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HB 5607, Engrossed 1

2010 Legislature

1 A bill to be entitled
2 An act relating to retirement; amending s. 121.091, F.S.;
3 reducing the interest rate paid on deferred retirement
4 benefits for members entering DROP on or after a specified
5 date; amending s. 121.71, F.S.; revising the payroll
6 contribution rates for the membership classes of the
7 Florida Retirement System for the state fiscal years
8 effective July 1, 2010, and July 1, 2011; specifying the
9 required employer retirement contribution rates for each
10 membership class and subclass of the system in order to
11 address unfunded actuarial liabilities of the system;
12 amending s. 121.74, F.S.; revising the amount that
13 employers are required to contribute for administrative
14 and educational expenses; requiring the state actuary to
15 consider additional factors when conducting the annual
16 actuarial study of the Florida Retirement System;
17 specifying the factors to be considered; providing a
18 declaration of important state interest; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (c) of subsection (13) of section
24 121.091, Florida Statutes, is amended to read:

25 121.091 Benefits payable under the system.—Benefits may
26 not be paid under this section unless the member has terminated
27 employment as provided in s. 121.021(39)(a) or begun
28 participation in the Deferred Retirement Option Program as

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29 provided in subsection (13), and a proper application has been
30 filed in the manner prescribed by the department. The department
31 may cancel an application for retirement benefits when the
32 member or beneficiary fails to timely provide the information
33 and documents required by this chapter and the department's
34 rules. The department shall adopt rules establishing procedures
35 for application for retirement benefits and for the cancellation
36 of such application when the required information or documents
37 are not received.

38 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
39 subject to this section, the Deferred Retirement Option Program,
40 hereinafter referred to as DROP, is a program under which an
41 eligible member of the Florida Retirement System may elect to
42 participate, deferring receipt of retirement benefits while
43 continuing employment with his or her Florida Retirement System
44 employer. The deferred monthly benefits shall accrue in the
45 Florida Retirement System on behalf of the participant, plus
46 interest compounded monthly, for the specified period of the
47 DROP participation, as provided in paragraph (c). Upon
48 termination of employment, the participant shall receive the
49 total DROP benefits and begin to receive the previously
50 determined normal retirement benefits. Participation in the DROP
51 does not guarantee employment for the specified period of DROP.
52 Participation in DROP by an eligible member beyond the initial
53 60-month period as authorized in this subsection shall be on an
54 annual contractual basis for all participants.

55 (c) *Benefits payable under DROP.*—

56 1. Effective on the date of DROP participation, the

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57 member's initial normal monthly benefit, including creditable
58 service, optional form of payment, and average final
59 compensation, and the effective date of retirement are fixed.
60 The beneficiary established under the Florida Retirement System
61 is the beneficiary eligible to receive any DROP benefits payable
62 if the DROP participant dies before completing the period of
63 DROP participation. If a joint annuitant predeceases the member,
64 the member may name a beneficiary to receive accumulated DROP
65 benefits payable. The retirement benefit, the annual cost of
66 living adjustments provided in s. 121.101, and interest accrue
67 monthly in the Florida Retirement System Trust Fund. The
68 interest accrues at an effective annual rate of 6.5 percent
69 compounded monthly, on the prior month's accumulated ending
70 balance, up to the month of termination or death, except as
71 provided in s. 121.053(7). For those members entering DROP on or
72 after July 1, 2010, the interest accrues at an effective annual
73 rate of 3.0 percent compounded monthly, on the prior month's
74 accumulated ending balance, up to the month of termination or
75 death, except as provided in s. 121.053(7).

76 2. Each employee who elects to participate in DROP may
77 elect to receive a lump-sum payment for accrued annual leave
78 earned in accordance with agency policy upon beginning
79 participation in DROP. The accumulated leave payment certified
80 to the division upon commencement of DROP shall be included in
81 the calculation of the member's average final compensation. The
82 employee electing the lump-sum payment is not eligible to
83 receive a second lump-sum payment upon termination, except to
84 the extent the employee has earned additional annual leave

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85 | which, combined with the original payment, does not exceed the
86 | maximum lump-sum payment allowed by the employing agency's
87 | policy or rules. An early lump-sum payment shall be based on the
88 | hourly wage of the employee at the time he or she begins
89 | participation in DROP. If the member elects to wait and receive
90 | a lump-sum payment upon termination of DROP and termination of
91 | employment with the employer, any accumulated leave payment made
92 | at that time may not be included in the member's retirement
93 | benefit, which was determined and fixed by law when the employee
94 | elected to participate in DROP.

95 | 3. The effective date of DROP participation and the
96 | effective date of retirement of a DROP participant shall be the
97 | first day of the month selected by the member to begin
98 | participation in DROP, provided such date is properly
99 | established, with the written confirmation of the employer, and
100 | the approval of the division, on forms required by the division.

