknowledge in  
131 writing to the division the date the member's participation in  
132 ~~the~~ DROP begins and the date the member's employment and DROP  
133 participation will terminate.

134 4. Simultaneous employment of a participant by additional  
135 Florida Retirement System employers subsequent to the  
136 commencement of participation in ~~the~~ DROP is ~~shall be~~  
137 permissible if ~~provided~~ such employers acknowledge in writing a  
138 DROP termination date no later than the participant's existing  
139 termination date or the maximum participation ~~60-month~~  
140 ~~limitation~~ period as provided in subparagraph (b)1.

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

143 a. A change of employment must take place without a break  
144 in service so that the member receives salary for each month of  
145 continuous DROP participation. If a member receives no salary

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146 during a month, DROP participation shall cease unless the  
147 employer verifies a continuation of the employment relationship  
148 for such participant pursuant to s. 121.021(39)(b).

149 b. Such participant and new employer shall notify the  
150 division of the identity of the new employer on forms required  
151 by the division ~~as to the identity of the new employer.~~

152 c. The new employer shall acknowledge, in writing, the  
153 participant's DROP termination date, which may be extended, but  
154 not beyond the original 60-month participation ~~or, with respect~~  
155 ~~to members who are instructional personnel employed by the~~  
156 ~~Florida School for the Deaf and the Blind and who have received~~  
157 ~~authorization by the Board of Trustees of the Florida School for~~  
158 ~~the Deaf and the Blind to participate in the DROP beyond 60~~  
159 ~~months, or who are instructional personnel as defined in s.~~  
160 ~~1012.01(2)(a)-(d) in grades K-12 and who have received~~  
161 ~~authorization by the district school superintendent to~~  
162 ~~participate in the DROP beyond 60 months, the 96-month period~~  
163 provided in subparagraph (b)1., shall acknowledge liability for  
164 any additional retirement contributions and interest required if  
165 the participant fails to timely terminate employment, and is  
166 ~~shall be~~ subject to the adjustment required in sub-subparagraph  
167 (c)5.d.

168 6. Effective July 1, 2001, for instructional personnel as  
169 defined in s. 1012.01(2), election to participate in ~~the~~ DROP  
170 may ~~shall~~ be made at any time following the date on which the  
171 member first reaches normal retirement date. The member shall  
172 advise his or her employer and the division in writing of the  
173 date on which DROP begins ~~the Deferred Retirement Option Program~~  
174 ~~shall begin~~. When establishing eligibility of the member to

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175 participate in ~~the~~ DROP for the 60-month ~~or, with respect to~~  
176 ~~members who are instructional personnel employed by the Florida~~  
177 ~~School for the Deaf and the Blind and who have received~~  
178 ~~authorization by the Board of Trustees of the Florida School for~~  
179 ~~the Deaf and the Blind to participate in the DROP beyond 60~~  
180 ~~months, or who are instructional personnel as defined in s.~~  
181 ~~1012.01(2) (a)-(d) in grades K-12 and who have received~~  
182 ~~authorization by the district school superintendent to~~  
183 ~~participate in the DROP beyond 60 months, the 96-month maximum~~  
184 participation period, ~~as~~ provided in subparagraph (b)1., the  
185 member may elect to include or exclude any optional service  
186 credit purchased by the member from the total service used to  
187 establish the normal retirement date. A member who has ~~with~~ dual  
188 normal retirement dates is ~~shall be~~ eligible to elect to  
189 participate in either class.

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

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

194 a. Eligible members who are instructional personnel  
195 employed by the Florida School for the Deaf and the Blind and  
196 authorized ~~who have received authorization~~ by the Board of  
197 Trustees of the Florida School for the Deaf and the Blind to  
198 participate in ~~the~~ DROP beyond 60 months, or who are  
199 instructional personnel as defined in s. 1012.01(2) (a)-(d) in  
200 grades K-12 and authorized ~~who have received authorization~~ by  
201 the district school superintendent to participate in ~~the~~ DROP  
202 beyond 60 calendar months, may elect to participate for a period  
203 up to 96 calendar months immediately following the date on which

