

CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the Florida Retirement System; amending
7 s. 121.055, F.S.; providing a specified period of time for
8 local government employees who are members of the Senior
9 Management Service Class who have withdrawn from the
10 Florida Retirement System to elect to participate in the
11 defined benefit program or the Public Employee Optional
12 Retirement Program of the system; prescribing requirements
13 in making such election; providing for payment of the
14 costs of such membership; amending s. 121.091, F.S.;
15 extending participation in the Deferred Retirement Option
16 Program to members who are employed as faculty or staff at
17 a state university while also being employed as
18 instructional personnel at the developmental research
19 school of that state university, provided the member has
20 received proper authorization; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Paragraph (b) of subsection (1) of section
26 121.055, Florida Statutes, is amended to read:

27 121.055 Senior Management Service Class.--There is hereby
28 established a separate class of membership within the Florida
29 Retirement System to be known as the "Senior Management Service
30 Class," which shall become effective February 1, 1987.

31 (1)

32 (b)1. Except as provided in subparagraph 2., effective
33 January 1, 1990, participation in the Senior Management Service
34 Class shall be compulsory for the president of each community
35 college, the manager of each participating city or county, and
36 all appointed district school superintendents. Effective January
37 1, 1994, additional positions may be designated for inclusion in
38 the Senior Management Service Class of the Florida Retirement
39 System, provided that:

40 a. Positions to be included in the class shall be
41 designated by the local agency employer. Notice of intent to
42 designate positions for inclusion in the class shall be
43 published once a week for 2 consecutive weeks in a newspaper of
44 general circulation published in the county or counties
45 affected, as provided in chapter 50.

46 b. Up to 10 nonelective full-time positions may be
47 designated for each local agency employer reporting to the
48 Department of Management Services; for local agencies with 100
49 or more regularly established positions, additional nonelective
50 full-time positions may be designated, not to exceed 1 percent
51 of the regularly established positions within the agency.

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52 c. Each position added to the class must be a managerial
53 or policymaking position filled by an employee who is not
54 subject to continuing contract and serves at the pleasure of the
55 local agency employer without civil service protection, and who:

- 56 (I) Heads an organizational unit; or
- 57 (II) Has responsibility to effect or recommend personnel,
58 budget, expenditure, or policy decisions in his or her areas of
59 responsibility.

60 2. In lieu of participation in the Senior Management
61 Service Class, members of the Senior Management Service Class
62 pursuant to the provisions of subparagraph 1. may withdraw from
63 the Florida Retirement System altogether. The decision to
64 withdraw from the Florida Retirement System shall be irrevocable
65 for as long as the employee holds such a position. Any service
66 creditable under the Senior Management Service Class shall be
67 retained after the member withdraws from the Florida Retirement
68 System; however, additional service credit in the Senior
69 Management Service Class shall not be earned after such
70 withdrawal. Such members shall not be eligible to participate in
71 the Senior Management Service Optional Annuity Program.

72 3. Effective January 1, 2006, and terminating June 30,
73 2006, an employee who has withdrawn from the Florida Retirement
74 System pursuant to subparagraph 2. shall have one opportunity to
75 elect to participate in either the defined benefit program of
76 the Florida Retirement System or the Public Employee Optional
77 Retirement Program.

78 a. If an employee elects to participate in the Public
79 Employee Optional Retirement Program, membership shall be

80 prospective, and the applicable provisions of s. 121.4501(4)
 81 shall govern the election.

82 b. If an employee elects to participate in the defined
 83 benefit program of the Florida Retirement System, the employee
 84 shall, upon payment to the system trust fund of the amount
 85 calculated under sub-sub-subparagraph (I), receive service
 86 credit equal to his or her years of service under the local
 87 optional retirement program.

88 (I) The cost for such credit shall be an amount
 89 representing the actuarial accrued liability for the affected
 90 period of service. The cost shall be calculated using the
 91 discount rate and other relevant actuarial assumptions that were
 92 used to value the Florida Retirement System defined benefit plan
 93 liabilities in the most recent actuarial valuation. The
 94 calculation shall include any service previously maintained
 95 under the defined benefit plan in addition to the period of
 96 withdrawal. The actuarial accrued liability attributable to any
 97 service already maintained under the defined benefit plan shall
 98 be applied as a credit to total cost resulting from the
 99 calculation. The division shall ensure that the transfer sum is
 100 prepared using a formula and methodology certified by an
 101 enrolled actuary.

102 (II) The employee must transfer a sum representing the net
 103 cost owed for the actuarial accrued liability in sub-sub-
 104 subparagraph (I) immediately following the time of such
 105 movement, determined assuming that attained service equals the
 106 sum of service in the defined benefit program and the period of
 107 withdrawal.

