

## Committee Substitute for House Bill No. 663

An act relating to the Florida Retirement System, amending s. 121.021, F.S.; redefining the term “termination” for Deferred Retirement Option Program participants; defining the term “DROP participants”; amending s. 121.091, F.S.; specifying benefits that may be payable to a participant’s Deferred Retirement Option Program; specifying that the option selection for payment of benefits shall be final at the time a benefit payment is assigned to the Deferred Retirement Option Program; specifying death benefits applicable to Deferred Retirement Option Program participants; specifying employment after retirement limitations applicable to Deferred Retirement Option Program participants; providing eligibility criteria; providing for procedures for election of participation; providing for benefits payable; providing for death benefits; providing for a cost-of-living adjustment; specifying health insurance subsidy payments are not payable; specifying Deferred Retirement Option Program participation does not qualify as renewed membership; providing limitations on employment after participation; specifying contribution rates; specifying Deferred Retirement Option Program participation does not exempt such participants from the forfeiture of benefits under the provisions of ss. 112.3173 and 121.091(5), F.S; providing for administration of the program; providing a declaration of important state interest; providing for an appropriation; providing an effective date dependent upon the Division of Retirement’s receipt of a favorable written determination letter and a favorable private letter ruling from the Internal Revenue Service.

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

Section 1. Subsection (39) of section 121.021, Florida Statutes, 1996 Supplement, is amended, and subsection (43) is added to said section, to read:

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

(39)(a) “Termination” occurs, except as provided in paragraph (b), when a member ceases all employment relationships with employers under this system, as defined in subsection (10), but in the event a member should be employed by any such employer within the next calendar month, termination shall be deemed not to have occurred. A leave of absence shall constitute a continuation of the employment relationship, except that a leave of absence without pay due to disability may constitute termination for a member, if such member makes application for and is approved for disability retirement in accordance with s. 121.091(4). The division may require other evidence of termination as it deems necessary.

(b) “Termination” for a member electing to participate under the Deferred Retirement Option Program occurs when the Deferred Retirement

Option Program participant ceases all employment relationships with employers under this system in accordance with s. 121.091(13), but in the event the Deferred Retirement Option Program participant should be employed by any such employer within the next calendar month, termination will be deemed not to have occurred, except as provided in s. 121.091(13)(b)5.b. A leave of absence shall constitute a continuation of the employment relationship.

(43) “DROP participant” means any member who elects to retire and participate in the Deferred Retirement Option Program as provided in s. 121.091(13).

Section 2. The introductory paragraph, paragraph (h) of subsection (6), paragraphs (c), (d), and (e) of subsection (7), and paragraph (b) of subsection (9) of section 121.091, Florida Statutes, 1996 Supplement, are amended, and subsection (13) is added to said section, to read:

121.091 Benefits payable under the system.—No benefits shall be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or began participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the division.

(6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND DISABILITY RETIREMENT BENEFITS.—

(h) The option selected or determined for payment of benefits as provided in this section shall be final and irrevocable at the time a benefit payment is cashed or deposited or credited to the Deferred Retirement Option Program as provided in subsection (13).

(7) DEATH BENEFITS.—

(c) If a retiring member dies on or after the effective date of retirement, but prior to a benefit payment being cashed or deposited, or credited to the Deferred Retirement Option Program, benefits shall be paid as follows:

1. For a designated beneficiary who qualifies as a joint annuitant, benefits shall be paid in the optional form of payment provided in subparagraph (6)(a)3. for the joint annuitant’s lifetime or, if the member chose the optional form of payment provided in subparagraph (6)(a)2., the joint annuitant may select the form provided in either subparagraph (6)(a)2. or subparagraph (6)(a)3.

2. For a designated beneficiary who does not qualify as a joint annuitant, any benefits payable shall be paid as provided in the option selected by the member; or if the member has not selected an option, benefits shall be paid in the optional form of payment provided in subparagraph (6)(a)1.

~~(d)~~ Notwithstanding any other provision in this chapter to the contrary, with the exception of the Deferred Retirement Option Program, as provided in subsection (13):

1. The surviving spouse of any member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime. Benefits provided by this paragraph shall supersede any other distribution that may have been provided by the member's designation of beneficiary.