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204 the member first reaches his or her normal retirement date or  
205 the date ~~to which~~ he or she is eligible to defer his or her  
206 election to participate as provided in subparagraph (a)2.  
207 ~~However, a member who has reached normal retirement date prior~~  
208 ~~to the effective date of the DROP shall be eligible to~~  
209 ~~participate in the DROP for a period of time not to exceed 60~~  
210 ~~calendar months or, with respect to members who are~~  
211 ~~instructional personnel employed by the Florida School for the~~  
212 ~~Deaf and the Blind and who have received authorization by the~~  
213 ~~Board of Trustees of the Florida School for the Deaf and the~~  
214 ~~Blind to participate in the DROP beyond 60 months, or who are~~  
215 ~~instructional personnel as defined in s. 1012.01(2) (a)-(d) in~~  
216 ~~grades K-12 and who have received authorization by the district~~  
217 ~~school superintendent to participate in the DROP beyond 60~~  
218 ~~calendar months, 96 calendar months immediately following the~~  
219 ~~effective date of the DROP, except a member of the Special Risk~~  
220 ~~Class who has reached normal retirement date prior to the~~  
221 ~~effective date of the DROP and whose total accrued value exceeds~~  
222 ~~75 percent of average final compensation as of his or her~~  
223 ~~effective date of retirement shall be eligible to participate in~~  
224 ~~the DROP for no more than 36 calendar months immediately~~  
225 ~~following the effective date of the DROP.~~

226 b. Special Risk Class members who are employed as law  
227 enforcement officers, correctional officers, or community-based  
228 correctional probation officers, as described in s. 121.0515(2),  
229 and who are currently participating in DROP for up to 60 months  
230 may participate for an additional 36 calendar months. However,  
231 notwithstanding subparagraph (9) (b)1., any such member who  
232 participates for any or all of the additional 36 months may not



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233 be reemployed or retained in a contractual capacity with the  
234 same employing agency following the member's termination from  
235 that employer in accordance with s. 121.021(39). This provision  
236 does not otherwise limit the retired member from being employed  
237 or contracting with any other employing agency participating in  
238 the Florida Retirement System.

239 (I) A retired member who is reemployed or retained in a  
240 contractual capacity in violation of this sub-subparagraph voids  
241 his or her application for retirement benefits. Any person who  
242 violates this sub-subparagraph and any employing agency that  
243 knowingly reemploys or contracts with such person in violation  
244 of this sub-subparagraph is jointly and severally liable for  
245 reimbursement to the Florida Retirement System Trust Fund for  
246 any retirement benefits improperly paid during the reemployment  
247 or contractual period.

248 (II) The provisions of this sub-subparagraph do not apply  
249 to a retired member who is employed as a part-time or auxiliary  
250 law enforcement or correctional probation officer, as those  
251 terms are defined in s. 943.10, on a voluntary basis and who  
252 receives no more than \$1 per calendar year for services rendered  
253 directly for the employing agency, or to a retired member who is  
254 elected to an office or appointed to an office by the Governor  
255 or by the Governor and Cabinet.

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

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

259 b. Selection of ~~the~~ DROP participation and termination  
260 dates, which satisfy the limitations stated in paragraph (a) and  
261 subparagraph 1. The ~~Such~~ termination date must ~~shall~~ be

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262 specified in a binding letter of resignation ~~to~~ with the  
263 employer, establishing a deferred termination date. The member  
264 may change the termination date within the limitations of  
265 subparagraph 1., but only with the written approval of the ~~his~~  
266 ~~or her~~ employer;

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

269 d. Any other information required by the division.

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

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

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

286 b. An elected or a nonelected participant may run for a  
287 term of office while participating in DROP and, if elected,  
288 extend the DROP termination date accordingly, except that,  
289 ~~however,~~ if such additional term of office exceeds the 60-month  
290 limitation established in subparagraph 1., and the officer does

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291 not resign from office within the ~~such~~ 60-month limitation, the  
292 retirement and the participant's DROP is ~~shall be~~ null and void  
293 as provided in sub-subparagraph (c)5.d.

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

314 Section 2. The Legislature finds and declares that ensuring  
315 the availability of experienced law enforcement, correctional,  
316 and probation officers to protect the safety and welfare of the  
317 public is an important state interest. Providing such officers  
318 who are members of the Florida Retirement System with an  
319 opportunity to extend their employment as law enforcement

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320 officers, correctional officers, or probation officers by  
321 increasing the maximum participation period in the Deferred  
322 Retirement Option Program will help serve that interest. Funding  
323 for such retirement benefits must be made, administered, and  
324 funded in an actuarially sound manner as required by s. 14,  
325 Article X of the State Constitution and part VII of chapter 112,  
326 Florida Statutes.

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