

COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Ring, Chair

Senator Siplin, Vice Chair

MEETING DATE: Friday, February 18, 2011

TIME: 8:00 a.m.—12:00 noon

PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Ring, Chair; Senator Siplin, Vice Chair; Senators Benacquisto, Bogdanoff, Dean, Fasano, Flores, Garcia, Latvala, Margolis, Montford, Norman, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Workshop - Discussion and testimony only on the following (no vote to be taken): Florida Retirement System and Local Pension Plan Reform		

By Senator Ring

32-00962E-11

20111128

1 A bill to be entitled
2 An act relating to public retirement plans; amending
3 s. 112.66, F.S.; providing that a local governmental
4 entity may not offer a defined benefit retirement plan
5 to a plan member hired on or after a certain date;
6 providing that local plans must use at least 5 years
7 to determine a plan member's average final
8 compensation for calculating retirement benefits for
9 members hired on or after a certain date; providing a
10 death benefit for the spouse and minor children of a
11 member hired on or after a certain date who is killed
12 in the line of duty; amending s. 121.051, F.S.;
13 providing that a firefighters' or police officers'
14 plan is eligible for participation in the Florida
15 Retirement System, at the discretion of the Department
16 of Management Services; amending s. 175.032, F.S.;
17 clarifying the definition of "compensation" or
18 "salary"; amending s. 175.351, F.S.; revising
19 provisions relating to benefits paid from the premium
20 tax by a municipality or special fire control district
21 that has its own pension plan; amending s. 185.02,
22 F.S.; revising definitions; amending s. 185.35, F.S.;
23 revising provisions relating to benefits paid by a
24 municipality that has its own pension plan; conforming
25 a cross-reference; directing the Department of
26 Financial Services to rate the financial strength of
27 local government defined benefit plans; specifying the
28 factors for assigning the ratings; requiring certain
29 entities to cooperate in providing data for the

32-00962E-11

20111128

30 ratings; requiring the ratings to be posted on the
31 department's website; creating the Task Force on
32 Public Employee Disability Presumptions; providing for
33 appointment and membership; specifying the issues for
34 the task force to address; providing for a report to
35 be submitted to the Governor, Chief Financial Officer,
36 and Legislature by a certain date; providing for
37 expiration; directing the Department of Financial
38 Services to submit a report on the financial health of
39 local government pension plans to the Governor and
40 Legislature by a certain date; specifying the issues
41 the report must address; providing a declaration of
42 important state interest; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Subsections (11), (12), and (13) are added to
47 section 112.66, Florida Statutes, to read:

48 112.66 General provisions.—The following general provisions
49 relating to the operation and administration of any retirement
50 system or plan covered by this part shall be applicable:

51 (11) A plan sponsor may not offer or provide membership in
52 a defined benefit retirement system or plan to an employee hired
53 on or after July 1, 2011. For those members whose terms and
54 conditions of employment are collectively bargained, this
55 subsection is effective for the first agreement negotiated on or
56 after July 1, 2011.

57 (12) For each member hired on or after July 1, 2011, a plan
58 sponsor may not use less than 5 years to determine the average

32-00962E-11

20111128

59 final compensation used to calculate a member's retirement
60 benefits. For those members whose terms and conditions of
61 employment are collectively bargained, this subsection is
62 effective for the first agreement negotiated on or after July 1,
63 2011.

64 (13) For each member hired on or after July 1, 2011, a plan
65 sponsor shall provide a death benefit entitlement and payments
66 that meet the following minimum standards:

67 (a) The surviving spouse of a member killed in the line of
68 duty may receive a monthly pension equal to one-half of the
69 monthly salary being received by the member at the time of death
70 for the remainder of the surviving spouse's lifetime.

71 (b) If the surviving spouse of a member killed in the line
72 of duty dies, the monthly payments that would have been payable
73 to the surviving spouse had such surviving spouse lived shall be
74 paid for the use and benefit of the member's children under 18
75 years of age and unmarried until the 18th birthday of the
76 member's youngest unmarried child.

77 (c) If a member killed in the line of duty leaves no
78 surviving spouse but is survived by children under 18 years of
79 age, the benefits normally payable to a surviving spouse shall
80 be paid for the use and benefit of the member's child or
81 children under 18 years of age and unmarried until the 18th
82 birthday of the member's youngest unmarried child.

83
84 This subsection does not abrogate other applicable provisions of
85 state or federal law providing death benefits.

86 Section 2. Paragraph (g) is added to subsection (2) of
87 section 121.051, Florida Statutes, to read:

32-00962E-11

20111128

88 121.051 Participation in the system.—

89 (2) OPTIONAL PARTICIPATION.—

90 (g) A firefighters' pension plan or a municipal police
91 officers' retirement plan, established in accordance with
92 chapter 175 or chapter 185, is eligible for membership under
93 this chapter at the sole discretion of the department. In order
94 to be eligible, the plan must not have any unfunded actuarial
95 liabilities.

96 Section 3. Subsection (3) of section 175.032, Florida
97 Statutes, is amended to read:

98 175.032 Definitions.—For any municipality, special fire
99 control district, chapter plan, local law municipality, local
100 law special fire control district, or local law plan under this
101 chapter, the following words and phrases have the following
102 meanings:

103 (3) "Compensation" or "salary" means the fixed monthly
104 remuneration paid a firefighter. ~~If; where, as in the case of a~~
105 ~~volunteer firefighter,~~ remuneration is based on actual services
106 rendered, as in the case of a volunteer firefighter, the term
107 means the total cash remuneration received yearly for such
108 services, prorated on a monthly basis. Overtime compensation,
109 unused leave, or any other form of compensation beyond base
110 hourly or annual salary may not be included when calculating the
111 member's compensation or salary.

112 (a) A retirement trust fund or plan may use a definition of
113 salary other than the definition in this subsection ~~but only~~ if
114 the monthly retirement income payable to each firefighter
115 covered by the retirement trust fund or plan, as determined
116 under s. 175.162(2) (a) and using such other definition, equals

32-00962E-11

20111128

117 or exceeds the monthly retirement income that would be payable
118 to each firefighter if his or her monthly retirement income were
119 determined under s. 175.162(2)(a) and using the definition in
120 this subsection.

121 (b) Any retirement trust fund or plan that ~~which now or~~
122 ~~hereafter~~ meets the requirements of this chapter does ~~shall~~ not,
123 solely by virtue of this subsection, reduce or diminish the
124 monthly retirement income otherwise payable to each firefighter
125 covered by the retirement trust fund or plan.

126 (c) The member's compensation or salary contributed as
127 employee-elective salary reductions or deferrals to any salary
128 reduction, deferred compensation, or tax-sheltered annuity
129 program authorized under the Internal Revenue Code shall be
130 deemed to be the compensation or salary the member would receive
131 if he or she were not participating in such program and ~~shall be~~
132 treated as compensation for retirement purposes under this
133 chapter.