108 Section 2. Paragraphs (a) and (b) of subsection (13) of
109 section 121.091, Florida Statutes, are amended to read:

110 121.091 Benefits payable under the system.--Benefits may
111 not be paid under this section unless the member has terminated
112 employment as provided in s. 121.021(39)(a) or begun
113 participation in the Deferred Retirement Option Program as
114 provided in subsection (13), and a proper application has been
115 filed in the manner prescribed by the department. The department
116 may cancel an application for retirement benefits when the
117 member or beneficiary fails to timely provide the information
118 and documents required by this chapter and the department's
119 rules. The department shall adopt rules establishing procedures
120 for application for retirement benefits and for the cancellation
121 of such application when the required information or documents
122 are not received.

123 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
124 subject to the provisions of this section, the Deferred
125 Retirement Option Program, hereinafter referred to as the DROP,
126 is a program under which an eligible member of the Florida
127 Retirement System may elect to participate, deferring receipt of
128 retirement benefits while continuing employment with his or her
129 Florida Retirement System employer. The deferred monthly
130 benefits shall accrue in the System Trust Fund on behalf of the
131 participant, plus interest compounded monthly, for the specified
132 period of the DROP participation, as provided in paragraph (c).
133 Upon termination of employment, the participant shall receive
134 the total DROP benefits and begin to receive the previously
135 determined normal retirement benefits. Participation in the DROP

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136 does not guarantee employment for the specified period of DROP.
137 Participation in the DROP by an eligible member beyond the
138 initial 60-month period as authorized in this subsection shall
139 be on an annual contractual basis for all participants.

140 (a) Eligibility of member to participate in the DROP.--All
141 active Florida Retirement System members in a regularly
142 established position, and all active members of either the
143 Teachers' Retirement System established in chapter 238 or the
144 State and County Officers' and Employees' Retirement System
145 established in chapter 122 which systems are consolidated within
146 the Florida Retirement System under s. 121.011, are eligible to
147 elect participation in the DROP provided that:

148 1. The member is not a renewed member of the Florida
149 Retirement System under s. 121.122, or a member of the State
150 Community College System Optional Retirement Program under s.
151 121.051, the Senior Management Service Optional Annuity Program
152 under s. 121.055, or the optional retirement program for the
153 State University System under s. 121.35.

154 2. Except as provided in subparagraph 6., election to
155 participate is made within 12 months immediately following the
156 date on which the member first reaches normal retirement date,
157 or, for a member who reaches normal retirement date based on
158 service before he or she reaches age 62, or age 55 for Special
159 Risk Class members, election to participate may be deferred to
160 the 12 months immediately following the date the member attains
161 57, or age 52 for Special Risk Class members. For a member who
162 first reached normal retirement date or the deferred eligibility
163 date described above prior to the effective date of this

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164 section, election to participate shall be made within 12 months
165 after the effective date of this section. A member who fails to
166 make an election within such 12-month limitation period shall
167 forfeit all rights to participate in the DROP. The member shall
168 advise his or her employer and the division in writing of the
169 date on which the DROP shall begin. Such beginning date may be
170 subsequent to the 12-month election period, but must be within
171 the 60-month or, with respect to members who are instructional
172 personnel employed by the Florida School for the Deaf and the
173 Blind and who have received authorization by the Board of
174 Trustees of the Florida School for the Deaf and the Blind to
175 participate in the DROP beyond 60 months, or who are
176 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
177 grades K-12 and who have received authorization by the district
178 school superintendent to participate in the DROP beyond 60
179 months, or who are employed as faculty or staff at a state
180 university while also being employed as instructional personnel
181 as defined in s. 1012.01(2) at the developmental research school
182 of that state university and who have received authorization
183 from both the state university's board of trustees and the
184 developmental research school's director, or, if the school has
185 no director, the school's principal, to participate in the DROP
186 beyond 60 months, the 96-month limitation period as provided in
187 subparagraph (b)1. When establishing eligibility of the member
188 to participate in the DROP for the 60-month or, with respect to
189 members who are instructional personnel employed by the Florida
190 School for the Deaf and the Blind and who have received
191 authorization by the Board of Trustees of the Florida School for

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192 | the Deaf and the Blind to participate in the DROP beyond 60
 193 | months, or who are employed as faculty or staff at a state
 194 | university while also being employed as instructional personnel
 195 | as defined in s. 1012.01(2) at the developmental research school
 196 | of that state university and who have received authorization
 197 | from both the state university's board of trustees and the
 198 | developmental research school's director, or, if the school has
 199 | no director, the school's principal, to participate in the DROP
 200 | beyond 60 months, or who are instructional personnel as defined
 201 | in s. 1012.01(2)(a)-(d) in grades K-12 and who have received
 202 | authorization by the district school superintendent to
 203 | participate in the DROP beyond 60 months, the 96-month maximum
 204 | participation period, the member may elect to include or exclude
 205 | any optional service credit purchased by the member from the
 206 | total service used to establish the normal retirement date. A
 207 | member with dual normal retirement dates shall be eligible to
 208 | elect to participate in DROP within 12 months after attaining
 209 | normal retirement date in either class.

