

By Senator Altman

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

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16 Be It Enacted by the Legislature of the State of Florida:

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

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

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30 provisions of s. 14, Art. X of the State Constitution as they
31 relate to pension trust fund systems and plans, that such
32 retirement systems or plans be managed, administered, operated,
33 and funded in such manner as to maximize the protection of
34 pension trust funds. Pursuant to s. 18, Art. VII of the State
35 Constitution, the Legislature determines and declares that the
36 provisions of this act fulfill an important state interest.

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

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

42 (15)

43 (f) Effective August 1, 2008, "special risk member"
44 includes any member who meets the special criteria for continued
45 membership set forth in s. 121.0515(2)(k).

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

50 121.0515 Special risk membership.—

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

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

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

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

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

84 (j) Effective July 1, 2008, the member must be employed by
85 a local government law enforcement agency or medical examiner's
86 office and must spend at least 65 percent of his or her time
87 performing duties that involve the collection, examination,

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88 preservation, documentation, preparation, or analysis of human
89 tissues or fluids or physical evidence having potential
90 biological, chemical, or radiological hazard or contamination,
91 or use chemicals, processes, or materials that may have
92 carcinogenic or health-damaging properties in the analysis of
93 such evidence, or the member must be the direct supervisor of
94 one or more individuals having such responsibility. If a special
95 risk member changes to another position within the same agency,
96 he or she must submit a complete application as provided in
97 paragraph (3) (a); ~~or~~.

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

105 1. The ability to qualify for the class of membership
106 defined in s. 121.021(15) (f) shall occur when two licensed
107 medical physicians, one of whom is a primary treating physician
108 of the member, certify the existence of the physical injury and
109 medical condition that constitute a qualifying injury as defined
110 in this paragraph and that the member has reached maximum
111 medical improvement after August 1, 2008. The certifications
112 from the licensed medical physicians must include, at a minimum,
113 that the injury to the special risk member has resulted in a
114 physical loss, or loss of use, of one or both arms, legs, hands,
115 or feet, and:

116 a. That this physical loss or loss of use is total and

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117 permanent, except in the event of a physical injury to the
118 member's brain, in which event the loss of use is:

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

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

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

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

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

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

137 2. For the purposes of this paragraph, "qualifying injury"
138 means an injury sustained in the line of duty, as certified by
139 the member's employing agency, by a special risk member that
140 does not result in total and permanent disability as defined in
141 s. 121.091(4)(b). An injury is a qualifying injury when the
142 injury is a physical injury to the member's physical body
143 resulting in a physical loss, or loss of use, of one or both
144 arms, legs, hands, or feet. Notwithstanding anything in this
145 section to the contrary, an injury that would otherwise qualify

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146 as a qualifying injury shall not be considered a qualifying
147 injury if and when the member ceases employment with the
148 employer for whom he or she was providing special risk services
149 on the date the injury occurred.

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

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

164 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.—

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

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