

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

30 | WHEREAS, because such work is physically demanding and
 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) if such officers
 38 | can demonstrate that they retain the necessary physical and
 39 | mental capacity to continue to competently perform their job
 40 | duties, NOW, THEREFORE,

41 |

42 | Be It Enacted by the Legislature of the State of Florida:

43 |

44 | Section 1. Paragraph (d) is added to subsection (9) of
 45 | section 121.091, Florida Statutes, and paragraphs (a) and (b) of
 46 | subsection (13) of that section are amended, to read:

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

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57 | for application for retirement benefits and for the cancellation
58 | of such application when the required information or documents
59 | are not received.

60 | (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

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

85 Governor or by the Governor and Cabinet.

86 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
 87 subject to the provisions of this section, the Deferred
 88 Retirement Option Program, hereinafter referred to as the DROP,
 89 is a program under which an eligible member of the Florida
 90 Retirement System may elect to participate, deferring receipt of
 91 retirement benefits while continuing employment with his or her
 92 Florida Retirement System employer. The deferred monthly
 93 benefits shall accrue in the System Trust Fund on behalf of the
 94 participant, plus interest compounded monthly, for the specified
 95 period of the DROP participation, as provided in paragraph (c).
 96 Upon termination of employment, the participant shall receive
 97 the total DROP benefits and begin to receive the previously
 98 determined normal retirement benefits. Participation in the DROP
 99 does not guarantee employment for the specified period of DROP.
 100 Participation in the DROP by an eligible member beyond the
 101 initial 60-month period as authorized in this subsection shall
 102 be on an annual contractual basis for all participants.

103 (a) Eligibility of member to participate in ~~the~~ DROP.--All
 104 active Florida Retirement System members in a regularly
 105 established position, and all active members of ~~either~~ the
 106 Teachers' Retirement System established in chapter 238 or the
 107 State and County Officers' and Employees' Retirement System
 108 established in chapter 122, which systems are consolidated
 109 within the Florida Retirement System under s. 121.011, are
 110 eligible to elect participation in ~~the~~ DROP if provided that:

- 111 1. The member is not a renewed member ~~of the Florida~~
 112 ~~Retirement System~~ under s. 121.122, or a member of the State

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113 Community College System Optional Retirement Program under s.
114 121.051, the Senior Management Service Optional Annuity Program
115 under s. 121.055, or the optional retirement program for the
116 State University System under s. 121.35.

117 2. Except as provided in subparagraph 6., election to
118 participate is made within 12 months immediately following the
119 date on which the member first reaches normal retirement date,
120 or, for a member who reaches normal retirement date ~~based on~~
121 ~~service~~ before he or she reaches age 62, or age 55 for Special
122 Risk Class members, election to participate may be deferred to
123 the 12 months immediately following the date the member attains
124 57, or age 52 for Special Risk Class members. ~~For a member who~~
125 ~~first reached normal retirement date or the deferred eligibility~~
126 ~~date described above prior to the effective date of this~~
127 ~~section, election to participate shall be made within 12 months~~
128 ~~after the effective date of this section.~~ A member who fails to
129 make an election within the ~~such~~ 12-month limitation period
130 forfeits ~~shall forfeit~~ all rights to participate in ~~the~~ DROP.
131 The member shall advise his or her employer and the division in
132 writing of the date on which ~~the~~ DROP shall begin. The ~~Such~~
133 beginning date may be subsequent to the 12-month election
134 period, but must be within the maximum participation ~~60-month~~
135 ~~or, with respect to members who are instructional personnel~~
136 ~~employed by the Florida School for the Deaf and the Blind and~~
137 ~~who have received authorization by the Board of Trustees of the~~
138 ~~Florida School for the Deaf and the Blind to participate in the~~
139 ~~DROP beyond 60 months, or who are instructional personnel as~~
140 ~~defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have~~

141 ~~received authorization by the district school superintendent to~~
 142 ~~participate in the DROP beyond 60 months, the 96-month~~
 143 ~~limitation period as provided in subparagraph (b)1. When~~
 144 ~~establishing eligibility of the member to participate in the~~
 145 ~~DROP for the 60-month or, with respect to members who are~~
 146 ~~instructional personnel employed by the Florida School for the~~
 147 ~~Deaf and the Blind and who have received authorization by the~~
 148 ~~Board of Trustees of the Florida School for the Deaf and the~~
 149 ~~Blind to participate in the DROP beyond 60 months, or who are~~
 150 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~
 151 ~~grades K-12 and who have received authorization by the district~~
 152 ~~school superintendent to participate in the DROP beyond 60~~
 153 ~~months, the 96-month maximum participation period, the member~~
 154 may elect to include or exclude any optional service credit
 155 purchased by the member from the total service used to establish
 156 the normal retirement date. A member who has ~~with~~ dual normal
 157 retirement dates is ~~shall be~~ eligible to elect to participate in
 158 DROP within 12 months after attaining normal retirement date in
 159 either class.

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

165 4. Simultaneous employment of a participant by additional
 166 Florida Retirement System employers subsequent to the
 167 commencement of participation in ~~the~~ DROP is ~~shall be~~
 168 permissible if ~~provided~~ such employers acknowledge in writing a

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169 DROP termination date no later than the participant's existing
170 termination date or the maximum participation ~~60-month~~
171 ~~limitation~~ period as provided in subparagraph (b)1.

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

174 a. A change of employment must take place without a break
175 in service so that the member receives salary for each month of
176 continuous DROP participation. If a member receives no salary
177 during a month, DROP participation shall cease unless the
178 employer verifies a continuation of the employment relationship
179 for such participant pursuant to s. 121.021(39)(b).

180 b. Such participant and new employer shall notify the
181 division of the identity of the new employer on forms required
182 by the division ~~as to the identity of the new employer~~.