134 (d) For any person who first becomes a member in any plan
135 year beginning on or after January 1, 1996, compensation for
136 that any plan year may ~~shall~~ not include any amounts in excess
137 of the Internal Revenue Code s. 401(a)(17) limitation, ~~(as~~
138 ~~amended by the Omnibus Budget Reconciliation Act of 1993),~~ which
139 limitation of \$150,000 shall be adjusted as required by federal
140 law for qualified government plans and shall be further adjusted
141 for changes in the cost of living in the manner provided by
142 Internal Revenue Code s. 401(a)(17)(B). For any person who first
143 became a member before ~~prior to~~ the first plan year beginning on
144 or after January 1, 1996, the limitation on compensation may
145 ~~shall be~~ not be less than the maximum compensation amount that

32-00962E-11

20111128

146 was allowed to be taken into account under the plan ~~as~~ in effect
147 on July 1, 1993, which limitation shall be adjusted for changes
148 in the cost of living since 1989 in the manner provided by
149 Internal Revenue Code s. 401(a)(17)(1991).

150 Section 4. Subsection (1) of section 175.351, Florida
151 Statutes, is amended to read:

152 175.351 Municipalities and special fire control districts
153 having their own pension plans for firefighters.—For any
154 municipality, special fire control district, local law
155 municipality, local law special fire control district, or local
156 law plan under this chapter, in order for municipalities and
157 special fire control districts with their own pension plans for
158 firefighters, or for firefighters and police officers, where
159 included, to participate in the distribution of the tax fund
160 established pursuant to s. 175.101, local law plans must meet
161 the minimum benefits and minimum standards set forth in this
162 chapter.

163 (1) PREMIUM TAX INCOME.—If a municipality has a pension
164 plan for firefighters, or a pension plan for firefighters and
165 police officers ~~if, where~~ included, which in the opinion of the
166 division meets the minimum benefits and minimum standards set
167 forth in this chapter, the board of trustees of the pension
168 plan, as approved by a majority of firefighters of the
169 municipality, shall use the income from the premium tax to pay
170 down any unfunded actuarial liability in the pension plan. After
171 paying down the unfunded actuarial liability, the board of
172 trustees, as approved by a majority of firefighters of the
173 municipality, may:

174 (a) Place the income from the premium tax in s. 175.101 in

32-00962E-11

20111128

175 such pension plan for the sole and exclusive use of its
176 firefighters, or for firefighters and police officers if, ~~where~~
177 included, where it shall become an integral part of that pension
178 plan and ~~shall be~~ used to pay extra benefits to the firefighters
179 included in that pension plan; or

180 (b) Place the income from the premium tax in s. 175.101 in
181 a separate supplemental plan to pay extra benefits to
182 firefighters, or to firefighters and police officers if ~~where~~
183 included, participating in such separate supplemental plan.

184

185 The premium tax provided by this chapter shall in all cases be
186 used in its entirety to provide ~~extra~~ benefits to firefighters,
187 or to firefighters and police officers if, ~~where~~ included.
188 However, local law plans in effect on October 1, 1998, must
189 ~~shall be required to~~ comply with the minimum benefit provisions
190 of this chapter only to the extent that additional premium tax
191 revenues become available to incrementally fund the cost of such
192 compliance as provided in s. 175.162(2)(a). If ~~When~~ a plan is in
193 compliance ~~with such minimum benefit provisions~~, as subsequent
194 additional premium tax revenues become available, they must
195 ~~shall~~ be used to provide extra benefits. For the purpose of this
196 chapter, "additional premium tax revenues" means revenues
197 received by a municipality or special fire control district
198 pursuant to s. 175.121 which exceed that amount received for
199 calendar year 1997, and the term "extra benefits" means benefits
200 in addition to or greater than those provided to general
201 employees of the municipality and in addition to those in
202 existence for firefighters on March 12, 1999. Local law plans
203 created by special act before May 23, 1939, shall be deemed to

32-00962E-11

20111128

204 comply with this chapter.

205 Section 5. Subsections (4), (10), and (15) of section
206 185.02, Florida Statutes, are amended to read:

207 185.02 Definitions.—For any municipality, chapter plan,
208 local law municipality, or local law plan under this chapter,
209 the following words and phrases as used in this chapter shall
210 have the following meanings, unless a different meaning is
211 plainly required by the context:

212 (4) "Compensation" or "salary" means the fixed monthly
213 ~~total cash~~ remuneration ~~including "overtime"~~ paid by the primary
214 employer to a police officer for services rendered, but not
215 including any payments for extra duty or ~~a~~ special detail work
216 performed on behalf of a second party employer, any overtime,
217 unused leave, or any other compensation beyond base hourly or
218 annual salary. ~~However, a local law plan may limit the amount of~~
219 ~~overtime payments which can be used for retirement benefit~~
220 ~~calculation purposes, but in no event shall such overtime limit~~
221 ~~be less than 300 hours per officer per calendar year.~~

222 ~~(a) Any retirement trust fund or plan which now or~~
223 ~~hereafter meets the requirements of this chapter shall not,~~
224 ~~solely by virtue of this subsection, reduce or diminish the~~
225 ~~monthly retirement income otherwise payable to each police~~
226 ~~officer covered by the retirement trust fund or plan.~~

227 ~~(a) (b)~~ The member's compensation or salary contributed as
228 employee-elective salary reductions or deferrals to any salary
229 reduction, deferred compensation, or tax-sheltered annuity
230 program authorized under the Internal Revenue Code shall be
231 deemed to be the compensation or salary the member would receive
232 if he or she were not participating in such program and shall be

32-00962E-11

20111128

233 treated as compensation for retirement purposes under this
234 chapter.

235 ~~(b)(e)~~ For any person who first becomes a member in any
236 plan year beginning on or after January 1, 1996, compensation
237 for any plan year does ~~shall~~ not include any amounts in excess
238 of the Internal Revenue Code s. 401(a)(17) limitation, ~~as~~
239 ~~amended by the Omnibus Budget Reconciliation Act of 1993~~, which
240 limitation of \$150,000 shall be adjusted as required by federal
241 law for qualified government plans and shall be further adjusted
242 for changes in the cost of living in the manner provided by
243 Internal Revenue Code s. 401(a)(17)(B). For any person who first
244 became a member before ~~prior to~~ the first plan year beginning on
245 or after January 1, 1996, the limitation on compensation may
246 ~~shall be~~ not be less than the maximum compensation amount that
247 was allowed to be taken into account under the plan as in effect
248 on July 1, 1993, which limitation shall be adjusted for changes
249 in the cost of living since 1989 in the manner provided by
250 Internal Revenue Code s. 401(a)(17)(1991).

251 (10) "Local law plan" means a defined benefit pension plan
252 for police officers or for police officers and firefighters if
253 ~~where~~ included, as described in s. 185.35, established by
254 municipal ordinance or special act of the Legislature, which
255 ~~enactment~~ sets forth all plan provisions. Local law plan
256 provisions may vary from the provisions of this chapter,
257 ~~provided that required minimum benefits and minimum standards~~
258 ~~are met~~. Any such variance must ~~shall~~ provide a greater benefit
259 for police officers. Actuarial valuations of local law plans
260 shall be conducted by an enrolled actuary as provided in s.
261 185.221(2)(b).

