

By Senator Altman

16-00892-15

2015898\_\_

1                                   A bill to be entitled  
 2       An act relating to the special risk class; amending s.  
 3       121.0515, F.S.; revising criteria for membership in  
 4       the special risk class to include members employed as  
 5       911 public safety telecommunicators; providing that  
 6       such a telecommunicator is not eligible for a certain  
 7       adjustment in his or her monthly retirement benefit;  
 8       making technical changes; declaring the act fulfills  
 9       an important state interest; providing an effective  
 10      date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14       Section 1. Paragraph (h) of subsection (2), subsection (3),  
 15       and paragraph (d) of subsection (8) of section 121.0515, Florida  
 16       Statutes, are amended to read:

17       121.0515 Special Risk Class.—

18       (2) MEMBERSHIP.—

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

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

24       (a) Effective October 1, 1978, the member must be employed  
 25       as a law enforcement officer and be certified, or required to be  
 26       certified, in compliance with s. 943.1395, except that; ~~however,~~  
 27       sheriffs and elected police chiefs are not required to be  
 28       certified ~~excluded from meeting the certification requirements~~  
 29       ~~of this paragraph~~. In addition, the member's duties and

16-00892-15

2015898\_\_

30 responsibilities must include the pursuit, apprehension, and  
31 arrest of law violators or suspected law violators; or as of  
32 July 1, 1982, the member must be an active member of a bomb  
33 disposal unit whose primary responsibility is the location,  
34 handling, and disposal of explosive devices; or the member must  
35 be the supervisor or command officer of a member or members who  
36 have such responsibilities. Administrative support personnel,  
37 including, but not limited to, those whose primary duties and  
38 responsibilities are in accounting, purchasing, legal, and  
39 personnel, are not included;

40 (b) Effective October 1, 1978, the member must be employed  
41 as a firefighter and be certified, or required to be certified,  
42 in compliance with s. 633.408 and be employed solely within the  
43 fire department of a local government employer or an agency of  
44 state government with firefighting responsibilities. In  
45 addition, the member's duties and responsibilities must include  
46 on-the-scene fighting of fires; as of October 1, 2001, fire  
47 prevention or firefighter training; as of October 1, 2001,  
48 direct supervision of firefighting units, fire prevention, or  
49 firefighter training; or as of July 1, 2001, aerial firefighting  
50 surveillance performed by fixed-wing aircraft pilots employed by  
51 the Florida Forest Service of the Department of Agriculture and  
52 Consumer Services; or the member must be the supervisor or  
53 command officer of a member or members who have such  
54 responsibilities. ~~Administrative support personnel, including,~~  
55 ~~but not limited to, those whose primary duties and~~  
56 ~~responsibilities are in accounting, purchasing, legal, and~~  
57 ~~personnel, are not included.~~ All periods of creditable service  
58 in fire prevention or firefighter training, or as the supervisor

16-00892-15

2015898\_\_

59 or command officer of a member or members who have such  
60 responsibilities, and for which the employer paid the special  
61 risk contribution rate, are included. Administrative support  
62 personnel, including, but not limited to, those whose primary  
63 duties and responsibilities are in accounting, purchasing,  
64 legal, and personnel, are not included;

65 (c) Effective October 1, 1978, the member must be employed  
66 as a correctional officer and be certified, or required to be  
67 certified, in compliance with s. 943.1395. In addition, the  
68 member's primary duties and responsibilities must include ~~be~~ the  
69 custody, and physical restraint if ~~when~~ necessary, of prisoners  
70 or inmates within a prison, jail, or other criminal detention  
71 facility, or while on work detail outside the facility, or while  
72 being transported; or as of July 1, 1984, the member must be the  
73 supervisor or command officer of a member or members who have  
74 such responsibilities. Administrative support personnel,  
75 including, but not limited to, those whose primary duties and  
76 responsibilities are in accounting, purchasing, legal, and  
77 personnel, are not included; however, wardens and assistant  
78 wardens, as defined by rule, are included;

79 (d) Effective October 1, 1999, the member must be employed  
80 by a licensed Advance Life Support (ALS) or Basic Life Support  
81 (BLS) employer as an emergency medical technician or a paramedic  
82 and be certified in compliance with s. 401.27. In addition, the  
83 member's primary duties and responsibilities must include on-  
84 the-scene emergency medical care or as of October 1, 2001,  
85 direct supervision of emergency medical technicians or  
86 paramedics, or the member must be the supervisor or command  
87 officer of one or more members who have such responsibility.

