

By Senator Smith

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1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.021, F.S.; redefining the term
4 "special risk member"; amending s. 121.0515, F.S.;
5 revising criteria for membership in the special risk
6 class to include court deputies; providing legislative
7 findings that the act fulfills an important state
8 interest; providing an effective date.

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

11
12 Section 1. Subsection (15) of section 121.021, Florida
13 Statutes, is amended to read:

14 121.021 Definitions.—The following words and phrases as
15 used in this chapter have the respective meanings set forth
16 unless a different meaning is plainly required by the context:

17 (15) "Special risk member" means a member who meets the
18 criteria specified in s. 121.0515.

19 ~~(a) Until October 1, 1978, "special risk member" means any~~
20 ~~officer or employee whose application is approved by the~~
21 ~~administrator and who receives salary payments for work~~
22 ~~performed as a peace officer; law enforcement officer; police~~
23 ~~officer; highway patrol officer; custodial employee at a~~
24 ~~correctional or detention facility; correctional agency employee~~
25 ~~whose duties and responsibilities involve direct contact with~~
26 ~~inmates, but excluding secretarial and clerical employees;~~
27 ~~firefighter; or an employee in any other job in the field of law~~
28 ~~enforcement or fire protection if the duties of such person are~~
29 ~~certified as hazardous by his or her employer.~~

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30 ~~(b) Effective October 1, 1978, "special risk member" means~~
31 ~~a member of the Florida Retirement System who is designated as a~~
32 ~~special risk member by the division in accordance with s.~~
33 ~~121.0515. Such member must be employed as a law enforcement~~
34 ~~officer, a firefighter, or a correctional officer and must meet~~
35 ~~certain other special criteria as set forth in s. 121.0515.~~

36 ~~(c) Effective October 1, 1999, "special risk member" means~~
37 ~~a member of the Florida Retirement System who is designated as a~~
38 ~~special risk member by the division in accordance with s.~~
39 ~~121.0515. Such member must be employed as a law enforcement~~
40 ~~officer, a firefighter, a correctional officer, an emergency~~
41 ~~medical technician, or a paramedic and must meet certain other~~
42 ~~special criteria as set forth in s. 121.0515.~~

43 ~~(d)1. Effective January 1, 2001, "special risk member"~~
44 ~~includes any member who is employed as a community-based~~
45 ~~correctional probation officer and meets the special criteria~~
46 ~~set forth in s. 121.0515(2)(e).~~

47 ~~2. Effective January 1, 2001, "special risk member"~~
48 ~~includes any professional health care bargaining unit or non-~~
49 ~~unit member who is employed by the Department of Corrections or~~
50 ~~the Department of Children and Family Services and meets the~~
51 ~~special criteria set forth in s. 121.0515(2)(f).~~

52 ~~(e) Effective July 1, 2001, the term "special risk member"~~
53 ~~includes any member who is employed as a youth custody officer~~
54 ~~by the Department of Juvenile Justice and meets the special~~
55 ~~criteria set forth in s. 121.0515(2)(g).~~

56 ~~(f) Effective August 1, 2008, "special risk member"~~
57 ~~includes any member who meets the special criteria for continued~~
58 ~~membership set forth in s. 121.0515(2)(k).~~

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59 Section 2. Subsection (2), paragraph (b) of subsection (4),
60 paragraph (d) of subsection (7), and paragraph (c) of subsection
61 (9) of section 121.0515, Florida Statutes, are amended to read:

62 121.0515 Special risk membership.—

63 (2) CRITERIA.—Before October 1, 1978 ~~A member~~, to be
64 designated as a special risk member, the member's application
65 must be approved by the administrator and the member must
66 receive salary payments for work performed as a peace officer;
67 law enforcement officer; police officer; highway patrol officer;
68 custodial employee at a correctional or detention facility;
69 correctional agency employee whose duties and responsibilities
70 involve direct contact with inmates, but excluding secretarial
71 and clerical employees; firefighter; or an employee in any other
72 job in the field of law enforcement or fire protection if the
73 member's duties are certified as hazardous by his or her
74 employer. Effective October 1, 1978, a member must be designated
75 as a special risk member by the department and ~~must~~ meet the
76 following criteria:

