

By Senator Hill

1-00234A-11

2011442

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 members employed by public acute care  
7           hospitals serving certain patients; providing  
8           legislative findings that the act fulfills an  
9           important state interest; providing an effective date.

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

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

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

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

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

1-00234A-11

2011442

30 ~~certified as hazardous by his or her employer.~~

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

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

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

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

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

57 ~~(f) Effective August 1, 2008, "special risk member"~~  
58 ~~includes any member who meets the special criteria for continued~~

1-00234A-11

2011442

59 membership set forth in s. 121.0515(2)(k).

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

63 121.0515 Special risk membership.—

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

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

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

1-00234A-11

2011442

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

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

1-00234A-11

2011442

117 responsibilities, and for which the employer paid the special  
118 risk contribution rate, are ~~shall be~~ included; or

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

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

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

1-00234A-11

2011442

146 responsibilities are in accounting, purchasing, legal, and  
147 personnel, are ~~shall~~ not be included.

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

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

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

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

- 173 1. Dietitian (class codes 5203 and 5204);  
174 2. Public health nutrition consultant (class code 5224);

1-00234A-11

2011442

- 175 3. Psychological specialist (class codes 5230 and 5231);  
176 4. Psychologist (class code 5234);  
177 5. Senior psychologist (class codes 5237 and 5238);  
178 6. Regional mental health consultant (class code 5240);  
179 7. Psychological Services Director-DCF (class code 5242);  
180 8. Pharmacist (class codes 5245 and 5246);  
181 9. Senior pharmacist (class codes 5248 and 5249);  
182 10. Dentist (class code 5266);  
183 11. Senior dentist (class code 5269);  
184 12. Registered nurse (class codes 5290 and 5291);  
185 13. Senior registered nurse (class codes 5292 and 5293);  
186 14. Registered nurse specialist (class codes 5294 and  
187 5295);  
188 15. Clinical associate (class codes 5298 and 5299);  
189 16. Advanced registered nurse practitioner (class codes  
190 5297 and 5300);  
191 17. Advanced registered nurse practitioner specialist  
192 (class codes 5304 and 5305);  
193 18. Registered nurse supervisor (class codes 5306 and  
194 5307);  
195 19. Senior registered nurse supervisor (class codes 5308  
196 and 5309);  
197 20. Registered nursing consultant (class codes 5312 and  
198 5313);  
199 21. Quality management program supervisor (class code  
200 5314);  
201 22. Executive nursing director (class codes 5320 and 5321);  
202 23. Speech and hearing therapist (class code 5406); or  
203 24. Pharmacy manager (class code 5251).†

1-00234A-11

2011442

204 (e) Effective July 1, 2001, special risk membership also  
205 includes a youth custody officer who is employed by the  
206 Department of Juvenile Justice and

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

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

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

232 1. Forensic technologist (class code 8459);



1-00234A-11

2011442

- 233 2. Crime laboratory technician (class code 8461);
- 234 3. Crime laboratory analyst (class code 8463);
- 235 4. Senior crime laboratory analyst (class code 8464);
- 236 5. Crime laboratory analyst supervisor (class code 8466);
- 237 6. Forensic chief (class code 9602); or
- 238 7. Forensic services quality manager (class code 9603).~~†~~
- 239 (h)~~(j)~~ Effective July 1, 2008, the member must be employed
- 240 by a local government law enforcement agency or medical
- 241 examiner's office and must spend at least 65 percent of his or
- 242 her time performing duties that involve the collection,
- 243 examination, preservation, documentation, preparation, or
- 244 analysis of human tissues or fluids or physical evidence having
- 245 potential biological, chemical, or radiological hazard or
- 246 contamination, or use chemicals, processes, or materials that
- 247 may have carcinogenic or health-damaging properties in the
- 248 analysis of such evidence, or the member must be the direct
- 249 supervisor of one or more individuals having such
- 250 responsibility. If a special risk member changes to another
- 251 position within the same agency, he or she must submit a
- 252 complete application as provided in paragraph (3) (a).~~†~~~~or~~
- 253 (i)~~(k)~~ Effective August 1, 2009, the member must have
- 254 already qualified for and be actively participating in special
- 255 risk membership under paragraph (a), ~~paragraph (b), or paragraph~~
- 256 ~~(c),~~ must have suffered a qualifying injury ~~as defined in this~~
- 257 ~~paragraph,~~ must not be receiving disability retirement benefits
- 258 under as provided in s. 121.091(4), and must satisfy the
- 259 requirements of this paragraph.
- 260 1. ~~The ability to qualify for the class of membership~~
- 261 ~~defined in s. 121.021(15) (f) shall occur when Two licensed~~

1-00234A-11

2011442

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

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

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

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

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

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

290 2. For the purposes of this paragraph, "qualifying injury"

1-00234A-11

2011442

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

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

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

318 (j) Effective July 1, 2011, special risk membership also  
319 includes a member who is employed by a public acute care

1-00234A-11

2011442

320 hospital that serves members of the public and serves as a  
321 trauma center, and that provides treatment to members of the  
322 public who have deadly or crippling infectious diseases, who are  
323 accused of or convicted of serious violent crimes, who have been  
324 subjected to hazardous materials or biological or chemical  
325 agents as a result of terrorism or industrial accidents, or who  
326 have diseases that require treatment interventions using  
327 extremely toxic substances.

328 (4) REMOVAL OF SPECIAL RISK MEMBERSHIP.—

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

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

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

344 (9) CREDIT FOR UPGRADED SERVICE.—

345 (c) Any member of the Special Risk Class who has earned  
346 creditable service in another membership class of the Florida  
347 Retirement System in a position with the Department of Law  
348 Enforcement or the Division of State Fire Marshal and became

1-00234A-11

2011442

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

371 Section 3. The Legislature finds that a proper and  
372 legitimate state interest is served when employees of public  
373 acute care hospitals that serve members of the public who have  
374 deadly or crippling infectious diseases, who are accused of or  
375 convicted of serious violent crimes, who have been subjected to  
376 hazardous materials or biological or chemical agents as a result  
377 of terrorism or industrial accidents, or who have diseases that

1-00234A-11

2011442\_\_

378 require treatment interventions using extremely toxic substances  
379 are classified as members of the special risk class of the  
380 Florida Retirement System. These persons must be provided  
381 benefits that are fair and adequate and that are managed,  
382 administered, and funded in an actuarially sound manner as  
383 required by s. 14, Article X of the State Constitution, and part  
384 VII of chapter 112, Florida Statutes. Therefore, the Legislature  
385 determines and declares that the amendments made by this act to  
386 s. 121.0515, Florida Statutes, fulfill an important state  
387 interest.

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