32-00962E-11

20111128

262 (15) "Supplemental plan" means a plan to which deposits of
263 the premium tax moneys as provided in s. 185.08 are made to
264 provide ~~extra~~ benefits to police officers, or police officers
265 and firefighters if where included, under this chapter. Such a
266 plan is an element of a local law plan and exists in conjunction
267 with a defined benefit plan ~~that meets the minimum benefits and~~
268 ~~minimum standards of this chapter.~~

269 Section 6. Subsection (1) and paragraph (a) of subsection
270 (3) of section 185.35, Florida Statutes, are amended to read:

271 185.35 Municipalities having their own pension plans for
272 police officers.—For any municipality, chapter plan, local law
273 municipality, or local law plan under this chapter, in order for
274 municipalities with their own pension plans for police officers,
275 or for police officers and firefighters where included, to
276 participate in the distribution of the tax fund established
277 pursuant to s. 185.08, local law plans must meet the minimum
278 benefits and minimum standards set forth in this chapter:

279 (1) PREMIUM TAX INCOME.—If a municipality has a pension
280 plan for police officers, or for police officers and
281 firefighters if where included, which, in the opinion of the
282 division, meets the minimum benefits and minimum standards set
283 forth in this chapter, the board of trustees of the pension
284 plan, as approved by a majority of police officers of the
285 municipality, shall use the income from the premium tax to pay
286 down any unfunded actuarial liability in the pension plan. After
287 paying down the unfunded actuarial liability, the board of
288 trustees, as approved by a majority of police officers of the
289 municipality, may:

290 (a) Place the income from the premium tax in s. 185.08 in

32-00962E-11

20111128

291 such pension plan for the sole and exclusive use of its police
292 officers, or its police officers and firefighters if ~~where~~
293 included, where it shall become an integral part of that pension
294 plan and shall be used to pay extra benefits to the police
295 officers included in that pension plan; or

296 (b) May place the income from the premium tax in s. 185.08
297 in a separate supplemental plan to pay extra benefits to the
298 police officers, or police officers and firefighters if ~~where~~
299 included, participating in such separate supplemental plan.

300

301 The premium tax provided by this chapter shall in all cases be
302 used in its entirety to provide extra benefits to police
303 officers, or to police officers and firefighters if, ~~where~~
304 included. However, local law plans in effect on October 1, 1998,
305 must ~~shall be required to~~ comply with the minimum benefit
306 provisions of this chapter only to the extent that additional
307 premium tax revenues become available to incrementally fund the
308 cost of such compliance as provided in s. 185.16(2). If ~~When~~ a
309 plan is in compliance ~~with such minimum benefit provisions~~, as
310 subsequent additional tax revenues become available, they shall
311 be used to provide extra benefits. For the purpose of this
312 chapter, "additional premium tax revenues" means revenues
313 received by a municipality pursuant to s. 185.10 which exceed
314 the amount received for calendar year 1997, and the term "extra
315 benefits" means benefits in addition to or greater than those
316 provided to general employees of the municipality and in
317 addition to those in existence for police officers on March 12,
318 1999. Local law plans created by special act before May 23,
319 1939, shall be deemed to comply with this chapter.

32-00962E-11

20111128

320 (3) Notwithstanding any other provision, with respect to
321 any supplemental plan municipality:

322 (a) Section 185.02(4) does ~~185.02(4)(a) shall~~ not apply,
323 and a local law plan and a supplemental plan may continue to use
324 their definition of compensation or salary in existence on March
325 12, 1999 ~~the effective date of this act.~~

326 Section 7. Financial rating of local pension plans.—The
327 Department of Financial Services shall develop standardized
328 ratings for classifying the financial strength of all local
329 government defined benefit pension plans.

330 (1) In assigning a rating to a plan, the department shall
331 consider, but need not be limited to:

332 (a) The plan's current and future unfunded liabilities.

333 (b) The plan's net asset value, managed returns, and funded
334 ratio.

335 (c) Metrics related to the sustainability of the plan,
336 including, but not limited to, the percentage that the annual
337 contribution is of the participating employee payroll.

338 (d) Municipal bond ratings for the local government, if
339 applicable.

340 (e) Whether the local government has reduced contribution
341 rates to the plan when the plan has an actuarial surplus.

342 (f) Whether the local government uses any actuarial surplus
343 in the plan for obligations outside the plan.

344 (2) The department may obtain all necessary data to
345 formulate the ratings from all relevant entities, including
346 local pension boards, local governments, and the Division of
347 Retirement, all of which shall cooperate with the department in
348 supplying all necessary information.

32-00962E-11

20111128

349 (3) The ratings shall be posted on the department's website
350 in a standardized format.

351 Section 8. Task Force on Public Employee Disability
352 Presumptions.—

353 (1) The Task Force on Public Employee Disability
354 Presumptions is created for the purpose of developing findings
355 and issuing recommendations on the disability presumptions in
356 ss. 112.18, 185.34, and 175.231, Florida Statutes.

357 (2) All members of the task force shall be appointed on or
358 before July 15, 2011, and the task force shall hold its first
359 meeting on or before August 15, 2011. The task force shall be
360 composed of nine members as follows:

361 (a) Three members appointed by the President of the Senate,
362 one of whom must be an attorney in private practice who has
363 experience in the relevant laws; one of whom must be a
364 representative of organized labor; and one of whom must be from
365 the Florida Association of Counties.

366 (b) Three members appointed by the Speaker of the House of
367 Representatives, one of whom must be an attorney in private
368 practice who has experience in the relevant laws; one of whom
369 must be a representative of organized labor; and one of whom
370 must be from the Florida League of Cities.

371 (c) A member employed by the Office of the Auditor General
372 who has experience in local government auditing and finances.

373 (d) A member employed by the Department of Management
374 Services' Division of Retirement who has experience in local
375 government pension plans, appointed by the Governor.

376 (e) A member employed by the Department of Financial
377 Services who has relevant expertise in state risk management,

32-00962E-11

20111128

378 appointed by the Chief Financial Officer.

379 (3) The task force shall address issues, including, but not
380 limited to:

381 (a) Data related to the operation of the statutory
382 disability presumptions.

383 (b) How disability presumptions are handled in other
384 states.

385 (c) Proposals for changes to the existing disability
386 presumptions.

387 (4) The Department of Financial Services shall provide
388 administrative support to the task force.

389 (5) Members of the task force shall serve without
390 compensation while in the performance of their duties, but are
391 entitled to reimbursement for per diem and travel expenses in
392 accordance with s. 112.061, Florida Statutes.

393 (6) The task force may obtain data, information, and
394 assistance from any officer or state agency and any political
395 subdivision thereof. All such officers, agencies, and political
396 subdivisions shall provide the task force with all relevant
397 information and assistance on any matter within their knowledge
398 or control.

