

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; providing a definition; prohibiting the
12 grant or creation of additional rights; providing
13 retroactive effect; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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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 instruct school personnel, public officials,
23 and private citizens about safety; and that their activities are
24 vital to public safety. Therefore, the Legislature finds that it
25 is a proper and legitimate state purpose to provide a uniform
26 retirement system for the benefit of persons employed in law
27 enforcement, firefighting, and criminal detention positions and
28 finds, in implementing the provisions of s. 14, Art. X of the
29 State Constitution relating to pension trust fund systems and

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30 plans, that such retirement systems or plans be managed,
31 administered, operated, and funded in such manner as to maximize
32 the protection of pension trust funds. Pursuant to s. 18, Art.
33 VII of the State Constitution, the Legislature determines and
34 declares that the provisions of this act fulfill an important
35 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 risk
51 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

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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
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

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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,
112 that the injury to the special risk member has resulted in a
113 physical loss, or loss of use, of at least two of the following:
114 left arm, right arm, left leg, or right leg, and:

115 a. That this physical loss or loss of use is total and
116 permanent, except in the event that the loss of use is due to a

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117 physical injury to the member's brain, in which event the loss
118 of use is permanent with at least 75 percent loss of motor
119 function with respect to each arm or leg affected.

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

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

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

130 e. That the physical loss or loss of use is a direct result
131 of a physical injury and not a result of any mental,
132 psychological, or emotional injury.

133 2. For the purposes of this paragraph, "qualifying injury"
134 means an injury sustained in the line of duty, as certified by
135 the member's employing agency, by a special risk member that
136 does not result in total and permanent disability as defined in
137 s. 121.091(4)(b). An injury is a qualifying injury when the
138 injury is a physical injury to the member's physical body
139 resulting in a physical loss, or loss of use, of at least two of
140 the following: left arm, right arm, left leg, or right leg.
141 Notwithstanding anything in this section to the contrary, an
142 injury that would otherwise qualify as a qualifying injury shall
143 not be considered a qualifying injury if and when the member
144 ceases employment with the employer for whom he or she was
145 providing special risk services on the date the injury occurred.

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

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

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

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

165 Section 5. This act shall take effect upon becoming a law.