

## Senate Bill No. 106

An act relating to the state retirement system; amending s. 121.091, F.S.; providing that a disability of an employee who works in another state full time may be certified by physicians licensed in that state; correcting a cross-reference; amending s. 121.22, F.S.; increasing the size of the State Retirement Commission from three to five members; amending s. 121.24, F.S.; revising the quorum requirements of the commission; amending s. 121.35, F.S.; deleting the provision that requires 1 academic year of employment or appointment in the State University System for participation in the optional retirement program; providing an effective date.

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

Section 1. Paragraph (c) of subsection (4) and paragraph (b) of subsection (13) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun 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 department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(4) DISABILITY RETIREMENT BENEFIT.—

(c) Proof of disability.—The administrator, before approving payment of any disability retirement benefit, shall require proof that the member is totally and permanently disabled as provided herein:

1. Such proof shall include the certification of the member's total and permanent disability by two licensed physicians of the state and such other evidence of disability as the administrator may require, including reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment. A member whose position with an employer requires that the member work full time outside this state in the United States may include certification by two licensed physicians of the state where the member works.

2. It must be documented that:

a. The member's medical condition occurred or became symptomatic during the time the member was employed in an employee/employer relationship with his or her employer;

b. The member was totally and permanently disabled at the time he or she terminated covered employment; and

c. The member has not been employed with any other employer after such termination.

3. If the application is for in-line-of-duty disability, in addition to the requirements of subparagraph 2., it must be documented by competent medical evidence that the disability was caused by a job-related illness or accident which occurred while the member was in an employee/employer relationship with his or her employer.

4. The unavailability of an employment position that the member is physically and mentally capable of performing will not be considered as proof of total and permanent disability.

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

(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 calendar months or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 calendar months, 96 calendar months immediately following the date on which the member first reaches his or her normal retirement date or the date to which he or she is eligible to defer his or her election to participate as provided in subparagraph (a)2. However, a member who has reached normal retirement date prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed 60 calendar months or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12

and who have received authorization by the district school superintendent to participate in the DROP beyond 60 calendar months, 96 calendar months immediately following the effective date of the DROP, except a member of the Special Risk Class who has reached normal retirement date prior to the effective date of the DROP and whose total accrued value exceeds 75 percent of average final compensation as of his or her effective date of retirement shall be eligible to participate in the DROP for no more than 36 calendar months immediately following the effective date of 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 or her 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. However, participation in the DROP does not alter the participant's employment status and such employee shall not be deemed retired from employment until his or her deferred resignation is effective and termination occurs as provided in s. 121.021(39).

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

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

b. 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)5.d.

c. 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 or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month limitation period as provided in subparagraph 1. for the nonelected position and may continue employment as an elected officer as provided in s. 121.053. The elected officer will be enrolled as a renewed member in the Elected Officers' Class or the Regular Class, as provided in ss. 121.053 and 121.122 ~~121.22~~, on the first day of the month after termination of employment in the non-elected position and termination of DROP. Distribution of the DROP benefits shall be made as provided in paragraph (c).

Section 2. Subsection (1) of section 121.22, Florida Statutes, is amended to read:

121.22 State Retirement Commission; creation; membership; compensation.—

(1) There is created within the Department of Management Services a State Retirement Commission composed of five ~~three~~ members: Two members ~~One member~~ who are ~~is~~ retired under a state-supported retirement system administered by the department; two members ~~one member~~ who are ~~is~~ an active members ~~member~~ of a state-supported retirement system that is administered by the department; and one member who is neither a retiree, beneficiary, or member of a state-supported retirement system administered by the department. Each member shall have a different occupational background from the other members.

Section 3. Paragraph (a) of subsection (1) of section 121.24, Florida Statutes, is amended to read:

121.24 Conduct of commission business; legal and other assistance; compensation.—

(1) The commission shall conduct its business within the following guidelines:

(a) For purposes of hearing appeals under s. 121.23, the commission may meet in panels consisting of not fewer than three members. For the purpose of meeting in these panels, a quorum shall be not fewer than two members. For all other purposes, a quorum shall consist of three ~~four~~ members. The concurring vote of a majority of the members present shall be required to reach a decision, issue orders, and conduct the business of the commission.

Section 4. Paragraph (a) of subsection (2) of section 121.35, Florida Statutes, is amended to read:

121.35 Optional retirement program for the State University System.—

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; ~~who are employed or appointed for no less than one academic year;~~ and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 110.205(2)(d).
2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 110.205(2)(d).
3. The Chancellor and the university presidents.

Section 5. This act shall take effect July 1, 2005.

Approved by the Governor June 3, 2005.

Filed in Office Secretary of State June 3, 2005.