399 (7) The task force shall submit a report, including
400 findings and recommendations, to the Governor, the Chief
401 Financial Officer, the President of the Senate, and the Speaker
402 of the House of Representatives by January 1, 2012. The report
403 must include specific recommendations for legislative action
404 during the 2012 Regular Session of the Legislature.

405 (8) The task force is dissolved upon submission of its
406 report.

32-00962E-11

20111128

407 Section 9. By December 1, 2011, the Department of Financial
408 Services shall submit a report and recommendations to the
409 Governor, the President of the Senate, and the Speaker of the
410 House of Representatives on actions to be taken to increase the
411 visibility and transparency of local government pension plans,
412 including, but not limited to, those created pursuant to
413 chapters 175 and 185, Florida Statutes, with the goal of
414 increasing the ability of a taxpayer or policymaker to assess
415 the financial health of the local plans. The report must include
416 specific recommendations for legislative action during the 2012
417 Regular Session of the Legislature. The recommendations must
418 address, but need not be limited to:

419 (1) Whether and what kinds of local pension plan data
420 should be included in the financial audit reports required under
421 s. 218.39, Florida Statutes.

422 (2) Whether the reporting requirements of ss. 175.261 and
423 185.221, Florida Statutes, should be supplemented with other
424 types of financial data in order to give a more complete and
425 transparent picture of a local government's financial solvency.

426 (3) Proposals for a uniform format for providing pension
427 data, including standard terminology and data and the specific
428 types of data which should be provided, including funding
429 ratios, and whether contributions are sufficient to fund
430 actuarial liabilities.

431 (4) Whether to require local governments to provide pension
432 financial data on local public websites.

433 (5) Other related issues, including insurance benefits,
434 health care benefits, and postemployment plan benefits.

435 (6) Proposals related to the composition of local pension

32-00962E-11

20111128

436 plan boards.

437 Section 10. The Legislature finds that a proper and
438 legitimate state purpose is served when employees and retirees
439 of the state and of its political subdivisions, and the
440 dependents, survivors, and beneficiaries of those employees and
441 retirees, are extended the basic protections afforded by
442 governmental retirement systems that provide fair and adequate
443 benefits and that are managed, administered, and funded in an
444 actuarially sound manner as required by s. 14, Article X of the
445 State Constitution and part VII of chapter 112, Florida
446 Statutes. Therefore, the Legislature determines and declares
447 that this act fulfills an important state interest.

448 Section 11. This act shall take effect July 1, 2011.

By Senator Ring

32-01276C-11

20111130__

1 A bill to be entitled
2 An act relating to retirement; amending s. 110.123,
3 F.S.; conforming provisions to changes made by the
4 act; amending ss. 112.0801, 112.363, and 112.65, F.S.;
5 conforming provisions to changes made by the act;
6 amending s. 121.011, F.S.; requiring employee and
7 employer contributions to the retirement system by a
8 certain date; amending s. 121.021, F.S.; redefining
9 the terms "system," "prior service," "compensation,"
10 "average final compensation," "benefit," and "payee";
11 amending s. 121.051, F.S.; conforming provisions to
12 changes made by the act; clarifying that employer-paid
13 employee contributions are subject to certain taxes;
14 amending s. 121.0515, F.S.; providing that special
15 risk employee contributions be used, if applicable,
16 when purchasing credit for past service; conforming a
17 cross-reference; amending s. 121.052, F.S., relating
18 to the membership class of elected officers;
19 conforming provisions to changes made by the act;
20 providing for a refund of contributions under certain
21 circumstances for an officer who leaves office;
22 prohibiting such refund if an approved qualified
23 domestic relations order is filed against the
24 participant's retirement account; providing that a
25 member who obtains a refund of contributions waives
26 certain rights under the Florida Retirement System;
27 conforming a cross-reference; amending s. 121.053,
28 F.S.; conforming provisions to changes made by the
29 act; amending s. 121.055, F.S., relating to the Senior

32-01276C-11

20111130__

30 Management Service Class; conforming provisions to
31 changes made by the act; prohibiting such refund if an
32 approved qualified domestic relations order is filed
33 against the participant's retirement account;
34 providing that a member who obtains a refund of
35 contributions waives certain rights under the Florida
36 Retirement System; requiring employee and employer
37 contributions for participants in the Senior
38 Management Service Optional Annuity Program after a
39 certain date; limiting the payment of benefits before
40 a participant's termination of employment; amending s.
41 121.071, F.S.; requiring employee and employer
42 contributions to the retirement system beginning on a
43 certain date; providing for a refund of contributions
44 under certain circumstances following termination of
45 employment; prohibiting such refund if an approved
46 qualified domestic relations order is filed against
47 the participant's retirement account; providing that a
48 member who obtains a refund of contributions waives
49 certain rights under the Florida Retirement System;
50 requiring repayment plus interest of an invalid
51 refund; amending s. 121.081, F.S.; providing
52 requirements for contributions for prior service
53 performed on or after a certain date; amending s.
54 121.091, F.S.; conforming a cross-reference; delaying
55 the refund or payment of accumulated employee
56 contributions if a member's employment is terminated
57 for any reason other than death or retirement;
58 prohibiting such refund if an approved qualified

32-01276C-11

20111130__

59 domestic relations order is filed against the
60 participant's retirement account; providing that a
61 member who obtains a refund of contributions waives
62 certain rights under the Florida Retirement System;
63 requiring repayment plus interest of an invalid
64 refund; conforming provisions to changes made by the
65 act; revising the age at which a member can elect to
66 participate in the Deferred Retirement Option Program
67 after a certain date; amending s. 121.121, F.S.,
68 relating to the purchase of creditable service
69 following an authorized leave of absence; requiring
70 that service credit be purchased at the employee and
71 employer contribution rates in effect during the leave
72 of absence; reducing the interest rate on benefits
73 payable under the Deferred Retirement Option Program
74 for employees hired after a certain date; amending s.
75 121.125, F.S.; conforming provisions to changes made
76 by the act; amending s. 121.35, F.S., relating to the
77 optional retirement program for the State University
78 System; conforming provisions to changes made by the
79 act; requiring employee and employer contributions for
80 participants in the optional retirement program after
81 a certain date; deleting certain requirements
82 governing employer contributions to conform to changes
83 made by the act; conforming cross-references; amending
84 s. 121.4501, F.S.; changing the name of the Public
85 Employee Optional Retirement Program to the Florida
86 Retirement System Investment Plan; limiting the option
87 of enrolling in the State Retirement System's defined