2. If the surviving spouse of a member killed in the line of duty dies, the monthly payments which would have been payable to such surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child.

3. If a member killed in the line of duty leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child.

4. The surviving spouse of a member whose benefit terminated because of remarriage shall have the benefit reinstated beginning July 1, 1993, at an amount that would have been payable had the benefit not been terminated.

(e) The surviving spouse or other dependent of any member, except a member who participated in the Deferred Retirement Option Program, whose employment is terminated by death shall, upon application to the administrator, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of his or her death. Such service shall be added to the creditable service of the member and shall be used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(b)1. Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his or her employer without any limitations, except that a person may not receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

2. Any person to whom the limitation in subparagraph 1. applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System before completion of the 12-month limitation period shall give timely notice of this fact in writing to the employer and to the division and shall have his or her retirement benefits suspended for the balance of the 12-month limitation period. Any

person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

3. A district school board may reemploy a retired member as a substitute or hourly teacher, teacher aide, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, teacher aides, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph 7. Reemployment of a retired member as a substitute or hourly teacher, teacher aide, transportation assistant, bus driver, or food service worker is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during his or her first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

4. A community college board of trustees may reemploy a retired member as an adjunct instructor, that is, an instructor who is noncontractual and part-time, or as a participant in a phased retirement program within the State Community College System, after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph 7. A retired member may be reemployed as an adjunct instructor for

no more than 780 hours during the first 12 months of retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

5. The State University System may reemploy a retired member as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph 7., as appropriate. A retired member may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

6. The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a retired member as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she

has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by subparagraph 7. Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

7. The employment by an employer of any retiree or DROP participant of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of the retiree or DROP participant. Prior to July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who has been retired under any state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees with renewed membership or subsection (13) with respect to DROP participants.

8. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office eligible for the Elected State and County Officers' Class on or after July 1, 1990, shall be enrolled in the Florida Retirement System as provided in s. 121.053(1)(b) or, if holding an elective public office that does not qualify for the Elected State and County Officers' Class on or after July 1, 1991, shall be enrolled in the Florida Retirement System as provided in s. 121.122, and shall continue to receive retirement benefits as well as compensation for the elected officer's service for as long as he or she remains in elective office. However, any retired member who served in an elective office prior to July 1, 1990, suspended his or her retirement benefit, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have

his or her retirement benefit recalculated to include the additional service and compensation earned.

9. Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in non-elected covered employment may elect to retire while continuing employment in the elective public office, provided that he or she shall be required to terminate his or her nonelected covered employment. Any person who exercises this election shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection. No person who seeks to exercise the provisions of this subparagraph, as the same existed prior to May 3, 1984, shall be deemed to be retired under those provisions, unless such person is eligible to retire under the provisions of this subparagraph, as amended by chapter 84-11, Laws of Florida.

10. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

(13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the System Trust Fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Employment in the DROP does not guarantee employment for the specified period of DROP.

(a) Eligibility of member to participate in the DROP.—All Florida Retirement System members are eligible to elect participation in the DROP provided that:

1. Election to participate is made within 12 months following the date on which the member first reaches normal retirement date or age, or for a member who first reached normal retirement date or age prior to the effective date of this section, election to participate is made within 12 months of the effective date of this section. A member who fails to make an election within such 12-month limitation period shall forfeit all rights to participate in the DROP. The member shall advise his employer and the division in writing of the date on which the DROP shall begin. Such beginning date may be subsequent to the 12-month election period but must be within the 60-month limitation period as provided in subparagraph (b)1.

2. The retiring member's employer, or employers if dually employed, shall acknowledge in writing to the division the date the member's participation in the DROP begins and the date the member's employment and DROP participation will terminate.

3. Employment of a participant by additional Florida Retirement System employers subsequent to the commencement of participation in the DROP shall be permissible provided such employers acknowledge in writing a DROP termination date no later than the participant's existing termination date or the 60-month limitation period as provided in subparagraph (b)1.