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

197 be subject to the adjustment required in sub-subparagraph
 198 (c)5.d.

199 6. Effective July 1, 2001, for instructional personnel as
 200 defined in s. 1012.01 ~~s. 1012.01(2)~~, election to participate in
 201 ~~the~~ DROP may ~~shall~~ be made at any time following the date on
 202 which the member first reaches normal retirement date. The
 203 member shall advise his or her employer and the division in
 204 writing of the date on which DROP ~~the Deferred Retirement Option~~
 205 ~~Program~~ shall begin. When establishing eligibility of the member
 206 to participate in ~~the~~ DROP for the 60-month or, ~~with respect to~~
 207 ~~members who are instructional personnel employed by the Florida~~
 208 ~~School for the Deaf and the Blind and who have received~~
 209 ~~authorization by the Board of Trustees of the Florida School for~~
 210 ~~the Deaf and the Blind to participate in the DROP beyond 60~~
 211 ~~months, or who are instructional personnel as defined in s.~~
 212 ~~1012.01(2) (a)-(d) in grades K-12 and who have received~~
 213 ~~authorization by the district school superintendent to~~
 214 ~~participate in the DROP beyond 60 months,~~ the 96-month maximum
 215 participation period, ~~as~~ provided in subparagraph (b)1., the
 216 member may elect to include or exclude any optional service
 217 credit purchased by the member from the total service used to
 218 establish the normal retirement date. A member who has ~~with~~ dual
 219 normal retirement dates is ~~shall be~~ eligible to elect to
 220 participate in either class.

221 (b) Participation in ~~the~~ DROP.--

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

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225 a. Eligible members who are instructional personnel
226 employed by the Florida School for the Deaf and the Blind and
227 who have received authorization by the Board of Trustees of the
228 Florida School for the Deaf and the Blind to participate in the
229 DROP beyond 60 months, or who are instructional personnel as
230 defined in s. 1012.01(2)(a)-(d) ~~in grades K-12~~ and who have
231 received authorization by the district school superintendent to
232 participate in ~~the~~ DROP beyond 60 calendar months, may elect to
233 participate for a period up to 96 calendar months immediately
234 following the date on which the member first reaches his or her
235 normal retirement date or the date ~~to which~~ he or she is
236 eligible to defer his or her election to participate as provided
237 in subparagraph (a)2. ~~However, a member who has reached normal~~
238 ~~retirement date prior to the effective date of the DROP shall be~~
239 ~~eligible to participate in the DROP for a period of time not to~~
240 ~~exceed 60 calendar months or, with respect to members who are~~
241 ~~instructional personnel employed by the Florida School for the~~
242 ~~Deaf and the Blind and who have received authorization by the~~
243 ~~Board of Trustees of the Florida School for the Deaf and the~~
244 ~~Blind to participate in the DROP beyond 60 months, or who are~~
245 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~
246 ~~grades K-12 and who have received authorization by the district~~
247 ~~school superintendent to participate in the DROP beyond 60~~
248 ~~calendar months, 96 calendar months immediately following the~~
249 ~~effective date of the DROP, except a member of the Special Risk~~
250 ~~Class who has reached normal retirement date prior to the~~
251 ~~effective date of the DROP and whose total accrued value exceeds~~
252 ~~75 percent of average final compensation as of his or her~~

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253 ~~effective date of retirement shall be eligible to participate in~~
254 ~~the DROP for no more than 36 calendar months immediately~~
255 ~~following the effective date of the DROP.~~

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

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

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

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

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

273 d. Any other information required by the division.

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

281 as provided in s. 121.021(39).

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

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

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

298 c. An elected officer who is dually employed and elects to
 299 participate in DROP must ~~shall be required to~~ satisfy the
 300 definition of termination within the maximum participation ~~60-~~
 301 ~~month or, with respect to members who are instructional~~
 302 ~~personnel employed by the Florida School for the Deaf and the~~
 303 ~~Blind and who have received authorization by the Board of~~
 304 ~~Trustees of the Florida School for the Deaf and the Blind to~~
 305 ~~participate in the DROP beyond 60 months, or who are~~
 306 ~~instructional personnel as defined in s. 1012.01(2)(a)-(d) in~~
 307 ~~grades K-12 and who have received authorization by the district~~
 308 ~~school superintendent to participate in the DROP beyond 60~~

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309 ~~months, the 96-month limitation period as provided in~~
310 subparagraph 1. for the nonelected position and may continue
311 employment as an elected officer as provided in s. 121.053. The
312 elected officer shall ~~will~~ be enrolled as a renewed member in
313 the Elected Officers' Class or the Regular Class, as provided in
314 ss. 121.053 and 121.122, on the first day of the month after
315 termination of employment in the nonelected position and
316 termination of DROP. Distribution of ~~the~~ DROP benefits shall be
317 made as provided in paragraph (c).

318 Section 2. The Legislature finds and declares that
319 ensuring the availability of experienced law enforcement,
320 correctional, and probation officers to protect the safety and
321 welfare of the public is an important state interest. Providing
322 such officers who are members of the Florida Retirement System
323 with an opportunity to extend their employment as law
324 enforcement officers, correctional officers, or probation
325 officers by increasing the maximum participation period in the
326 Deferred Retirement Option Program will help serve that
327 interest. Funding for such retirement benefits must be made,
328 administered, and funded in an actuarially sound manner as
329 required by s. 14, Art. X of the State Constitution and part VII
330 of chapter 112, Florida Statutes. Therefore, the Legislature
331 determines and declares that the amendment of s. 121.091,
332 Florida Statutes, by this act fulfills an important state
333 interest.

334 Section 3. This act shall take effect upon becoming a law.