32-01276C-11

20111130__

88 benefit program or defined contribution program to
89 public employees employed before a certain date;
90 requiring public employees employed on or after a
91 certain date to enroll in the defined contribution
92 program; requiring that participants in the plan make
93 contributions to the plan based on the employee's
94 membership class; revising definitions; deleting
95 obsolete provisions relating to the 2002 optional
96 transfer of public employees from the defined benefit
97 program to the defined contribution program;
98 conforming provisions to changes made by the act
99 relating to the commencement of retirement benefits;
100 providing for past employees who reenter the system;
101 providing for contribution adjustments as a result of
102 errors or corrections; requiring an employer to
103 receive a credit for excess contributions and to
104 reimburse an employee for excess contributions,
105 subject to certain limitations; providing for a
106 participant to retain his or her prior plan choice
107 following a return to employment; excluding certain
108 retirees from renewed membership in the Florida
109 Retirement System; limiting certain refunds of
110 contributions which exceed the amount that would have
111 accrued had the member remained in the defined benefit
112 program; providing certain requirements and
113 limitations with respect to contributions; clarifying
114 that participant and employer contributions are
115 earmarked for specified purposes; providing duties of
116 the third-party administrator; providing that a

32-01276C-11

20111130__

117 participant is vested immediately with respect to
118 employee contributions paid by the participant;
119 providing for the forfeiture of nonvested employer
120 contributions and service credit based on years of
121 service; amending s. 121.4502, F.S.; conforming
122 provisions to changes made by the act; amending s.
123 121.4503, F.S.; providing for the deposit of
124 participant contributions into the Florida Retirement
125 System Contributions Clearing Trust Fund; amending s.
126 121.571, F.S.; conforming provisions to changes made
127 by the act; providing requirements for submitting
128 participant contributions; amending s. 121.591, F.S.;
129 limiting the payment of benefits prior to a
130 participant's termination of employment; providing for
131 the forfeiture of nonvested accumulations upon payment
132 of certain vested benefits; providing that the
133 distribution payment method selected by the
134 participant or beneficiary is irrevocable at the time
135 of distribution; prohibiting a distribution of
136 employee contributions if a qualified domestic
137 relations order is filed against the participant's
138 account; providing for the distribution of a
139 participant's contributions if the participant dies
140 before being vested; providing for the establishment
141 of a death benefits program in the Florida Retirement
142 System Trust Fund and the payment of benefits if the
143 participant dies in the line of duty; conforming
144 provisions to changes made by the act; amending ss.
145 121.5911 and 121.70, F.S.; conforming provisions to

32-01276C-11

20111130__

146 changes made by the act; amending s. 121.71, F.S.;

147 providing for employee contributions to be deducted

148 from the employee's monthly salary, beginning on a

149 specified date, and treated as employer contributions

150 under certain provisions of federal law; clarifying

151 that an employee may not receive such contributions

152 directly; specifying the required employee

153 contribution rates for the membership of each

154 membership class and subclass of the Florida

155 Retirement System; specifying the required employer

156 retirement contribution rates for each membership

157 class and subclass of the system in order to address

158 unfunded actuarial liabilities of the system;

159 requiring an assessment to be imposed if the employee

160 contributions remitted are less than the amount

161 required; providing for the employer to receive a

162 credit for excess contributions remitted; conforming

163 cross-references; amending s. 121.72, F.S.; revising

164 certain requirements governing allocations to optional

165 retirement program participant accounts; conforming

166 cross-references; amending s. 121.73, F.S., relating

167 to disability coverage for participants in the

168 optional retirement program; conforming provisions to

169 changes made by the act; amending s. 121.74, F.S.;

170 conforming provisions to changes made by the act;

171 conforming cross-references; amending s. 121.77, F.S.;

172 conforming provisions to changes made by the act;

173 amending s. 121.78, F.S.; revising certain

174 requirements for administering the payment and

32-01276C-11

20111130__

175 distribution of contributions; requiring that certain
176 fees be imposed for delinquent payment; providing that
177 an employer is responsible for recovering any refund
178 provided to an employee in error; revising the terms
179 of an authorized waiver of delinquency; requiring an
180 employer to receive a credit for excess contributions
181 and to reimburse an employee for excess contributions,
182 subject to certain limitations; amending s. 1012.875,
183 F.S.; requiring employee and employer contributions
184 for participants in the State Community College System
185 Optional Retirement Program on a certain date;
186 conforming cross-references; requiring the state
187 actuary to consider additional factors when conducting
188 the annual actuarial study on the Florida Retirement
189 System; providing that the act fulfills an important
190 state interest; providing a directive to the Division
191 of Statutory Revision; providing appropriations to and
192 authorizing additional positions for the Division of
193 Retirement within the Department of Management
194 Services; requiring the State Board of Administration
195 and the Department of Management Services to request a
196 private letter ruling from the United States Internal
197 Revenue Service regarding this act; providing for
198 severability; providing effective dates.

199

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

201

202 Section 1. Paragraph (g) of subsection (2) of section
203 110.123, Florida Statutes, is amended to read:

32-01276C-11

20111130__

204 110.123 State group insurance program.—

205 (2) DEFINITIONS.—As used in this section, the term:

206 (g) "Retired state officer or employee" or "retiree" means
 207 a any state, or state university, officer or employee who
 208 retires under a state retirement system or a state optional
 209 annuity or retirement program or is placed on disability
 210 retirement, ~~and~~ who was insured under the state group insurance
 211 program at the time of retirement, and who begins receiving
 212 retirement benefits immediately after retirement from state or
 213 state university office or employment. The term also includes ~~In~~
 214 ~~addition to these requirements,~~ any state officer or ~~state~~
 215 employee who retires under the defined contribution Public
 216 ~~Employee Optional Retirement~~ program established under part II
 217 of chapter 121 ~~shall be considered a "retired state officer or~~
 218 ~~employee" or "retiree" as used in this section~~ if he or she:

219 1. Meets the age and service requirements to qualify for
 220 normal retirement as set forth in s. 121.021(29); or

221 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
 222 the Internal Revenue Code and has 6 years of creditable service.

223 Section 2. Section 112.0801, Florida Statutes, is amended
 224 to read:

225 112.0801 Group insurance; participation by retired
 226 employees.—

227 ~~(1)~~ Any state agency, county, municipality, special
 228 district, community college, or district school board that ~~which~~
 229 provides life, health, accident, hospitalization, or annuity
 230 insurance, or all of any kinds of such insurance, for its
 231 officers and employees and their dependents upon a group
 232 insurance plan or self-insurance plan shall allow all former

32-01276C-11

20111130

233 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as
234 well as those who retire on or after such date, and their
235 eligible dependents, the option of continuing to participate in
236 the ~~such~~ group insurance plan or self-insurance plan. Retirees
237 and their eligible dependents shall be offered the same health
238 and hospitalization insurance coverage as is offered to active
239 employees at a premium cost of no more than the premium cost
240 applicable to active employees. For ~~the~~ retired employees and
241 their eligible dependents, the cost of ~~any such~~ continued
242 participation ~~in any type of plan or any of the cost thereof~~ may
243 be paid by the employer or by the retired employees. To
244 determine health and hospitalization plan costs, the employer
245 shall commingle the claims experience of the retiree group with
246 the claims experience of the active employees; and, for other
247 types of coverage, the employer may commingle the claims
248 experience of the retiree group with the claims experience of
249 active employees. Retirees covered under Medicare may be
250 experience-rated separately from the retirees not covered by
251 Medicare and from active employees if, ~~provided that~~ the total
252 premium does not exceed that of the active group and coverage is
253 basically the same as for the active group.