77 (a) Effective October 1, 1978, the member must be employed
78 as a law enforcement officer, a firefighter, or a correctional
79 officer and:

80 1. (a) If employed ~~The member must be employed~~ as a law
81 enforcement officer, the member must ~~and~~ be certified, or
82 required to be certified, in compliance with s. 943.1395;
83 however, sheriffs and elected police chiefs are ~~shall be~~
84 excluded from meeting the certification requirements ~~of this~~
85 ~~paragraph~~. In addition, the member's duties and responsibilities
86 must include the pursuit, apprehension, and arrest of law
87 violators or suspected law violators; ~~or~~ the member must be an

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88 active member of a bomb disposal unit whose primary
89 responsibility is the location, handling, and disposal of
90 explosive devices; or the member must be the supervisor or
91 command officer of a member or members who have such
92 responsibilities. ~~;~~ ~~provided, however,~~ Administrative support
93 personnel, including, but not limited to, those whose primary
94 duties and responsibilities are in accounting, purchasing,
95 legal, and personnel, are ~~shall~~ not ~~be~~ included;

96 2.(b) If employed ~~The member must be employed~~ as a
97 firefighter, the member must ~~and~~ be certified, or required to be
98 certified, in compliance with s. 633.35 and be employed solely
99 within the fire department of a local government employer or an
100 agency of state government with firefighting responsibilities.
101 In addition, the member's duties and responsibilities must
102 include on-the-scene fighting of fires, fire prevention, or
103 firefighter training; direct supervision of firefighting units,
104 fire prevention, or firefighter training; or aerial firefighting
105 surveillance performed by fixed-wing aircraft pilots employed by
106 the Division of Forestry of the Department of Agriculture and
107 Consumer Services; or the member must be the supervisor or
108 command officer of a member or members who have such
109 responsibilities. ~~;~~ ~~provided, however,~~ Administrative support
110 personnel, including, but not limited to, those whose primary
111 duties and responsibilities are in accounting, purchasing,
112 legal, and personnel, are ~~shall~~ not ~~be~~ included; however, ~~and~~
113 ~~further provided that~~ all periods of creditable service in fire
114 prevention or firefighter training, or as the supervisor or
115 command officer of a member or members who have such
116 responsibilities, and for which the employer paid the special

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117 risk contribution rate, are ~~shall be~~ included; or

118 3.(c) If employed ~~The member must be employed~~ as a
 119 correctional officer, the member must ~~and~~ be certified, or
 120 required to be certified, in compliance with s. 943.1395. In
 121 addition, the member's primary duties and responsibilities must
 122 be the custody, and physical restraint when necessary, of
 123 prisoners or inmates within a prison, jail, or other criminal
 124 detention facility, or while on work detail outside the
 125 facility, or while being transported; or the member must be the
 126 supervisor or command officer of a member or members who have
 127 such responsibilities. ~~; provided, however,~~ Administrative
 128 support personnel, including, but not limited to, those whose
 129 primary duties and responsibilities are in accounting,
 130 purchasing, legal, and personnel, are ~~shall not be~~ included;
 131 however, wardens and assistant wardens, as defined by rule,
 132 shall participate in the Special Risk Class. ~~;~~

133 (b) Effective October 1, 1999, special risk membership also
 134 includes an emergency medical technician or paramedic who is

135 ~~(d) The member must be~~ employed by a licensed Advance Life
 136 Support (ALS) or Basic Life Support (BLS) employer ~~as an~~
 137 ~~emergency medical technician or a paramedic~~ and is ~~be~~ certified
 138 in compliance with s. 401.27. In addition, the member's primary
 139 duties and responsibilities must include on-the-scene emergency
 140 medical care or direct supervision of emergency medical
 141 technicians or paramedics, or the member must be the supervisor
 142 or command officer of one or more members who have such
 143 responsibility. ~~However,~~ Administrative support personnel,
 144 including, but not limited to, those whose primary
 145 responsibilities are in accounting, purchasing, legal, and

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146 personnel, are ~~shall~~ not be included.~~†~~

147 (c) Effective January 1, 2001, special risk membership also
148 includes a community-based correctional probation officer who is