(b) Participation in the DROP.—

1. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of 60 months following the date on which the member first reaches normal retirement age or date, including a member who first reaches normal retirement age or date prior to the effective date of this section. Any member who has exceeded the 60-month limitation shall not be eligible to participate in the DROP.

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

a. A written election to participate in the DROP;

b. Selection of the DROP participation and termination dates, which satisfy the limitations stated in paragraph (a) and subparagraph 1. Such termination date shall be in a binding letter of resignation with the employer, establishing a deferred termination date. The member may change the termination date within the limitations of subparagraph 1., but only with the written approval of his employer;

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

d. Any other information required by the division.

3. The DROP participant shall be a retiree under the Florida Retirement System for all purposes, except for paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and 121.122.

4. A reemployed retiree with renewed membership is not eligible for DROP participation.

5. Elected officers shall be eligible to participate in the DROP subject to the following:

a. An elected or a nonelected participant may run for a term of office while participating in DROP and, if elected, extend the DROP termination date accordingly, except, however, if such additional term of office exceeds the 60-month limitation established in subparagraph 1., and the officer does not resign from office within such 60-month limitation, the retirement and the participant's DROP shall be null and void as provided in subparagraph (c)4.d.

b. An elected officer who is dually employed and elects to participate in DROP shall be required to satisfy the definition of termination within the 60-month limitation period as provided in subparagraph 1. for the non-elected position and may continue employment as an elected officer as pro-



vided in s. 121.053. The elected officer will be enrolled as a renewed member in the Elected State and County Officers' Class or the Regular Class, as provided in ss. 121.053 and 121.22, on the first day of the month after termination of employment in the nonelected position and termination of DROP. Distribution of the DROP benefits shall be made as provided in paragraph (c).

(c) Benefits payable under the DROP.—

1. Effective with the date of DROP participation, the member's initial normal monthly benefit, including creditable service and average final compensation, and the effective date of retirement shall be fixed. Such retirement benefit, the annual cost of living adjustments provided in s. 121.101, and interest shall accrue monthly in the System Trust Fund. Such interest shall accrue at an effective annual rate of 6.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death.

2. The effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP.

3. Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP, or until the participant terminates employment or dies prior to such date. Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under the DROP shall be calculated and provided to participants annually.

4. At the conclusion of the participant's DROP, the division shall distribute the participant's total accumulated DROP benefits, subject to the following provisions:

a. The division shall receive verification by the participant's employer or employers that such participant has terminated employment as provided in s. 121.021(39)(b).

b. The terminated DROP participant or if deceased, such participant's named beneficiary, shall elect on forms provided by the division to receive payment of the DROP benefits in accordance with one of the options listed below. For a participant or beneficiary who fails to elect a method of payment within 60 days of termination of the DROP, the division will pay a lump sum as provided in (I).

(I) Lump sum.—All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(II) Direct rollover.—All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account

or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.

(III) Partial lump sum.—A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

c. The form of payment selected by the DROP participant or surviving beneficiary complies with the minimum distribution requirements of the Internal Revenue Code and payments begin no later than the date on which the participant reaches age 70 years and 6 months.

d. For a DROP participant who fails to terminate employment as defined in s. 121.021(39)(b), the member shall be deemed not to be retired and the DROP election shall be null and void. Florida Retirement System membership shall be reestablished retroactively to the date of the commencement of the DROP, and the employer shall be required to pay to the System Trust Fund the difference between the DROP contributions paid in paragraph (i) and the contributions required for the applicable Florida Retirement System class of membership during the period the member participated in the DROP, plus 6.5 percent interest compounded annually.

5. The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for qualified domestic relations orders by a court of competent jurisdiction, income deduction orders as provided in s. 61.1301, and federal income tax levies.

6. DROP participants shall not be eligible for disability retirement benefits as provided in subsection (4).

(d) Death benefits under the DROP.—

1. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in sub-subparagraph (c)4.b.

2. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

3. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, Florida Retirement System benefits shall be paid in accordance with subparagraph (7)(c)1. or subparagraph 2.

4. A DROP participants' survivors shall not be eligible to receive Florida Retirement System death benefits as provided in paragraph (7)(d).

(e) Cost-of-living adjustment.—On each July 1, the participants' normal retirement benefit shall be increased as provided in s. 121.101.