16-00892-15

2015898\_\_

88 Administrative support personnel, including, but not limited to,  
89 those whose primary responsibilities are in accounting,  
90 purchasing, legal, and personnel, are not included;

91 (e) Effective January 1, 2001, the member must be employed  
92 as a community-based correctional probation officer and be  
93 certified, or required to be certified, in compliance with s.  
94 943.1395. In addition, the member's primary duties and  
95 responsibilities must be the supervised custody, surveillance,  
96 control, investigation, and counseling of assigned inmates,  
97 probationers, parolees, or community controllees within the  
98 community; or the member must be the supervisor of a member or  
99 members who have such responsibilities. Administrative support  
100 personnel, including, but not limited to, those whose primary  
101 duties and responsibilities are in accounting, purchasing, legal  
102 services, and personnel management, are not included; however,  
103 probation and parole circuit and deputy circuit administrators  
104 are included;

105 (f) Effective January 1, 2001, the member must be employed  
106 in one of the following classes and must spend at least 75  
107 percent of his or her time performing duties that ~~which~~ involve  
108 contact with patients or inmates in a correctional or forensic  
109 facility or institution:

- 110 1. Dietitian (class codes 5203 and 5204);
- 111 2. Public health nutrition consultant (class code 5224);
- 112 3. Psychological specialist (class codes 5230 and 5231);
- 113 4. Psychologist (class code 5234);
- 114 5. Senior psychologist (class codes 5237 and 5238);
- 115 6. Regional mental health consultant (class code 5240);
- 116 7. Psychological Services Director—DCF (class code 5242);

16-00892-15

2015898\_\_

- 117 8. Pharmacist (class codes 5245 and 5246);  
118 9. Senior pharmacist (class codes 5248 and 5249);  
119 10. Dentist (class code 5266);  
120 11. Senior dentist (class code 5269);  
121 12. Registered nurse (class codes 5290 and 5291);  
122 13. Senior registered nurse (class codes 5292 and 5293);  
123 14. Registered nurse specialist (class codes 5294 and  
124 5295);  
125 15. Clinical associate (class codes 5298 and 5299);  
126 16. Advanced registered nurse practitioner (class codes  
127 5297 and 5300);  
128 17. Advanced registered nurse practitioner specialist  
129 (class codes 5304 and 5305);  
130 18. Registered nurse supervisor (class codes 5306 and  
131 5307);  
132 19. Senior registered nurse supervisor (class codes 5308  
133 and 5309);  
134 20. Registered nursing consultant (class codes 5312 and  
135 5313);  
136 21. Quality management program supervisor (class code  
137 5314);  
138 22. Executive nursing director (class codes 5320 and 5321);  
139 23. Speech and hearing therapist (class code 5406); or  
140 24. Pharmacy manager (class code 5251);  
141 (g) Effective October 1, 2005, through June 30, 2008, the  
142 member must be employed by a law enforcement agency or medical  
143 examiner's office in a forensic discipline recognized by the  
144 International Association for Identification and must qualify  
145 for active membership in the International Association for

16-00892-15

2015898\_\_

146 Identification. The member's primary duties and responsibilities  
147 must include the collection, examination, preservation,  
148 documentation, preparation, or analysis of physical evidence or  
149 testimony, or both, or the member must be the direct supervisor,  
150 quality management supervisor, or command officer of one or more  
151 individuals with such responsibility. Administrative support  
152 personnel, including, but not limited to, those whose primary  
153 responsibilities are clerical or in accounting, purchasing,  
154 legal, and personnel, are not included;

155 (h) Effective July 1, 2008, the member must be employed by  
156 the Department of Law Enforcement in the crime laboratory or by  
157 the Division of State Fire Marshal in the forensic laboratory in  
158 one of the following classes:

- 159 1. Forensic technologist (class code 8459);
- 160 2. Crime laboratory technician (class code 8461);
- 161 3. Crime laboratory analyst (class code 8463);
- 162 4. Senior crime laboratory analyst (class code 8464);
- 163 5. Crime laboratory analyst supervisor (class code 8466);
- 164 6. Forensic chief (class code 9602); or
- 165 7. Forensic services quality manager (class code 9603);

166 (i) Effective July 1, 2008, the member must be employed by  
167 a local government law enforcement agency or medical examiner's  
168 office and must spend at least 65 percent of his or her time  
169 performing duties that involve the collection, examination,  
170 preservation, documentation, preparation, or analysis of human  
171 tissues or fluids or physical evidence having potential  
172 biological, chemical, or radiological hazard or contamination,  
173 or use chemicals, processes, or materials that may have  
174 carcinogenic or health-damaging properties in the analysis of

16-00892-15

2015898\_\_

175 such evidence, or the member must be the direct supervisor of  
176 one or more individuals having such responsibility. If a special  
177 risk member changes to another position within the same agency,  
178 he or she must submit a complete application as provided in  
179 paragraph (4) (a);

180 (j) Effective July 1, 2016, the member must be employed as  
181 a 911 public safety telecommunicator certified under s. 401.465.  
182 However, such telecommunicators are not eligible for the  
183 adjustment in the monthly retirement benefit provided pursuant  
184 to s. 121.091(1) (a)2.; or

185 (k)~~(j)~~ The member must have already qualified for and be  
186 actively participating in special risk membership under  
187 paragraph (a), paragraph (b), or paragraph (c), must have  
188 suffered a qualifying injury as defined in this paragraph, must  
189 not be receiving disability retirement benefits as provided in  
190 s. 121.091(4), and must satisfy the requirements of this  
191 paragraph.

