

By Senator Baker

20-00460B-10

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

20-00460B-10

2010612

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. Present paragraph (e) of subsection (9) of
41 section 121.091, Florida Statutes, is redesignated as paragraph
42 (f), a new paragraph (e) is added to that subsection, and
43 paragraph (b) of subsection (13) of that section is amended, to
44 read:

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

58 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

20-00460B-10

2010612

59 (e) A member who is employed as a law enforcement officer,
60 correctional officer, or community-based correctional probation
61 officer, as described in s. 121.0515(2); who has a rank or the
62 equivalent rank of captain or below at the beginning of
63 participation in DROP; and who participates in DROP for an
64 additional 36 months beyond the 60-month period, at the
65 conclusion of his or her participation in DROP, may not be
66 employed, reemployed, or retained in a contractual capacity by
67 the same employer from which the member retired or from which
68 the member terminated DROP participation, except that the
69 retiree may be retained by the employer as a part-time or
70 auxiliary law enforcement officer, as those terms are defined in
71 s. 943.10, if the retiree is serving on a voluntary basis and
72 receives no more than \$1 per calendar year for services rendered
73 directly for the employer. A retiree who is reemployed or
74 retained in a contractual capacity in violation of this
75 paragraph voids his or her application for retirement benefits.
76 A retiree who violates this paragraph and an employer who
77 employs or contracts with such person in violation of this
78 paragraph is jointly and severally liable for reimbursement to
79 the retirement trust fund, including the Florida Retirement
80 System Trust Fund and the Public Employee Optional Retirement
81 Program Trust Fund, from which the benefits were paid. This
82 paragraph does not apply to a retiree who is elected to an
83 office or appointed to an office by the Governor or by the
84 Governor and Cabinet.

85 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
86 subject to this section, the Deferred Retirement Option Program,
87 hereinafter referred to as DROP, is a program under which an

20-00460B-10

2010612

88 eligible member of the Florida Retirement System may elect to
89 participate, deferring receipt of retirement benefits while
90 continuing employment with his or her Florida Retirement System
91 employer. The deferred monthly benefits shall accrue in the
92 Florida Retirement System on behalf of the participant, plus
93 interest compounded monthly, for the specified period of the
94 DROP participation, as provided in paragraph (c). Upon
95 termination of employment, the participant shall receive the
96 total DROP benefits and begin to receive the previously
97 determined normal retirement benefits. Participation in the DROP
98 does not guarantee employment for the specified period of DROP.
99 Participation in DROP by an eligible member beyond the initial
100 60-month period as authorized in this subsection shall be on an
101 annual contractual basis for all participants.

102 (b) *Participation in DROP.*—

103 1. An eligible member may elect to participate in DROP for
104 a period not to exceed a maximum of 60 calendar months.

105 However:—

106 a. Members who are instructional personnel employed by the
107 Florida School for the Deaf and the Blind and authorized by the
108 Board of Trustees of the Florida School for the Deaf and the
109 Blind, who are instructional personnel as defined in s.
110 1012.01(2)(a)-(d) in grades K-12 and authorized by the district
111 school superintendent, or who are instructional personnel as
112 defined in s. 1012.01(2)(a) employed by a developmental research
113 school and authorized by the school's director, or if the school
114 has no director, by the school's principal, may participate in
115 DROP for up to 36 calendar months beyond the 60-month period.

116 b. Members who are employed as law enforcement officers,

20-00460B-10

2010612__

117 correctional officers, or community-based correctional probation
118 officers, as described in s. 121.0515(2), and who have a rank or
119 equivalent rank of captain or below at the beginning of
120 participation in DROP, may participate in DROP for up to 36
121 months beyond the 60-month period.

122 2. Upon deciding to participate in DROP, the member shall
123 submit, on forms required by the division:

124 a. A written election to participate in DROP;

125 b. Selection of DROP participation and termination dates
126 that satisfy the limitations stated in paragraph (a) and
127 subparagraph 1. The termination date must be in a binding letter
128 of resignation to the employer establishing a deferred
129 termination date. The member may change the termination date
130 within the limitations of subparagraph 1., but only with the
131 written approval of the employer;

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

134 d. Any other information required by the division.

135 3. The DROP participant is a retiree under the Florida
136 Retirement System for all purposes, except for paragraph (5)(f)
137 and subsection (9) and ss. 112.3173, 112.363, 121.053, and
138 121.122. DROP participation is final and may not be canceled by
139 the participant after the first payment is credited during the
140 DROP participation period. However, participation in DROP does
141 not alter the participant's employment status, and the member is
142 not deemed retired from employment until his or her deferred
143 resignation is effective and termination occurs as defined in s.
144 121.021.

145 4. Elected officers are eligible to participate in DROP

20-00460B-10

2010612

146 subject to the following:

147 a. An elected officer who reaches normal retirement date
148 during a term of office may defer the election to participate
149 until the next succeeding term in that office. An ~~elected~~
150 officer who exercises this option may participate in DROP for up
151 to 60 calendar months or no longer than the succeeding term of
152 office, whichever is less.

153 b. An elected or a nonelected participant may run for a
154 term of office while participating in DROP and, if elected,
155 extend the DROP termination date accordingly; however, if the
156 ~~such~~ additional term of office exceeds the 60-month limitation
157 established in subparagraph 1.7 and the officer does not resign
158 from office within the ~~such~~ 60-month limitation, the retirement
159 and the participant's DROP is null and void as provided in sub-
160 subparagraph (c)5.d.

161 c. An elected officer who is ~~dually~~ employed and elects to
162 participate in DROP must terminate all employment relationships
163 as provided in s. 121.021(39) for the nonelected position within
164 the original 60-month period or maximum participation period as
165 provided in subparagraph 1. For DROP participation ending:

166 (I) Before July 1, 2010, the officer may continue
167 employment as an elected officer as provided in s. 121.053. The
168 elected officer shall be enrolled as a renewed member in the
169 Elected Officers' Class or the Regular Class, as provided in ss.
170 121.053 and 121.122, on the first day of the month after
171 termination of employment in the nonelected position and
172 termination of DROP. Distribution of the DROP benefits shall be
173 made as provided in paragraph (c).

174 (II) On or after July 1, 2010, the officer may continue

20-00460B-10

2010612__

175 employment as an elected officer but must defer termination as
176 provided in s. 121.053.

177 Section 2. The Legislature finds and declares that ensuring
178 the availability of experienced law enforcement, correctional,
179 and probation officers to protect the safety and welfare of the
180 public is an important state interest. Providing such officers
181 who are members of the Florida Retirement System with an
182 opportunity to extend their employment as law enforcement
183 officers, correctional officers, or probation officers by
184 increasing the maximum participation period in the Deferred
185 Retirement Option Program will help serve that interest. Funding
186 for such retirement benefits must be made, administered, and
187 funded in an actuarially sound manner as required by s. 14,
188 Article X of the State Constitution and part VII of chapter 112,
189 Florida Statutes.

190 Section 3. This act shall take effect July 1, 2010.