

PCB GEAC 08-21

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1                                    A bill to be entitled  
 2            An act relating to the Distinguished Educator Retirement  
 3            Option Program; providing a declaration of important state  
 4            interest; creating s. 1012.721, F.S.; creating the  
 5            Distinguished Educator Retirement Option Program;  
 6            providing definitions; creating reporting requirements for  
 7            the Department of Education; requiring each school  
 8            district to establish a Distinguished Educator Retirement  
 9            Option Program that funds a tax-sheltered annuity or  
 10           custodial account for certain qualified participants;  
 11           providing for funding from the Florida Education Finance  
 12           Program; authorizing the State Board of Education to adopt  
 13           rules; requiring a letter ruling from the Internal Revenue  
 14           Service; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18            Section 1. The Legislature finds that a proper and  
 19 legitimate state purpose is served when employees and retirees  
 20 of the state and its political subdivisions, and the dependents,  
 21 survivors, and beneficiaries of such employees and retirees, are  
 22 extended the basic protections afforded by governmental  
 23 retirement systems. Therefore, the Legislature hereby determines  
 24 and declares that this act fulfills an important state interest.

25            Section 2. Section 1012.721, Florida Statutes, is created  
 26 to read:

27            1012.721 Distinguished Educator Retirement Option  
 28 Program.—

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29        (1) As used in this section, the term:  
 30        (a) "Department" means the Department of Education.  
 31        (b) "Distinguished Educator Retirement Option Program" or  
 32        "program" means a tax sheltered annuity or custodial account  
 33        established pursuant to s. 403(b) of the United States Internal  
 34        Revenue Code and administered by a local school district.  
 35        (c) "Learning gains" means learning gains as defined in  
 36        State Board of Education rule 6A 1.09981(5), Florida  
 37        Administrative Code.  
 38        (f) "Title I school" means a Title I school as defined by  
 39        federal law.  
 40        (2) There is hereby created the Distinguished Educator  
 41        Retirement Option Program that shall be funded by the Florida  
 42        Education Finance Program.  
 43        (3) (a) For purposes of increased retirement contributions,  
 44        the Department shall annually identify the following:  
 45            1. Instructional personnel who are employed in Title I  
 46            schools that have at least 75 percent of the students eligible  
 47            for the statewide assessment in the school making learning gains  
 48            in both reading and mathematics, based upon results on the  
 49            statewide assessment provided in s. 1008.22.  
 50            2. Classroom teachers who teach reading or mathematics and  
 51            who have at least 75 percent of the students assigned to the  
 52            teacher making learning gains in each subject taught by that  
 53            classroom teacher, based upon results on the statewide  
 54            assessment provided in s. 1008.22.  
 55        (b) For any person who qualifies as both instructional  
 56        personnel and a classroom teacher, the Department shall identify

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57 that person for the category receiving the greater of the two  
 58 benefits.

59 (4) Beginning July 1, 2009, and each July 1 thereafter,  
 60 the Department shall certify to each school district those  
 61 instructional personnel and classroom teachers who meet the  
 62 requirements of subsection (3) and who are therefore eligible to  
 63 participate in the Distinguished Educator Retirement Option  
 64 Program.

65 (5) (a) Each school district shall provide a tax-sheltered  
 66 annuity or custodial account for each certified instructional  
 67 personnel and classroom teacher, within its district, who are  
 68 eligible for the Distinguished Educator Retirement Option  
 69 Program.

70 (b) For each instructional personnel who is certified by  
 71 the Department as eligible for participation in the program, the  
 72 school district shall pay an amount equal to 1.95 percent of  
 73 that person's annual salary to an insurance company licensed to  
 74 do business in Florida; to a credit union, bank, or savings and  
 75 loan association qualified to do business in Florida; or to a  
 76 custodial account to be invested in regulated investment company  
 77 stock to be held in such custodial account, as selected by the  
 78 person, notwithstanding any other provision of law, as premiums  
 79 on an annuity contract issued in the name of such person or as  
 80 payment into a qualified custodial account established pursuant  
 81 to s. 403(b) of the United States Internal Revenue Code.

82 (c) For each classroom teacher who is certified by the  
 83 Department as eligible for participation in the program, the  
 84 school district shall pay an amount equal to 4.40 percent of

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85 that person's annual salary to an insurance company licensed to  
 86 do business in Florida; to a credit union, bank, or savings and  
 87 loan association qualified to do business in Florida; or to a  
 88 custodial account to be invested in regulated investment company  
 89 stock to be held in such custodial account, as selected by the  
 90 person, notwithstanding any other provision of law, as premiums  
 91 on an annuity contract issued in the name of such person or as  
 92 payment into a qualified custodial account established pursuant  
 93 to s. 403(b) of the United States Internal Revenue Code.

94 (d) Each instructional personnel and classroom teacher who  
 95 participates in the program may pay matching funds to the same  
 96 account established by the school district.

97 (e) The amount of such payments shall not exceed the  
 98 amount excludable from income under s. 403(b) of the United  
 99 States Internal Revenue Code and shall be considered a part of  
 100 the employee's salary for all purposes other than federal income  
 101 taxation.

102 (6) The purchase of such tax-sheltered annuity or other  
 103 investment qualified under the United States Internal Revenue  
 104 Code and not prohibited under the laws of this state for an  
 105 employee shall impose no liability or responsibility whatsoever  
 106 on the employing agency except to show that the payments have  
 107 been remitted for the purposes for which deducted.

108 (7) The State Board of Education may adopt rules pursuant  
 109 to ss. 120.536 and 120.54 as necessary to administer the  
 110 provisions of creating a process for identifying instructional  
 111 personnel and classroom teachers eligible for the Distinguished

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112 Educator Retirement Option Program and for certifying to the  
113 appropriate school districts those qualified participants.

114 Section 3. The Department of Education shall request from  
115 the Internal Revenue Service, by October 1, 2008, a letter  
116 ruling regarding the provisions of this act.

117 Section 4. This act shall take effect July 1, 2008.