(f) Retiree health insurance subsidy.—DROP participants are not eligible to apply for the retiree health insurance subsidy payments as provided in s. 112.363 until such participants have terminated employment and participation in the DROP.

(g) Renewed membership.—DROP participants shall not be eligible for renewed membership in the Florida Retirement System under ss. 121.053 and 121.122 until termination of employment is effectuated as provided in s. 121.021(39)(b).

(h) Employment limitation after DROP participation.—Upon satisfying the definition of termination of employment as provided in s. 121.021(39)(b) DROP participants shall be subject to such reemployment limitations as other retirees. Reemployment restrictions applicable to retirees as provided in subsection (9) shall not apply to DROP participants until their employment and participation in the DROP are terminated.

(i) Contributions.—

1. All employers paying the salary of a DROP participant filling a regularly established position shall contribute 11.56 percent of such participant's gross compensation, which shall constitute the entire employer DROP contribution with respect to such participant. Such contributions, payable to the System Trust Fund in the same manner as required in s. 121.071, shall be made as appropriate for each pay period and are in addition to contributions required for Social Security and the Retiree Health Insurance Subsidy Trust Fund. Such employer, Social Security, and health insurance subsidy contributions are not included in the DROP.

2. The employer shall, in addition to subparagraph 1., also withhold one-half of the entire Social Security contribution required for the participant. Contributions for Social Security by each participant and each employer, in the amount required for Social Security coverage as now or hereafter provided by the federal Social Security Act, shall be in addition to contributions specified in subparagraph 1.

3. All employers paying the salary of a DROP participant filling a regularly established position shall contribute 0.66 percent of such participant's gross compensation, which shall constitute the employer's health insurance subsidy contribution with respect to such participant. Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

(j) Forfeiture of Retirement Benefits.—Nothing in this section shall be construed to remove DROP participants from the scope of s. 8(d), Art. II of the State Constitution, s. 112.3173, and paragraph (5)(f). DROP participants who commit a specified felony offense while employed will be subject to

forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(k) Administration of Program.—The division shall make such rules as are necessary for the effective and efficient administration of this subsection. The division shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

Section 3. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and of its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner, as required by s. 14, Art. X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

Section 4. There is hereby appropriated to the Division of Retirement from the Florida Retirement System Trust Fund the sum of \$813,923 and 14 positions for the purposes of advanced planning and systems development associated with development of the Deferred Retirement Option Plan. The funds and positions are contingent upon passage of this act, or substantially similar legislation.

[Editor's note: Section 4 of Chapter 97-154 was vetoed by the Governor.]

Section 5. This act shall take effect July 1, 1998, contingent upon the Division of Retirement receiving a favorable determination letter and a favorable private letter ruling, hereinafter referred to as favorable letters, from the Internal Revenue Service, as provided below prior to the end of the 1998 legislative session. The division shall request from the Internal Revenue Service, within 90 days of the passage of this act:

(1) A written determination letter stating that the Florida Retirement System, as amended to include the DROP, continues to be a facially qualified plan; and

(2) A private letter ruling stating:

(a) That the Florida Retirement System, as amended to include the DROP, is not a "defined contribution plan" as defined in ss. 414(i) and 415(k)(1) of the Internal Revenue Code, is not subject to the separate limitations contained within s. 415(c) and (e) of the Internal Revenue Code, and is not a "hybrid plan" as defined in s. 414(k) of the Internal Revenue Code;

(b) That the Florida Retirement System, as amended to include the DROP, is not a "cash or deferred arrangement" within the meaning of s. 401(k) of the Internal Revenue Code; and

(c) That the monthly retirement benefits paid into the DROP are not deemed to be constructive receipt of income under s. 402(a) of the Internal

Revenue Code and shall not be taxable until actual distribution to the retiree.

The division shall notify the Speaker of the House of Representatives and the President of the Senate within 30 days of receipt of the favorable or unfavorable letters. If no favorable letters are received by July 1, 1998, this act shall take effect January 1, 1999, provided the division receives the favorable letters prior to such date. In the event favorable letters are not received, this act shall not take effect.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 28, 1997.