

By Senator Rodriguez

37-00894A-18

20181518\_\_

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 to the class employees of a water, sewer, or  
 5 other public works department of a participating  
 6 employer who work in certain hazardous conditions and  
 7 individuals employed as police service aides;  
 8 providing a declaration of important state interest;  
 9 providing an effective date.

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

12  
 13 Section 1. Paragraph (h) of subsection (2), subsection (3),  
 14 and paragraph (d) of subsection (8) of section 121.0515, Florida  
 15 Statutes, are amended to read:

16 121.0515 Special Risk Class.—

17 (2) MEMBERSHIP.—

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

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

37-00894A-18

20181518\_\_

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

37-00894A-18

20181518\_\_

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

37-00894A-18

20181518\_\_

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; however,  
99 probation and parole circuit and deputy circuit administrators  
100 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);

37-00894A-18

20181518\_\_

- 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 registered nurse practitioner (class codes
- 123 5297 and 5300);
- 124 17. Advanced registered nurse practitioner specialist
- 125 (class 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,

37-00894A-18

20181518\_\_

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

37-00894A-18

20181518\_\_

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

176 (j) Effective July 1, 2018, the member must be employed in  
177 a water, sewer, or other public works department of a  
178 participating employer and must spend the majority of his or her  
179 time performing duties that include working in hazardous  
180 conditions, such as responding to a chemical release or spill;  
181 working in a confined space with oxygen deficiencies and  
182 poisonous gases; cutting cement pipes or materials containing  
183 asbestos; pouring lead joints; performing work with toxic or  
184 hazardous chemicals or toxic, hazardous, or industrial  
185 wastewater requiring the use of an air respirator or a self-  
186 contained breathing apparatus; or performing work in a confined  
187 space where there is a clear and present safety or health hazard  
188 that poses an imminent risk to the life and safety of the  
189 member;

190 (k) Effective January 1, 2019, the member must be employed  
191 by a law enforcement agency as a police service aide whose  
192 primary employment duties include providing support services to  
193 law enforcement officers, including, but not limited to,  
194 responding to emergency and nonemergency calls for service; or

195 (l) The member must have already qualified for and be  
196 actively participating in special risk membership under  
197 paragraph (a), paragraph (b), or paragraph (c), must have  
198 suffered a qualifying injury as defined in this paragraph, must  
199 not be receiving disability retirement benefits as provided in  
200 s. 121.091(4), and must satisfy the requirements of this  
201 paragraph.

202 1. The ability to qualify for the class of membership  
203 defined in paragraph (2) (h) occurs when two licensed medical

37-00894A-18

20181518\_\_

204 physicians, one of whom is a primary treating physician of the  
205 member, certify the existence of the physical injury and medical  
206 condition that constitute a qualifying injury as defined in this  
207 paragraph and that the member has reached maximum medical  
208 improvement after August 1, 2008. The certifications from the  
209 licensed medical physicians must include, at a minimum, that the  
210 injury to the special risk member has resulted in a physical  
211 loss, or loss of use, of at least two of the following: left  
212 arm, right arm, left leg, or right leg; and that:

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

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

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

224 d. The ~~That~~ use of artificial limbs is not possible or does  
225 not alter the member's ability to perform the essential job  
226 functions of the member's position.

227 e. ~~That~~ The physical loss or loss of use is a direct result  
228 of a physical injury and not a result of any mental,  
229 psychological, or emotional injury.

230 2. For the purposes of this paragraph, the term "qualifying  
231 injury" means an injury sustained in the line of duty, as  
232 certified by the member's employing agency, by a special risk



37-00894A-18

20181518\_\_

233 member that does not result in total and permanent disability as  
234 defined in s. 121.091(4) (b). An injury is a qualifying injury if  
235 the injury is a physical injury to the member's physical body  
236 resulting in a physical loss, or loss of use, of at least two of  
237 the following: left arm, right arm, left leg, or right leg.  
238 Notwithstanding any other provision of this section, an injury  
239 that would otherwise qualify as a qualifying injury is not  
240 ~~considered~~ a qualifying injury if and when the member ceases  
241 employment with the employer for whom he or she was providing  
242 special risk services on the date the injury occurred.

243 3. The new position, as described in sub-subparagraph 1.c.,  
244 which ~~that~~ is required for qualification as a special risk  
245 member under this paragraph is not required to be a position  
246 with essential job functions that entitle an individual to  
247 special risk membership. Whether a new position as described in  
248 sub-subparagraph 1.c. exists and is available to the special  
249 risk member is a decision to be made solely by the employer in  
250 accordance with its hiring practices and applicable law.

251 4. This paragraph does not grant or create additional  
252 rights for any individual to continued employment or to be hired  
253 or rehired by his or her employer which ~~that~~ are not already  
254 provided by state law ~~within the Florida Statutes~~, the State  
255 Constitution, the Americans with Disabilities Act, if  
256 applicable, or any other ~~applicable state or~~ federal law.

257 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

258 (d) Notwithstanding any other provision of this subsection,  
259 this subsection does not apply to any special risk member who  
260 qualifies for continued membership pursuant to paragraph (3) (1)  
261 ~~(3) (j)~~.

37-00894A-18

20181518\_\_

262           Section 2. The Legislature finds that a proper and  
263 legitimate state purpose is served when employees and retirees  
264 of the state and its political subdivisions, and the dependents,  
265 survivors, and beneficiaries of such employees and retirees, are  
266 extended the basic protections afforded by governmental  
267 retirement systems. These persons must be provided benefits that  
268 are fair and adequate and are managed, administered, and funded  
269 in an actuarially sound manner, as required by s. 14, Article X  
270 of the State Constitution and part VII of chapter 112, Florida  
271 Statutes. Therefore, the Legislature determines and declares  
272 that this act fulfills an important state interest.

273           Section 3. This act shall take effect July 1, 2018.