101 | 4. Normal retirement benefits and any interest shall
102 | continue to accrue in DROP until the established termination
103 | date of DROP or until the participant terminates employment or
104 | dies prior to such date, except as provided in s. 121.053(7).
105 | Although individual DROP accounts shall not be established, a
106 | separate accounting of each participant's accrued benefits under
107 | DROP shall be calculated and provided to participants.

108 | 5. At the conclusion of the participant's DROP, the
109 | division shall distribute the participant's total accumulated
110 | DROP benefits, subject to the following:

111 | a. The division shall receive verification by the
112 | participant's employer or employers that the participant has

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113 terminated all employment relationships as provided in s.
 114 121.021(39).

115 b. The terminated DROP participant or, if deceased, the
 116 participant's named beneficiary, shall elect on forms provided
 117 by the division to receive payment of the DROP benefits in
 118 accordance with one of the options listed below. If a
 119 participant or beneficiary fails to elect a method of payment
 120 within 60 days after termination of DROP, the division shall pay
 121 a lump sum as provided in sub-sub-subparagraph (I).

122 (I) Lump sum.—All accrued DROP benefits, plus interest,
 123 less withholding taxes remitted to the Internal Revenue Service,
 124 shall be paid to the DROP participant or surviving beneficiary.

125 (II) Direct rollover.—All accrued DROP benefits, plus
 126 interest, shall be paid from DROP directly to the custodian of
 127 an eligible retirement plan as defined in s. 402(c)(8)(B) of the
 128 Internal Revenue Code. However, in the case of an eligible
 129 rollover distribution to the surviving spouse of a deceased
 130 participant, an eligible retirement plan is an individual
 131 retirement account or an individual retirement annuity as
 132 described in s. 402(c)(9) of the Internal Revenue Code.

133 (III) Partial lump sum.—A portion of the accrued DROP
 134 benefits shall be paid to DROP participant or surviving spouse,
 135 less withholding taxes remitted to the Internal Revenue Service,
 136 and the remaining DROP benefits must be transferred directly to
 137 the custodian of an eligible retirement plan as defined in s.
 138 402(c)(8)(B) of the Internal Revenue Code. However, in the case
 139 of an eligible rollover distribution to the surviving spouse of
 140 a deceased participant, an eligible retirement plan is an

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141 individual retirement account or an individual retirement
142 annuity as described in s. 402(c)(9) of the Internal Revenue
143 Code. The proportions must be specified by the DROP participant
144 or surviving beneficiary.

145 c. The form of payment selected by the DROP participant or
146 surviving beneficiary must comply with the minimum distribution
147 requirements of the Internal Revenue Code.

148 d. A DROP participant who fails to terminate all
149 employment relationships as provided in s. 121.021(39) shall be
150 deemed as not retired, and the DROP election is null and void.
151 Florida Retirement System membership shall be reestablished
152 retroactively to the date of the commencement of DROP, and each
153 employer with whom the participant continues employment must pay
154 to the Florida Retirement System Trust Fund the difference
155 between the DROP contributions paid in paragraph (i) and the
156 contributions required for the applicable Florida Retirement
157 System class of membership during the period the member
158 participated in DROP, plus 6.5 percent interest compounded
159 annually.

160 6. The retirement benefits of any DROP participant who
161 terminates all employment relationships as provided in s.
162 121.021(39) but is reemployed in violation of the reemployment
163 provisions of subsection (9) shall be suspended during those
164 months in which the retiree is in violation. Any retiree in
165 violation of this subparagraph and any employer that employs or
166 appoints such person without notifying the Division of
167 Retirement to suspend retirement benefits are jointly and
168 severally liable for any benefits paid during the reemployment

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169 limitation period. The employer must have a written statement
170 from the retiree that he or she is not retired from a state-
171 administered retirement system. Any retirement benefits received
172 by a retiree while employed in violation of the reemployment
173 limitations must be repaid to the Florida Retirement System
174 Trust Fund, and his or her retirement benefits shall remain
175 suspended until payment is made. Benefits suspended beyond the
176 end of the reemployment limitation period apply toward repayment
177 of benefits received in violation of the reemployment
178 limitation.

179 7. The accrued benefits of any DROP participant, and any
180 contributions accumulated under the program, are not subject to
181 assignment, execution, attachment, or any legal process
182 whatsoever, except for qualified domestic relations orders by a
183 court of competent jurisdiction, income deduction orders as
184 provided in s. 61.1301, and federal income tax levies.

185 8. DROP participants are not eligible for disability
186 retirement benefits as provided in subsection (4).