210 | 3. The employer of a member electing to participate in the
 211 | DROP, or employers if dually employed, shall acknowledge in
 212 | writing to the division the date the member's participation in
 213 | the DROP begins and the date the member's employment and DROP
 214 | participation will terminate.

215 | 4. Simultaneous employment of a participant by additional
 216 | Florida Retirement System employers subsequent to the
 217 | commencement of participation in the DROP shall be permissible
 218 | provided such employers acknowledge in writing a DROP
 219 | termination date no later than the participant's existing

220 termination date or the 60-month limitation period as provided
221 in subparagraph (b)1.

222 5. A DROP participant may change employers while
223 participating in the DROP, subject to the following:

224 a. A change of employment must take place without a break
225 in service so that the member receives salary for each month of
226 continuous DROP participation. If a member receives no salary
227 during a month, DROP participation shall cease unless the
228 employer verifies a continuation of the employment relationship
229 for such participant pursuant to s. 121.021(39)(b).

230 b. Such participant and new employer shall notify the
231 division on forms required by the division as to the identity of
232 the new employer.

233 c. The new employer shall acknowledge, in writing, the
234 participant's DROP termination date, which may be extended but
235 not beyond the original 60-month or, with respect to members who
236 are instructional personnel employed by the Florida School for
237 the Deaf and the Blind and who have received authorization by
238 the Board of Trustees of the Florida School for the Deaf and the
239 Blind to participate in the DROP beyond 60 months, or who are
240 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
241 grades K-12 and who have received authorization by the district
242 school superintendent to participate in the DROP beyond 60
243 months, or who are employed as faculty or staff at a state
244 university while also being employed as instructional personnel
245 as defined in s. 1012.01(2) at the developmental research school
246 of that state university and who have received authorization
247 from both the state university's board of trustees and the

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248 developmental research school's director, or, if the school has
249 no director, the school's principal, to participate in the DROP
250 beyond 60 months, the 96-month period provided in subparagraph
251 (b)1., shall acknowledge liability for any additional retirement
252 contributions and interest required if the participant fails to
253 timely terminate employment, and shall be subject to the
254 adjustment required in sub-subparagraph (c)5.d.

255 6. Effective July 1, 2001, for instructional personnel as
256 defined in s. 1012.01(2), election to participate in the DROP
257 shall be made at any time following the date on which the member
258 first reaches normal retirement date. The member shall advise
259 his or her employer and the division in writing of the date on
260 which the Deferred Retirement Option Program shall begin. When
261 establishing eligibility of the member to participate in the
262 DROP for the 60-month or, with respect to members who are
263 instructional personnel employed by the Florida School for the
264 Deaf and the Blind and who have received authorization by the
265 Board of Trustees of the Florida School for the Deaf and the
266 Blind to participate in the DROP beyond 60 months, or who are
267 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
268 grades K-12 and who have received authorization by the district
269 school superintendent to participate in the DROP beyond 60
270 months, the 96-month maximum participation period, as provided
271 in subparagraph (b)1., the member may elect to include or
272 exclude any optional service credit purchased by the member from
273 the total service used to establish the normal retirement date.
274 A member with dual normal retirement dates shall be eligible to
275 elect to participate in either class.

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276 (b) Participation in the DROP.--

277 1. An eligible member may elect to participate in the DROP

278 for a period not to exceed a maximum of 60 calendar months or,

279 with respect to members who are instructional personnel employed

280 by the Florida School for the Deaf and the Blind and who have

281 received authorization by the Board of Trustees of the Florida

282 School for the Deaf and the Blind to participate in the DROP

283 beyond 60 months, or who are instructional personnel as defined

284 in s. 1012.01(2)(a)-(d) in grades K-12 and who have received

285 authorization by the district school superintendent to

286 participate in the DROP beyond 60 calendar months, or who are

287 employed as faculty or staff at a state university while also

288 being employed as instructional personnel as defined in s.