254 ~~(2)~~ For purposes of this section, the term "retiree" has
255 the same meaning as in s. 110.123(2) ~~means any officer or~~
256 ~~employee who retires under a state retirement system or a state~~
257 ~~optional annuity or retirement program or is placed on~~
258 ~~disability retirement and who begins receiving retirement~~
259 ~~benefits immediately after retirement from employment. In~~
260 ~~addition to these requirements, any officer or employee who~~
261 ~~retires under the Public Employee Optional Retirement Program~~

32-01276C-11

20111130

262 established under part II of chapter 121 shall be considered a
263 "retired officer or employee" or "retiree" as used in this
264 section if he or she:

265 (a) Meets the age and service requirements to qualify for
266 normal retirement as set forth in s. 121.021(29); or

267 (b) Has attained the age specified by s. 72(t)(2)(A)(i) of
268 the Internal Revenue Code and has 6 years of creditable service.

269 Section 3. Paragraph (b) of subsection (2) and paragraph
270 (e) of subsection (3) of section 112.363, Florida Statutes, are
271 amended to read:

272 112.363 Retiree health insurance subsidy.—

273 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

274 (b) For purposes of this section, a person is deemed
275 retired from a state-administered retirement system when he or
276 she terminates employment with all employers participating in
277 the Florida Retirement System as described in s. 121.021(39)
278 and:

279 1. For a participant of the defined contribution Public
280 ~~Employee Optional Retirement~~ program established under part II
281 of chapter 121, the participant meets the age or service
282 requirements to qualify for normal retirement as set forth in s.
283 121.021(29) and meets the definition of retiree in s.
284 121.4501(2).

285 2. For a member of the ~~Florida Retirement System~~ defined
286 benefit program, or any employee who maintains creditable
287 service under ~~both~~ the defined benefit program and the defined
288 contribution Public Employee Optional Retirement program, the
289 member begins drawing retirement benefits from the defined
290 benefit program ~~of the Florida Retirement System.~~

32-01276C-11

20111130__

291 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

292 (e)1. Beginning July 1, 2001, each eligible retiree of the
293 defined benefit program of the Florida Retirement System, or, if
294 the retiree is deceased, his or her beneficiary who is receiving
295 a monthly benefit from such retiree's account and who is a
296 spouse, or a person who meets the definition of joint annuitant
297 in s. 121.021(~~28~~), shall receive a monthly retiree health
298 insurance subsidy payment equal to the number of years of
299 creditable service, as defined in s. 121.021(~~17~~), completed at
300 the time of retirement multiplied by \$5; however, an ~~ne~~ eligible
301 retiree or beneficiary may not receive a subsidy payment of more
302 than \$150 or less than \$30. If there are multiple beneficiaries,
303 the total payment may ~~must~~ not be greater than the payment to
304 which the retiree was entitled. The health insurance subsidy
305 amount payable to any person receiving the retiree health
306 insurance subsidy payment on July 1, 2001, may ~~shall~~ not be
307 reduced solely by operation of this subparagraph.

308 2. Beginning July 1, 2002, each eligible participant of the
309 defined contribution ~~Public Employee Optional Retirement~~ program
310 of the Florida Retirement System who has met the requirements of
311 this section, or, if the participant is deceased, his or her
312 spouse who is the participant's designated beneficiary, shall
313 receive a monthly retiree health insurance subsidy payment equal
314 to the number of years of creditable service, as provided in
315 this subparagraph, completed at the time of retirement,
316 multiplied by \$5; however, an ~~ne~~ eligible retiree or beneficiary
317 may not receive a subsidy payment of more than \$150 or less than
318 \$30. For purposes of determining a participant's creditable
319 service used to calculate the health insurance subsidy, a

32-01276C-11

20111130

320 participant's years of service credit or fraction thereof must
321 ~~shall~~ be based on the participant's work year as defined in s.
322 121.021(54). Credit must ~~shall~~ be awarded for a full work year
323 if ~~whenever~~ health insurance subsidy contributions have been
324 made ~~as required by law~~ for each month in the participant's work
325 year. In addition, all years of creditable service retained
326 under the Florida Retirement System defined benefit program must
327 ~~shall~~ be included as creditable service for purposes of this
328 section. Notwithstanding any other provision in this section ~~to~~
329 ~~the contrary~~, the spouse at the time of death is ~~shall be~~ the
330 participant's beneficiary unless such participant has designated
331 a different beneficiary subsequent to the participant's most
332 recent marriage.

333 Section 4. Subsection (1) of section 112.65, Florida
334 Statutes, is amended to read:

335 112.65 Limitation of benefits.—

336 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit
337 or pension payable to a retiree who becomes a member of a any
338 retirement system or plan and who has not previously
339 participated in such plan, on or after January 1, 1980, may
340 ~~shall~~ not exceed 100 percent of his or her average final
341 compensation. However, ~~nothing contained in this section~~ does
342 not ~~shall~~ apply to supplemental retirement benefits or to
343 pension increases attributable to cost-of-living increases or
344 adjustments. For the purposes of this section, benefits accruing
345 in individual participant accounts established under the defined
346 contribution ~~Public Employee Optional Retirement~~ program
347 established in part II of chapter 121 are considered
348 supplemental benefits. As used in this section, the term

32-01276C-11

20111130

349 "average final compensation" means the average of the member's
 350 earnings over a period of time which the governmental entity
 351 establishes ~~has established~~ by statute, charter, or ordinance.

352 Section 5. Paragraph (h) is added to subsection (3) of
 353 section 121.011, Florida Statutes, to read:

354 121.011 Florida Retirement System.—

355 (3) PRESERVATION OF RIGHTS.—

356 (h) Effective July 1, 2011, the retirement system shall
 357 require employee and employer contributions as provided in s.
 358 121.071 and part III of this chapter.

359 Section 6. Subsection (3), paragraph (a) of subsection
 360 (19), paragraphs (a) and (b) of subsection (22), and subsections
 361 (24), (55), and (59) of section 121.021, Florida Statutes, are
 362 amended to read:

363 121.021 Definitions.—The following words and phrases as
 364 used in this chapter have the respective meanings set forth
 365 unless a different meaning is plainly required by the context:

366 (3) "System" means the general retirement system
 367 established by this chapter to be known and cited as the
 368 "Florida Retirement System," including, but not limited to, the
 369 defined benefit ~~retirement~~ program administered under ~~the~~
 370 ~~provisions of part I of this part chapter~~ and the defined
 371 contribution ~~retirement~~ program known as the ~~Public Employee~~
 372 ~~Optional Retirement Program~~ and administered under ~~the~~
 373 ~~provisions of part II of this chapter.~~

374 (19) "Prior service" ~~under this chapter~~ means:

375 (a) Service for which the member had credit under one of
 376 the existing systems and received a refund of his or her
 377 contributions upon termination of employment. Prior service

32-01276C-11

20111130__

378 shall also includes ~~include~~ that service between December 1,
 379 1970, and the date the system becomes noncontributory for which
 380 the member had credit under the Florida Retirement System and
 381 received a refund of his or her contributions upon termination
 382 of employment.