187 Section 2. Subsection (3) of section 121.71, Florida
188 Statutes, is amended, present subsection (4) of that section is
189 renumbered as subsection (5), and a new subsection (4) is added
190 to that section, to read

191 121.71 Uniform rates; process; calculations; levy.—

192 (3) Required employer retirement contribution rates for
193 each membership class and subclass of the Florida Retirement
194 System for both retirement plans are as follows:

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	Percentage of Gross Compensation, Effective July 1, <u>2010</u> 2009	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2010
195 Membership Class		
196 Regular Class	<u>9.76%</u> 8.69%	<u>9.76%</u> 9.63%
197 Special Risk Class	<u>22.15%</u> 19.76%	<u>22.15%</u> 22.11%
198 Special Risk Administrative Support Class	<u>11.24%</u> 11.39%	<u>11.24%</u> 12.10%
199 Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>14.38%</u> 13.32%	<u>14.38%</u> 15.20%
200 Elected Officers' Class - Justices, Judges	<u>19.39%</u> 18.40%	<u>19.39%</u> 20.65%
201 Elected Officers' Class - County Elected Officers	<u>16.62%</u> 15.37%	<u>16.62%</u> 17.50%

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Senior Management Class 11.70% ~~11.96%~~ 11.70% ~~13.43%~~

DROP 10.07% ~~9.80%~~ 10.07% ~~11.14%~~

(4) In order to address unfunded actuarial liabilities of the system, the additional required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2010</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>
<u>Regular Class</u>	<u>0.00%</u>	<u>1.74%</u>
<u>Special Risk Class</u>	<u>0.00%</u>	<u>6.57%</u>
<u>Special Risk Administrative Support Class</u>	<u>0.00%</u>	<u>17.57%</u>
<u>Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers,</u>	<u>0.00%</u>	<u>18.76%</u>

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213	<u>State Attorneys,</u>		
	<u>Public Defenders</u>		
	<u>Elected Officers' Class -</u>		
214	<u>Justices, Judges</u>	<u>0.00%</u>	<u>12.10%</u>
	<u>Elected Officers' Class -</u>		
215	<u>County Elected Officers</u>	<u>0.00%</u>	<u>21.73%</u>
216	<u>Senior Management Class</u>	<u>0.00%</u>	<u>10.19%</u>
	<u>DROP</u>	<u>0.00%</u>	<u>5.47%</u>

217
 218 Section 3. Section 121.74, Florida Statutes, is amended to
 219 read:

220 121.74 Administrative and educational expenses.—In
 221 addition to contributions required under ss. ~~s.~~ 121.71 and
 222 121.73, effective July 1, 2010, through June 30, 2014, employers
 223 participating in the Florida Retirement System shall contribute
 224 an amount equal to 0.03 ~~0.05~~ percent of the payroll reported for
 225 each class or subclass of Florida Retirement System membership.
 226 Effective July 1, 2014, the contribution rate shall be 0.04
 227 percent of the payroll reported for each class or subclass of
 228 membership. The, which amount contributed shall be transferred
 229 by the Division of Retirement from the Florida Retirement System
 230 Contributions Clearing Trust Fund to the State Board of
 231 Administration's Administrative Trust Fund to offset the costs
 232 of administering the optional retirement program and the costs

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233 of providing educational services to participants in the defined
 234 benefit program and the optional retirement program. Approval of
 235 the trustees ~~of the State Board of Administration~~ is required
 236 before ~~prior to~~ the expenditure of these funds. Payments for
 237 third-party administrative or educational expenses shall be made
 238 only pursuant to the terms of the approved contracts for such
 239 services.

240 Section 4. As part of the actuarial study required by s.
 241 121.031(3), Florida Statutes, based on the results of June 30,
 242 2010, the administrator of the Florida Retirement System shall
 243 contract with the state actuary to conduct an actuarial study of
 244 the Florida Retirement System which considers the following
 245 methods of funding the Deferred Retirement Option Program:

246 (1) Through a separate contribution rate regardless of the
 247 participant's membership class, which had been the principle
 248 method through the 2009 valuation;

249 (2) Treat participants as retirees such that the payroll
 250 associated with the participants is not used to develop the
 251 contribution rates for the respective membership class, and the
 252 employer is not required to make contributions on such payroll
 253 except for unfunded actuarial liability contributions; and

254 (3) Treat participants as active members such that the
 255 payroll associated with the participants is used to develop the
 256 contribution rates for the respective membership class, and the
 257 employer is required to make contributions on the payroll at the
 258 same contribution rate as the employer pays for an active member
 259 of the applicable class.

260 Section 5. The Legislature finds that a proper and

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261 legitimate state purpose is served when employees and retirees
262 of the state and its political subdivisions, and the dependents,
263 survivors, and beneficiaries of such employees and retirees, are
264 extended the basic protections afforded by governmental
265 retirement systems. These persons must be provided benefits that
266 are fair and adequate and that are managed, administered, and
267 funded in an actuarially sound manner, as required by s. 14,
268 Article X of the State Constitution and part VII of chapter 112,
269 Florida Statutes. Therefore, the Legislature determines and
270 declares that this act fulfills an important state interest.

271 Section 6. This act shall take effect July 1, 2010.