149 ~~(e) The member must be~~ employed as a community-based
150 correctional probation officer and is ~~be~~ certified, or required
151 to be certified, in compliance with s. 943.1395. In addition,
152 the member's primary duties and responsibilities must be the
153 supervised custody, surveillance, control, investigation, and
154 counseling of assigned inmates, probationers, parolees, or
155 community controllees within the community; or the member must
156 be the supervisor of a member or members who have such
157 responsibilities. Administrative support personnel, including,
158 but not limited to, those whose primary duties and
159 responsibilities are in accounting, purchasing, legal services,
160 and personnel management, are ~~shall~~ not be included; however,
161 probation and parole circuit and deputy circuit administrators
162 shall participate in the Special Risk Class.~~†~~

163 (d) Effective January 1, 2001, special risk membership also
164 includes a professional health care bargaining unit or non-unit
165 member who is employed by the Department of Corrections or the
166 Department of Children and Family Services

167 ~~(f) The member must be employed~~ in one of the following
168 classes and who spends ~~must spend~~ at least 75 percent of his or
169 her time performing duties that ~~which~~ involve contact with
170 patients or inmates in a correctional or forensic facility or
171 institution:

- 172 1. Dietitian (class codes 5203 and 5204);
- 173 2. Public health nutrition consultant (class code 5224);
- 174 3. Psychological specialist (class codes 5230 and 5231);

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- 175 4. Psychologist (class code 5234);
- 176 5. Senior psychologist (class codes 5237 and 5238);
- 177 6. Regional mental health consultant (class code 5240);
- 178 7. Psychological Services Director-DCF (class code 5242);
- 179 8. Pharmacist (class codes 5245 and 5246);
- 180 9. Senior pharmacist (class codes 5248 and 5249);
- 181 10. Dentist (class code 5266);
- 182 11. Senior dentist (class code 5269);
- 183 12. Registered nurse (class codes 5290 and 5291);
- 184 13. Senior registered nurse (class codes 5292 and 5293);
- 185 14. Registered nurse specialist (class codes 5294 and
- 186 5295);
- 187 15. Clinical associate (class codes 5298 and 5299);
- 188 16. Advanced registered nurse practitioner (class codes
- 189 5297 and 5300);
- 190 17. Advanced registered nurse practitioner specialist
- 191 (class codes 5304 and 5305);
- 192 18. Registered nurse supervisor (class codes 5306 and
- 193 5307);
- 194 19. Senior registered nurse supervisor (class codes 5308
- 195 and 5309);
- 196 20. Registered nursing consultant (class codes 5312 and
- 197 5313);
- 198 21. Quality management program supervisor (class code
- 199 5314);
- 200 22. Executive nursing director (class codes 5320 and 5321);
- 201 23. Speech and hearing therapist (class code 5406); or
- 202 24. Pharmacy manager (class code 5251).~~†~~
- 203 (e) Effective July 1, 2001, special risk membership also

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204 includes a youth custody officer who is employed by the
205 Department of Juvenile Justice and is

206 ~~(g) The member must be employed as a youth custody officer~~
207 ~~and be~~ certified, or required to be certified, in compliance
208 with s. 943.1395. In addition, the member's primary duties and
209 responsibilities must be the supervised custody, surveillance,
210 control, investigation, apprehension, arrest, and counseling of
211 assigned juveniles within the community.†

212 (f) ~~(h)~~ Effective October 1, 2005, through June 30, 2008,
213 the member must be employed by a law enforcement agency or
214 medical examiner's office in a forensic discipline recognized by
215 the International Association for Identification and must
216 qualify for active membership in the International Association
217 for Identification. The member's primary duties and
218 responsibilities must include the collection, examination,
219 preservation, documentation, preparation, or analysis of
220 physical evidence or testimony, or both, or the member must be
221 the direct supervisor, quality management supervisor, or command
222 officer of one or more individuals with such responsibility.
223 Administrative support personnel, including, but not limited to,
224 those whose primary responsibilities are clerical or in
225 accounting, purchasing, legal, and personnel, are ~~shall not be~~
226 included.†

227 (g) ~~(i)~~ Effective July 1, 2008, the member must be employed
228 by the Department of Law Enforcement in the crime laboratory or
229 by the Division of State Fire Marshal in the forensic laboratory
230 in one of the following classes:

- 231 1. Forensic technologist (class code 8459);
232 2. Crime laboratory technician (class code 8461);

