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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
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The Committee on Criminal Justice (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 945.75, Florida Statutes, is repealed.

Section 2. Section 985.105, Florida Statutes, is repealed.

Section 3. Paragraphs (h) through (k) of subsection (3) of section 121.0515, Florida Statutes, are redesignated as paragraphs (g) through (j) of that subsection, respectively, and paragraphs (e) through (i) of subsection (2), present paragraphs (g) and (k) of subsection (3), paragraph (b) of subsection (5),



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13 paragraph (d) of subsection (8), and paragraph (c) of subsection
14 (10) of that section are amended to read:

15 121.0515 Special Risk Class.—

16 (2) MEMBERSHIP.—

17 ~~(e) Effective July 1, 2001, "special risk member" includes~~
18 ~~any member who is employed as a youth custody officer by the~~
19 ~~Department of Juvenile Justice and meets the special criteria~~
20 ~~set forth in paragraph (3) (g).~~

21 (e) ~~(f)~~ Effective October 1, 2005, through June 30, 2008,
22 the member must be employed by a law enforcement agency or
23 medical examiner's office in a forensic discipline and meet the
24 special criteria set forth in paragraph (3) (g) ~~(3) (h)~~.

25 (f) ~~(g)~~ Effective July 1, 2008, the member must be employed
26 by the Department of Law Enforcement in the crime laboratory or
27 by the Division of State Fire Marshal in the forensic laboratory
28 and meet the special criteria set forth in paragraph (3) (h)
29 ~~(3) (i)~~.

30 (g) ~~(h)~~ Effective July 1, 2008, the member must be employed
31 by a local government law enforcement agency or medical
32 examiner's office and meet the special criteria set forth in
33 paragraph (3) (i) ~~(3) (j)~~.

34 (h) ~~(i)~~ Effective August 1, 2008, "special risk member"
35 includes any member who meets the special criteria for continued
36 membership set forth in paragraph (3) (j) ~~(3) (k)~~.

37 (3) CRITERIA.—A member, to be designated as a special risk
38 member, must meet the following criteria:

39 ~~(g) Effective July 1, 2001, the member must be employed as~~
40 ~~a youth custody officer and be certified, or required to be~~
41 ~~certified, in compliance with s. 943.1395. In addition, the~~



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42 ~~member's primary duties and responsibilities must be the~~
43 ~~supervised custody, surveillance, control, investigation,~~
44 ~~apprehension, arrest, and counseling of assigned juveniles~~
45 ~~within the community;~~

46 (j) ~~(k)~~ The member must have already qualified for and be
47 actively participating in special risk membership under
48 paragraph (a), paragraph (b), or paragraph (c), must have
49 suffered a qualifying injury as defined in this paragraph, must
50 not be receiving disability retirement benefits as provided in
51 s. 121.091(4), and must satisfy the requirements of this
52 paragraph.

53 1. The ability to qualify for the class of membership
54 defined in paragraph (2) (h) ~~(2) (i)~~ occurs when two licensed
55 medical physicians, one of whom is a primary treating physician
56 of the member, certify the existence of the physical injury and
57 medical condition that constitute a qualifying injury as defined
58 in this paragraph and that the member has reached maximum
59 medical improvement after August 1, 2008. The certifications
60 from the licensed medical physicians must include, at a minimum,
61 that the injury to the special risk member has resulted in a
62 physical loss, or loss of use, of at least two of the following:
63 left arm, right arm, left leg, or right leg; and:

64 a. That this physical loss or loss of use is total and
65 permanent, except in the event that the loss of use is due to a
66 physical injury to the member's brain, in which event the loss
67 of use is permanent with at least 75 percent loss of motor
68 function with respect to each arm or leg affected.

69 b. That this physical loss or loss of use renders the
70 member physically unable to perform the essential job functions



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71 of his or her special risk position.

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

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

79 e. That the physical loss or loss of use is a direct result
80 of a physical injury and not a result of any mental,
81 psychological, or emotional injury.