383 (22) "Compensation" means the monthly salary paid a member
 384 by his or her employer for work performed arising from that
 385 employment.

386 (a) Compensation includes ~~shall include~~:

387 ~~1. Overtime payments paid from a salary fund.~~

388 ~~2. Accumulated annual leave payments.~~

389 ~~1.3.~~ Payments in addition to the employee's base rate of
 390 pay if ~~all~~ the following apply:

391 a. The payments are paid according to a formal written
 392 policy that applies to all eligible employees equally;

393 b. The policy provides that payments ~~shall~~ commence by ~~no~~
 394 ~~later than~~ the 11th year of employment;

395 c. The payments are paid for as long as the employee
 396 continues his or her employment; and

397 d. The payments are paid at least annually.

398 ~~2.4.~~ Amounts withheld for tax sheltered annuities or
 399 deferred compensation programs, or any other type of salary
 400 reduction plan authorized under the Internal Revenue Code.

401 ~~3.5.~~ Payments made in lieu of a permanent increase in the
 402 base rate of pay, whether made annually or in 12 or 26 equal
 403 payments within a 12-month period, if ~~when~~ the member's base pay
 404 is at the maximum of his or her pay range. If ~~When~~ a portion of
 405 a member's annual increase raises his or her pay range and the
 406 excess is paid as a lump sum payment, the ~~such~~ lump sum payment

32-01276C-11

20111130__

407 is considered ~~shall be~~ compensation for retirement purposes.

408 (b) ~~Under no circumstances shall~~ Compensation for a member
 409 participating in the defined benefit ~~retirement~~ program or the
 410 Florida Public Employee Optional Retirement System Investment
 411 Plan Program of the Florida Retirement System may not include:

412 1. Fees paid professional persons for special or particular
 413 services or ~~include~~ salary payments made from a faculty practice
 414 plan authorized by the Board of Governors of the State
 415 University System for eligible clinical faculty at a college in
 416 a state university that has a faculty practice plan; or

417 2. Any bonuses or other payments prohibited from inclusion
 418 in the member's average final compensation ~~and defined in~~
 419 ~~subsection (47)~~.

420 (24) "Average final compensation" means the average of the
 421 5 highest fiscal years of compensation for creditable service
 422 prior to retirement, termination, or death. For in-line-of-duty
 423 disability benefits, if less than 5 years of creditable service
 424 have been completed, the term "~~average final compensation~~" means
 425 the average annual compensation of the total number of years of
 426 creditable service. Each year used to calculate ~~in the~~
 427 ~~calculation of~~ average final compensation commences ~~shall~~
 428 ~~commence~~ on July 1.

429 (a) The average final compensation includes ~~shall include~~:

430 1. ~~Accumulated annual leave payments, not to exceed 500~~
 431 ~~hours; and~~

432 2. ~~all payments defined as compensation in subsection (22)~~.

433 (b) The average final compensation does ~~shall~~ not include:

434 1. Compensation paid to professional persons for special or
 435 particular services;

32-01276C-11

20111130__

436 2. Payments for accumulated sick leave made due to
437 retirement or termination;

438 3. Payments for accumulated annual leave ~~in excess of 500~~
439 ~~hours~~;

440 4. Overtime payments paid from a salary fund.

441 ~~5.4. Bonuses as defined in subsection (47);~~

442 ~~6.5. Third-party~~ Third party payments made on and after
443 July 1, 1990; or

444 ~~7.6. Fringe benefits, such as (for example, automobile~~
445 ~~allowances or housing allowances).~~

446 (55) "Benefit" means any pension payment, lump-sum or
447 periodic, to a member, retiree, or beneficiary, based ~~partially~~
448 ~~or entirely~~ on employer and employee contributions as
449 applicable.

450 (59) "Payee" means a retiree or beneficiary of a retiree
451 who has received or is receiving a retirement benefit payment.

452 Section 7. Paragraphs (b), (c), and (d) of subsection (2)
453 of section 121.051, Florida Statutes, are amended, present
454 paragraphs (e) and (f) of that subsection are redesignated as
455 subsections (f) and (g), respectively, a new subsection (e) is
456 added to that subsection, and subsection (3) of that section is
457 amended, to read:

458 121.051 Participation in the system.—

459 (2) OPTIONAL PARTICIPATION.—

460 (b)1. The governing body of any municipality, metropolitan
461 planning organization, or special district in the state may
462 elect to participate in the Florida Retirement System upon
463 proper application to the administrator and may cover all ~~or any~~
464 of its units as approved by the Secretary of Health and Human

32-01276C-11

20111130__

465 Services and the administrator. The department shall adopt rules
466 establishing procedures ~~provisions~~ for the submission of
467 documents necessary for such application. Before ~~Prior to~~ being
468 approved for participation ~~in the Florida Retirement System~~, the
469 governing body of a ~~any such~~ municipality, metropolitan planning
470 organization, or special district that has a local retirement
471 system must ~~shall~~ submit to the administrator a certified
472 financial statement showing the condition of the local
473 retirement system ~~as of a date~~ within 3 months before ~~prior to~~
474 the proposed effective date of membership in the ~~Florida~~
475 ~~Retirement~~ system. The statement must be certified by a
476 recognized accounting firm that is independent of the local
477 retirement system. All required documents ~~necessary for~~
478 ~~extending Florida Retirement System coverage~~ must be received by
479 the department for consideration at least 15 days before ~~prior~~
480 ~~to~~ the proposed effective date of coverage. If the governing
481 body ~~municipality, metropolitan planning organization, or~~
482 ~~special district~~ does not comply with this requirement, the
483 department may require that the effective date of coverage be
484 changed.

485 2. A municipality ~~Any city~~, metropolitan planning
486 organization, or special district that has an existing
487 retirement system covering the employees in the units that are
488 to be brought under the Florida Retirement System may
489 participate only after holding a referendum in which all
490 employees in the affected units have the right to participate.
491 Only those employees electing coverage under the Florida
492 Retirement System by affirmative vote in the said ~~the~~ referendum are
493 ~~shall be~~ eligible for coverage under this chapter, and those not

32-01276C-11

20111130__

494 participating or electing not to be covered by the Florida
495 Retirement System shall remain in their present systems and are
496 ~~shall~~ not be eligible for coverage under this chapter. After the
497 referendum is held, all future employees are ~~shall be~~ compulsory
498 members of the Florida Retirement System.

499 3. At the time of joining the Florida Retirement System,
500 the governing body of a municipality ~~any city~~, metropolitan
501 planning organization, or special district complying with
502 subparagraph 1. may elect to provide, or not provide, benefits
503 based on past service of officers and employees as described in
504 s. 121.081(1). However, if such employer elects to provide past
505 service benefits, such benefits must be provided for all
506 officers and employees of its covered group.

507 4. Once this election is made and approved it may not be
508 revoked, except pursuant to subparagraphs 5. and 6., and all
509 present officers and employees electing coverage ~~under this~~
510 ~~chapter~~ and all future officers and employees are ~~shall be~~
511 compulsory members of the Florida Retirement System.