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233 3. Crime laboratory analyst (class code 8463);

234 4. Senior crime laboratory analyst (class code 8464);

235 5. Crime laboratory analyst supervisor (class code 8466);

236 6. Forensic chief (class code 9602); or

237 7. Forensic services quality manager (class code 9603).~~+~~

238 (h)~~(j)~~ Effective July 1, 2008, the member must be employed
 239 by a local government law enforcement agency or medical
 240 examiner's office and must spend at least 65 percent of his or
 241 her time performing duties that involve the collection,
 242 examination, preservation, documentation, preparation, or
 243 analysis of human tissues or fluids or physical evidence having
 244 potential biological, chemical, or radiological hazard or
 245 contamination, or use chemicals, processes, or materials that
 246 may have carcinogenic or health-damaging properties in the
 247 analysis of such evidence, or the member must be the direct
 248 supervisor of one or more individuals having such
 249 responsibility. If a special risk member changes to another
 250 position within the same agency, he or she must submit a
 251 complete application as provided in paragraph (3) (a).~~+~~~~or~~

252 (i)~~(k)~~ Effective August 1, 2009, the member must have
 253 already qualified for and be actively participating in special
 254 risk membership under paragraph (a), ~~paragraph (b), or paragraph~~
 255 ~~(c),~~ must have suffered a qualifying injury ~~as defined in this~~
 256 ~~paragraph,~~ must not be receiving disability retirement benefits
 257 under as provided in s. 121.091(4), and must satisfy the
 258 requirements of this paragraph.

259 1. ~~The ability to qualify for the class of membership~~
 260 ~~defined in s. 121.021(15) (f) shall occur when~~ Two licensed
 261 medical physicians, one of whom is the member's a primary

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262 treating physician ~~of the member~~, must certify the existence of
263 ~~the physical injury and medical condition that constitute a~~
264 ~~qualifying injury as defined in this paragraph~~ and ~~that~~ the
265 member must have ~~has~~ reached maximum medical improvement after
266 August 1, 2008. The certifications ~~from the licensed medical~~
267 ~~physicians~~ must include, at a minimum, that the injury ~~to the~~
268 ~~special risk member has~~ resulted in a physical loss, or loss of
269 use, of at least two of the following: left arm, right arm, left
270 leg, or right leg; and that:

271 a. The ~~That this~~ physical loss or loss of use is total and
272 permanent, unless ~~except in the event that~~ the loss of use is
273 due to a physical injury to the member's brain, in which event
274 the loss of use is permanent with at least 75-percent loss of
275 motor function with respect to each arm or leg affected.

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

279 c. ~~That~~, Notwithstanding the ~~this~~ physical loss or loss of
280 use, the individual is able to perform the essential job
281 functions required by the member's new position, as provided in
282 subparagraph 3.

283 d. The ~~That~~ use of artificial limbs is ~~either~~ not possible
284 or does not alter the member's ability to perform the essential
285 job functions of the member's position.

286 e. ~~That~~ The physical loss or loss of use is a direct result
287 of a physical injury and not a result of any mental,
288 psychological, or emotional injury.

289 2. For the purposes of this paragraph, "qualifying injury"
290 means a physical an injury and medical condition sustained in

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291 the line of duty, as certified by the member's employing agency,
292 which ~~by a special risk member that~~ does not result in total and
293 permanent disability as defined in s. 121.091(4)(b). An injury
294 is a qualifying injury if ~~when~~ the injury is a physical injury
295 to the member's physical body resulting in a physical loss, or
296 loss of use, of at least two of the following: left arm, right
297 arm, left leg, or right leg. Notwithstanding anything in this
298 section ~~to the contrary~~, an injury that would otherwise qualify
299 as a qualifying injury is ~~shall not be considered~~ a qualifying
300 injury if and when the member ceases employment with the
301 employer for whom he or she was providing special risk services
302 on the date the injury occurred.

303 3. The new position, as described in sub-subparagraph 1.c.,
304 ~~that is required for qualification as a special risk member~~
305 ~~under this paragraph~~ is not required to be a position that has
306 ~~with~~ essential job functions that entitle an individual to
307 special risk membership. Whether the ~~a~~ new position ~~as described~~
308 ~~in sub-subparagraph 1.c.~~ exists and is available to the special
309 risk member is a decision to be made solely by the employer in
310 accordance with its hiring practices and applicable law.

