

By Senator Hutson

7-00106-21

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1 A bill to be entitled
2 An act relating to the Special Risk Class of the
3 Florida Retirement System; amending s. 121.0515, F.S.;
4 adding employees of a water, sewer, or other public
5 works department of a participating employer who work
6 in certain hazardous conditions to the class as of a
7 specified date; providing a declaration of important
8 state interest; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (3) of section 121.0515, Florida
13 Statutes, is amended, and paragraph (i) is added to subsection
14 (2) of that section, to read:

15 121.0515 Special Risk Class.—

16 (2) MEMBERSHIP.—

17 (i) Effective July 1, 2021, "special risk member" includes
18 any member who is employed in a water, sewer, or other public
19 works department and meets the special criteria set forth in
20 paragraph (3)(k).

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

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

7-00106-21

2021230__

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

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

7-00106-21

2021230__

59 responsibilities, and for which the employer paid the special
60 risk contribution rate, are included;

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

75 (d) Effective October 1, 1999, the member must be employed
76 by a licensed Advance Life Support (ALS) or Basic Life Support
77 (BLS) employer as an emergency medical technician or a paramedic
78 and be certified in compliance with s. 401.27. In addition, the
79 member's primary duties and responsibilities must include on-
80 the-scene emergency medical care or as of October 1, 2001,
81 direct supervision of emergency medical technicians or
82 paramedics, or the member must be the supervisor or command
83 officer of one or more members who have such responsibility.
84 Administrative support personnel, including, but not limited to,
85 those whose primary responsibilities are in accounting,
86 purchasing, legal, and personnel, are not included;

87 (e) Effective January 1, 2001, the member must be employed

7-00106-21

2021230__

88 as a community-based correctional probation officer and be
89 certified, or required to be certified, in compliance with s.
90 943.1395. In addition, the member's primary duties and
91 responsibilities must be the supervised custody, surveillance,
92 control, investigation, and counseling of assigned inmates,
93 probationers, parolees, or community controllees within the
94 community; or the member must be the supervisor of a member or
95 members who have such responsibilities. Administrative support
96 personnel, including, but not limited to, those whose primary
97 duties and responsibilities are in accounting, purchasing, legal
98 services, and personnel management, are not included, except
99 that; ~~however~~, probation and parole circuit and deputy circuit
100 administrators are included;

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

- 106 1. Dietitian (class codes 5203 and 5204);
- 107 2. Public health nutrition consultant (class code 5224);
- 108 3. Psychological specialist (class codes 5230 and 5231);
- 109 4. Psychologist (class code 5234);
- 110 5. Senior psychologist (class codes 5237 and 5238);
- 111 6. Regional mental health consultant (class code 5240);
- 112 7. Psychological Services Director-DCF (class code 5242);
- 113 8. Pharmacist (class codes 5245 and 5246);
- 114 9. Senior pharmacist (class codes 5248 and 5249);
- 115 10. Dentist (class code 5266);
- 116 11. Senior dentist (class code 5269);

7-00106-21

2021230__

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

7-00106-21

2021230__

146 quality management supervisor, or command officer of one or more
147 individuals with such responsibility. Administrative support
148 personnel, including, but not limited to, those whose primary
149 responsibilities are clerical or in accounting, purchasing,
150 legal, and personnel, are not included;

151 (h) Effective July 1, 2008, the member must be employed by
152 the Department of Law Enforcement in the crime laboratory or by
153 the Division of State Fire Marshal in the forensic laboratory in
154 one of the following classes:

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

162 (i) Effective July 1, 2008, the member must be employed by
163 a local government law enforcement agency or medical examiner's
164 office and must spend at least 65 percent of his or her time
165 performing duties that involve the collection, examination,
166 preservation, documentation, preparation, or analysis of human
167 tissues or fluids or physical evidence having potential
168 biological, chemical, or radiological hazard or contamination,
169 or use chemicals, processes, or materials that may have
170 carcinogenic or health-damaging properties in the analysis of
171 such evidence, or the member must be the direct supervisor of
172 one or more individuals having such responsibility. If a special
173 risk member changes to another position within the same agency,
174 he or she must submit a complete application as provided in

7-00106-21

2021230__

175 paragraph (4) (a); ~~or~~

176 (j) The member must have already qualified for and be
177 actively participating in special risk membership under
178 paragraph (a), paragraph (b), or paragraph (c), must have
179 suffered a qualifying injury as defined in this paragraph, must
180 not be receiving disability retirement benefits as provided in
181 s. 121.091(4), and must satisfy the requirements of this
182 paragraph.

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

194 a. The ~~That this~~ physical loss or loss of use is total and
195 permanent, unless ~~except if~~ the loss of use is due to a physical
196 injury to the member's brain, in which event the loss of use is
197 permanent with at least 75 percent loss of motor function with
198 respect to each arm or leg affected.

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

202 c. ~~That,~~ Notwithstanding the ~~this~~ physical loss or loss of
203 use, the individual can perform the essential job functions

7-00106-21

2021230__

204 required by the member's new position, as provided in
205 subparagraph 3.

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

209 e. ~~That~~ The physical loss or loss of use is a direct result
210 of a physical injury and not a result of any mental,
211 psychological, or emotional injury.

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

225 3. The new position, as described in sub-subparagraph 1.c.,
226 that is required for qualification as a special risk member
227 under this paragraph is not required to be a position with
228 essential job functions that entitle an individual to special
229 risk membership. Whether a new position as described in sub-
230 subparagraph 1.c. exists and is available to the special risk
231 member is a decision to be made solely by the employer in
232 accordance with its hiring practices and applicable law.

7-00106-21

2021230__

233 4. This paragraph does not grant or create additional
234 rights for any individual to continued employment or to be hired
235 or rehired by his or her employer that are not already provided
236 by state law within the Florida Statutes, the State
237 Constitution, the Americans with Disabilities Act, if
238 applicable, or any other ~~applicable state or~~ federal law; or

239 (k) Effective July 1, 2021, the member must be employed in
240 a water, sewer, or other public works department of a
241 participating employer and must perform duties that include
242 working in hazardous conditions, such as responding to a
243 chemical release or spill; working in a confined space with
244 oxygen deficiencies or poisonous gases; cutting cement pipes or
245 materials containing asbestos; pouring lead joints; working with
246 toxic or hazardous chemicals or toxic, hazardous, or industrial
247 wastewater which requires the use of a respirator or a self-
248 contained breathing apparatus; or working in a confined space
249 where there is a clear and present safety or health hazard that
250 poses an imminent risk to the life and safety of the member.

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

7-00106-21

2021230__

262

Section 3. This act shall take effect July 1, 2021.