289 1012.01(2) at the developmental research school of that state

290 university and who have received authorization from both the

291 state university's board of trustees and the developmental

292 research school's director, or, if the school has no director,

293 the school's principal, to participate in the DROP beyond 60

294 months, 96 calendar months immediately following the date on

295 which the member first reaches his or her normal retirement date

296 or the date to which he or she is eligible to defer his or her

297 election to participate as provided in subparagraph (a)2.

298 However, a member who has reached normal retirement date prior

299 to the effective date of the DROP shall be eligible to

300 participate in the DROP for a period of time not to exceed 60

301 calendar months or, with respect to members who are

302 instructional personnel employed by the Florida School for the

303 Deaf and the Blind and who have received authorization by the

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304 Board of Trustees of the Florida School for the Deaf and the
 305 Blind to participate in the DROP beyond 60 months, or who are
 306 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
 307 grades K-12 and who have received authorization by the district
 308 school superintendent to participate in the DROP beyond 60
 309 calendar months, or who are employed as faculty or staff at a
 310 state university while also being employed as instructional
 311 personnel as defined in s. 1012.01(2) at the developmental
 312 research school of that state university and who have received
 313 authorization from both the state university's board of trustees
 314 and the developmental research school's director, or, if the
 315 school has no director, the school's principal, to participate
 316 in the DROP beyond 60 months, 96 calendar months immediately
 317 following the effective date of the DROP, except a member of the
 318 Special Risk Class who has reached normal retirement date prior
 319 to the effective date of the DROP and whose total accrued value
 320 exceeds 75 percent of average final compensation as of his or
 321 her effective date of retirement shall be eligible to
 322 participate in the DROP for no more than 36 calendar months
 323 immediately following the effective date of the DROP.

324 2. Upon deciding to participate in the DROP, the member
 325 shall submit, on forms required by the division:

326 a. A written election to participate in the DROP;

327 b. Selection of the DROP participation and termination
 328 dates, which satisfy the limitations stated in paragraph (a) and
 329 subparagraph 1. Such termination date shall be in a binding
 330 letter of resignation with the employer, establishing a deferred
 331 termination date. The member may change the termination date

332 within the limitations of subparagraph 1., but only with the
333 written approval of his or her employer;

334 c. A properly completed DROP application for service
335 retirement as provided in this section; and

336 d. Any other information required by the division.

337 3. The DROP participant shall be a retiree under the
338 Florida Retirement System for all purposes, except for paragraph
339 (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
340 and 121.122. However, participation in the DROP does not alter
341 the participant's employment status and such employee shall not
342 be deemed retired from employment until his or her deferred
343 resignation is effective and termination occurs as provided in
344 s. 121.021(39).

345 4. Elected officers shall be eligible to participate in
346 the DROP subject to the following:

347 a. An elected officer who reaches normal retirement date
348 during a term of office may defer the election to participate in
349 the DROP until the next succeeding term in that office. Such
350 elected officer who exercises this option may participate in the
351 DROP for up to 60 calendar months or a period of no longer than
352 such succeeding term of office, whichever is less.

353 b. An elected or a nonelected participant may run for a
354 term of office while participating in DROP and, if elected,
355 extend the DROP termination date accordingly, except, however,
356 if such additional term of office exceeds the 60-month
357 limitation established in subparagraph 1., and the officer does
358 not resign from office within such 60-month limitation, the

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359 retirement and the participant's DROP shall be null and void as
360 provided in sub-subparagraph (c)5.d.

361 c. An elected officer who is dually employed and elects to
362 participate in DROP shall be required to satisfy the definition
363 of termination within the 60-month or, with respect to members
364 who are instructional personnel employed by the Florida School
365 for the Deaf and the Blind and who have received authorization
366 by the Board of Trustees of the Florida School for the Deaf and
367 the Blind to participate in the DROP beyond 60 months, or who
368 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
369 in grades K-12 and who have received authorization by the
370 district school superintendent to participate in the DROP beyond
371 60 months, or who are employed as faculty or staff at a state
372 university while also being employed as instructional personnel
373 as defined in s. 1012.01(2) at the developmental research school
374 of that state university and who have received authorization
375 from both the state university's board of trustees and the
376 developmental research school's director, or, if the school has
377 no director, the school's principal, to participate in the DROP
378 beyond 60 months, the 96-month limitation period as provided in
379 subparagraph 1. for the nonelected position and may continue
380 employment as an elected officer as provided in s. 121.053. The
381 elected officer will be enrolled as a renewed member in the
382 Elected Officers' Class or the Regular Class, as provided in ss.
383 121.053 and 121.22, on the first day of the month after
384 termination of employment in the nonelected position and
385 termination of DROP. Distribution of the DROP benefits shall be
386 made as provided in paragraph (c).

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Section 3. This act shall take effect July 1, 2005.