311 4. This paragraph does not grant or create additional
312 rights for an any individual to continued employment or to be
313 hired or rehired by his or her employer which ~~that~~ are not
314 already provided under state law ~~within the Florida Statutes,~~
315 ~~the State Constitution~~, the Americans with Disabilities Act, if
316 applicable, or any other applicable state or federal law.

317 (j) Effective July 1, 2011, special risk membership also
318 includes a member who is a court deputy in the state court
319 system and whose primary duties include transporting,

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320 controlling, and fingerprinting prisoners within the courthouse;
321 maintaining care and control of juries; notifying court
322 administration when larger courtrooms are needed, bringing
323 judge's supplies to the courtroom, announcing the judge and
324 calling the court to order; and maintaining a safe and secure
325 environment for the public in a courtroom setting.

326 Administrative support personnel, including, but not limited to,
327 those whose primary responsibilities are clerical or in
328 accounting, purchasing, legal, and personnel, are not included.

329 (4) REMOVAL OF SPECIAL RISK MEMBERSHIP.—

330 (b) Any member who is a special risk member on July 1,
331 2008, and who became eligible to participate under paragraph
332 (2) (f) ~~(2) (h)~~ but fails to meet the criteria for special risk
333 membership under ~~established by~~ paragraph (2) (g) ~~(2) (i)~~ or
334 paragraph (2) (h) ~~(2) (j)~~ shall have his or her special risk
335 designation removed and thereafter shall be a Regular Class
336 member and earn only Regular Class membership credit. The
337 department may review the special risk designation of members to
338 determine whether ~~or not~~ those members continue to meet the
339 criteria for special risk membership.

340 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.—

341 ~~(d) Notwithstanding any provision of this subsection to the~~
342 ~~contrary,~~ This subsection does not apply to a a ~~any~~ special risk
343 member who qualifies for continued membership under ~~pursuant to~~
344 ~~the provisions of~~ paragraph (2) (i) ~~(2) (k)~~.

345 (9) CREDIT FOR UPGRADED SERVICE.—

346 (c) Any member of the Special Risk Class who has earned
347 creditable service in another membership class of the Florida
348 Retirement System in a position with the Department of Law

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349 Enforcement or the Division of State Fire Marshal and became
350 covered by the Special Risk Class as described in paragraph
351 (2) (g) ~~(2) (i)~~, or with a local government law enforcement agency
352 or medical examiner's office and became covered by the Special
353 Risk Class ~~as~~ described in paragraph (2) (h) ~~(2) (j)~~, which
354 service is within the purview of the Special Risk Class, and is
355 employed in such position on or after July 1, 2008, may purchase
356 additional retirement credit to upgrade such service to Special
357 Risk Class service, to the extent of the percentages of the
358 member's average final compensation provided in s.
359 121.091(1)(a)2. The cost for such credit must ~~shall~~ be an amount
360 representing the actuarial accrued liability for the difference
361 in accrual value during the affected period of service. The cost
362 shall be calculated using the discount rate and other relevant
363 actuarial assumptions that were used to value the Florida
364 Retirement System defined benefit plan liabilities in the most
365 recent actuarial valuation. The Division of Retirement shall
366 ensure that the transfer sum is prepared using a formula and
367 methodology certified by an enrolled actuary. The cost must be
368 paid immediately upon notification by the division. The local
369 government employer may purchase the upgraded service credit on
370 behalf of the member if the member has been employed by that
371 employer for at least 3 years.

372 Section 3. The Legislature finds that a proper and
373 legitimate state interest is served when state court employees
374 who are responsible for maintaining a safe and secure
375 environment for staff and the public in a courtroom setting are
376 classified as members of the special risk class of the Florida
377 Retirement System. These persons must be provided benefits that

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378 are fair and adequate and that are managed, administered, and
379 funded in an actuarially sound manner as required by s. 14,
380 Article X of the State Constitution, and part VII of chapter
381 112, Florida Statutes. Therefore, the Legislature determines and
382 declares that the amendment of s. 121.0515, Florida Statutes,
383 made by this act fulfills an important state interest.

384 Section 4. This act shall take effect July 1, 2011.