192 1. The ability to qualify for the class of membership  
193 defined in paragraph (2) (h) occurs when two licensed medical  
194 physicians, one of whom is a primary treating physician of the  
195 member, certify the existence of the physical injury and medical  
196 condition that constitute a qualifying injury as defined in this  
197 paragraph and that the member has reached maximum medical  
198 improvement after August 1, 2008. The certifications from the  
199 licensed medical physicians must include, at a minimum, that the  
200 injury to the special risk member has resulted in a physical  
201 loss, or loss of use, of at least two of the following: left  
202 arm, right arm, left leg, or right leg; and that:

203 a. The ~~That this~~ physical loss or loss of use is total and

16-00892-15

2015898\_\_

204 permanent, unless ~~except~~ if the loss of use is due to a physical  
205 injury to the member's brain, in which event the loss of use is  
206 permanent with at least 75 percent loss of motor function with  
207 respect to each arm or leg affected.

208 b. The ~~That this~~ physical loss or loss of use renders the  
209 member physically unable to perform the essential job functions  
210 of his or her special risk position.

211 c. ~~That,~~ Notwithstanding this physical loss or loss of use,  
212 the individual can perform the essential job functions required  
213 by the member's new position, as provided in subparagraph 3.

214 d. ~~That~~ Use of artificial limbs is not possible or does not  
215 alter the member's ability to perform the essential job  
216 functions of the member's position.

217 e. ~~That~~ The physical loss or loss of use is a direct result  
218 of a physical injury and not a result of any mental,  
219 psychological, or emotional injury.

220 2. For the purposes of this paragraph, "qualifying injury"  
221 means an injury sustained in the line of duty, as certified by  
222 the member's employing agency, by a special risk member that  
223 does not result in total and permanent disability as defined in  
224 s. 121.091(4)(b). An injury is a qualifying injury if the injury  
225 is a physical injury to the member's physical body resulting in  
226 a physical loss, or loss of use, of at least two of the  
227 following: left arm, right arm, left leg, or right leg.  
228 Notwithstanding any other provision of this section, an injury  
229 that would otherwise qualify as a qualifying injury is not  
230 ~~considered~~ a qualifying injury if and when the member ceases  
231 employment with the employer for whom he or she was providing  
232 special risk services on the date the injury occurred.



16-00892-15

2015898\_\_

233           3. The new position, as described in sub-subparagraph 1.c.,  
234 which ~~that~~ is required for qualification as a special risk  
235 member under this paragraph is not required to be a position  
236 with essential job functions that entitle an individual to  
237 special risk membership. Whether a new position as described in  
238 sub-subparagraph 1.c. exists and is available to the special  
239 risk member is a decision to be made solely by the employer in  
240 accordance with its hiring practices and applicable law.

241           4. This paragraph does not grant or create additional  
242 rights for any individual to continued employment or to be hired  
243 or rehired by his or her employer that are not already provided  
244 by state law ~~within the Florida Statutes~~, the State  
245 Constitution, the Americans with Disabilities Act, if  
246 applicable, or any other ~~applicable state or~~ federal law.

247           (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

248           (d) Notwithstanding any other provision of this subsection,  
249 this subsection does not apply to any special risk member who  
250 qualifies for continued membership pursuant to paragraph (3) (k)  
251 ~~(3) (j)~~.

252           Section 2. The Legislature finds that a proper and  
253 legitimate state purpose is served when employees and retirees  
254 of the state and its political subdivisions, and the dependents,  
255 survivors, and beneficiaries of such employees and retirees, are  
256 extended the basic protections afforded by governmental  
257 retirement systems. These persons must be provided benefits that  
258 are fair and adequate and are managed, administered, and funded  
259 in an actuarially sound manner, as required by s. 14, Article X  
260 of the State Constitution and part VII of chapter 112, Florida  
261 Statutes. Therefore, the Legislature determines and declares

16-00892-15

2015898\_\_

262 that this act fulfills an important state interest.

263 Section 3. This act shall take effect July 1, 2015.