82 2. For the purposes of this paragraph, "qualifying injury"
83 means an injury sustained in the line of duty, as certified by
84 the member's employing agency, by a special risk member that
85 does not result in total and permanent disability as defined in
86 s. 121.091(4)(b). An injury is a qualifying injury if the injury
87 is a physical injury to the member's physical body resulting in
88 a physical loss, or loss of use, of at least two of the
89 following: left arm, right arm, left leg, or right leg.
90 Notwithstanding any other provision of this section, an injury
91 that would otherwise qualify as a qualifying injury is not
92 considered a qualifying injury if and when the member ceases
93 employment with the employer for whom he or she was providing
94 special risk services on the date the injury occurred.

95 3. The new position, as described in sub-subparagraph 1.c.,
96 that is required for qualification as a special risk member
97 under this paragraph is not required to be a position with
98 essential job functions that entitle an individual to special
99 risk membership. Whether a new position as described in sub-



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100 subparagraph 1.c. exists and is available to the special risk
101 member is a decision to be made solely by the employer in
102 accordance with its hiring practices and applicable law.

103 4. This paragraph does not grant or create additional
104 rights for any individual to continued employment or to be hired
105 or rehired by his or her employer that are not already provided
106 within the Florida Statutes, the State Constitution, the
107 Americans with Disabilities Act, if applicable, or any other
108 applicable state or federal law.

109 (5) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

110 (b) Any member who is a special risk member on July 1,
111 2008, and who became eligible to participate under paragraph
112 (3) (g) ~~(3) (h)~~ but fails to meet the criteria for Special Risk
113 Class membership established by paragraph (3) (h) ~~(3) (i)~~ or
114 paragraph (3) (i) ~~(3) (j)~~ shall have his or her special risk
115 designation removed and thereafter shall be a Regular Class
116 member and earn only Regular Class membership credit. The
117 department may review the special risk designation of members to
118 determine whether or not those members continue to meet the
119 criteria for Special Risk Class membership.

120 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

121 (d) Notwithstanding any other provision of this subsection,
122 this subsection does not apply to any special risk member who
123 qualifies for continued membership pursuant to paragraph (3) (j)
124 ~~(3) (k)~~.

125 (10) CREDIT FOR UPGRADED SERVICE.—

126 (c) Any member of the Special Risk Class who has earned
127 creditable service through June 30, 2008, in another membership
128 class of the Florida Retirement System in a position with the



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129 Department of Law Enforcement or the Division of State Fire
130 Marshal and became covered by the Special Risk Class as
131 described in paragraph (3) (h) ~~(3) (i)~~, or with a local government
132 law enforcement agency or medical examiner's office and became
133 covered by the Special Risk Class as described in paragraph
134 (3) (i) ~~(3) (j)~~, which service is within the purview of the
135 Special Risk Class, and is employed in such position on or after
136 July 1, 2008, may purchase additional retirement credit to
137 upgrade such service to Special Risk Class service, to the
138 extent of the percentages of the member's average final
139 compensation provided in s. 121.091(1)(a)2. The cost for such
140 credit must be an amount representing the actuarial accrued
141 liability for the difference in accrual value during the
142 affected period of service. The cost shall be calculated using
143 the discount rate and other relevant actuarial assumptions that
144 were used to value the Florida Retirement System Pension Plan
145 liabilities in the most recent actuarial valuation. The division
146 shall ensure that the transfer sum is prepared using a formula
147 and methodology certified by an enrolled actuary. The cost must
148 be paid immediately upon notification by the division. The local
149 government employer may purchase the upgraded service credit on
150 behalf of the member if the member has been employed by that
151 employer for at least 3 years.

152 Section 4. This act shall take effect July 1, 2013.

153 ===== T I T L E A M E N D M E N T =====

154 And the title is amended as follows:

155 Delete everything before the enacting clause
156 and insert:
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158 A bill to be entitled
159 An act relating to juvenile justice; repealing s.
160 945.75, F.S.; deleting a requirement that the
161 Department of Corrections and counties develop
162 programs under which a judge may order juveniles who
163 have committed delinquent acts to tour correctional
164 facilities; repealing s. 985.105, F.S., relating to
165 the creation, duties, and qualifications of the youth
166 custody officer position within the Department of
167 Juvenile Justice; amending s. 121.0515, F.S.;
168 conforming provisions to changes made by the act;
169 providing an effective date.