512 5. Subject to ~~the conditions set forth in~~ subparagraph 6.,
513 the governing body of a ~~any~~ hospital licensed under chapter 395
514 which is governed by the board of a special district as defined
515 in s. 189.403~~(1)~~ or by the board of trustees of a public health
516 trust created under s. 154.07, hereinafter referred to as
517 "hospital district," and which participates in the Florida
518 Retirement System, may elect to cease participation in the
519 system with regard to future employees in accordance with the
520 following ~~procedure~~:

521 a. No more than 30 days and at least 7 days before
522 adopting a resolution to partially withdraw from the ~~Florida~~

32-01276C-11

20111130__

523 ~~Retirement~~ system and establish an alternative retirement plan
524 for future employees, a public hearing must be held on the
525 proposed withdrawal and proposed alternative plan.

526 b. From 7 to 15 days before such hearing, notice of intent
527 to withdraw, specifying the time and place of the hearing, must
528 be provided in writing to employees of the hospital district
529 proposing partial withdrawal and must be published in a
530 newspaper of general circulation in the area affected, as
531 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~
532 ~~notice shall~~ be submitted to the department ~~of Management~~
533 ~~Services~~.

534 c. The governing body of a ~~any~~ hospital district seeking to
535 partially withdraw from the system must, before such hearing,
536 have an actuarial report prepared and certified by an enrolled
537 actuary, as defined in s. 112.625 ~~(3)~~, illustrating the cost to
538 the hospital district of providing, through the retirement plan
539 that the hospital district is to adopt, benefits for new
540 employees comparable to those provided under the ~~Florida~~
541 ~~Retirement~~ system.

542 d. Upon meeting all applicable requirements of this
543 subparagraph, and subject to ~~the conditions set forth in~~
544 subparagraph 6., partial withdrawal from the system and adoption
545 of the alternative retirement plan may be accomplished by
546 resolution ~~duly~~ adopted by the hospital district board. The
547 hospital district board must provide written notice of such
548 withdrawal to the Division of Retirement by mailing a copy of
549 the resolution to the division, postmarked by ~~no later than~~
550 December 15, 1995. The withdrawal shall take effect January 1,
551 1996.

32-01276C-11

20111130__

552 6. Following the adoption of a resolution under sub-
553 subparagraph 5.d., all employees of the withdrawing hospital
554 district who were participants in the ~~Florida Retirement~~ system
555 before ~~prior to~~ January 1, 1996, shall remain as participants in
556 the system for as long as they are employees of the hospital
557 district, and all rights, duties, and obligations between the
558 hospital district, the system, and the employees ~~shall~~ remain in
559 full force and effect. Any employee who is hired or appointed on
560 or after January 1, 1996, may not participate in the ~~Florida~~
561 ~~Retirement~~ system, and the withdrawing hospital district has
562 ~~shall have~~ no obligation to the system with respect to such
563 employees.

564 (c) Employees of public community colleges or charter
565 technical career centers sponsored by public community colleges,
566 designated in s. 1000.21(3), who are members of the Regular
567 Class of the Florida Retirement System and who comply with the
568 criteria set forth in this paragraph and s. 1012.875 may, in
569 lieu of participating in the Florida Retirement System, elect to
570 withdraw from the system altogether and participate in the State
571 Community College System Optional Retirement Program provided by
572 the employing agency under s. 1012.875.

573 1. Through June 30, 2001, the cost to the employer for a
574 benefit under the optional retirement program ~~such annuity~~
575 equals the normal cost portion of the employer retirement
576 contribution which would be required if the employee were a
577 member of the Regular Class defined benefit program, plus the
578 portion of the contribution rate required by s. 112.363(8) which
579 would otherwise be assigned to the Retiree Health Insurance
580 Subsidy Trust Fund. Effective July 1, 2001, each employer shall

32-01276C-11

20111130__

581 contribute on behalf of each participant in the optional program
582 an amount equal to 10.43 percent of the participant's gross
583 monthly compensation. The employer shall deduct an amount for
584 the administration of the program. The employer shall contribute
585 an additional amount to the Florida Retirement System Trust Fund
586 equal to the unfunded actuarial accrued liability portion of the
587 Regular Class contribution rate.

588 2. The decision to participate in the ~~an~~ optional
589 retirement program is irrevocable as long as the employee holds
590 a position eligible for participation, except as provided in
591 subparagraph 3. Any service creditable under the Florida
592 Retirement System is retained after the member withdraws from
593 the system; however, additional service credit in the system may
594 not be earned while a member of the optional retirement program.

595 3. An employee who has elected to participate in the
596 optional retirement program shall have one opportunity, at the
597 employee's discretion, to transfer from the optional retirement
598 program to the defined benefit program of the Florida Retirement
599 System or to the defined contribution program established under
600 part II of this chapter ~~Public Employee Optional Retirement~~
601 ~~Program~~, subject to the terms of the applicable optional
602 retirement program contracts.

603 a. If the employee chooses to move to the defined
604 contribution ~~Public Employee Optional Retirement~~ program, any
605 contributions, interest, and earnings creditable to the employee
606 under the ~~State Community College System~~ optional retirement
607 program are retained by the employee in the ~~State Community~~
608 ~~College System~~ optional retirement program, and the applicable
609 provisions of s. 121.4501(4) govern the election.

32-01276C-11

20111130

610 b. If the employee chooses to move to the defined benefit
611 program ~~of the Florida Retirement System~~, the employee shall
612 receive service credit equal to his or her years of service
613 under the ~~State Community College System~~ optional retirement
614 program.

615 (I) The cost for such credit is the amount representing the
616 present value of the employee's accumulated benefit obligation
617 for the affected period of service. The cost shall be calculated
618 as if the benefit commencement occurs on the first date the
619 employee becomes eligible for unreduced benefits, using the
620 discount rate and other relevant actuarial assumptions that were
621 used to value the ~~Florida Retirement System~~ defined benefit
622 program plan liabilities in the most recent actuarial valuation.
623 The calculation must include any service already maintained
624 under the defined benefit program plan in addition to the years
625 under the ~~State Community College System~~ optional retirement
626 program. The present value of any service already maintained
627 must be applied as a credit to total cost resulting from the
628 calculation. The division shall ensure that the transfer sum is
629 prepared using a formula and methodology certified by an
630 enrolled actuary.

631 (II) The employee must transfer from his or her ~~State~~
632 ~~Community College System~~ optional retirement program account and
633 from other employee moneys as necessary, a sum representing the
634 present value of the employee's accumulated benefit obligation
635 immediately following the time of such movement, determined
636 assuming that attained service equals the sum of service in the
637 defined benefit program and service in the ~~State Community~~
638 ~~College System~~ optional retirement program.

32-01276C-11

20111130__

639 4. Participation in the optional retirement program is
640 limited to employees who satisfy the following eligibility
641 criteria:

642 a. The employee is ~~must be~~ otherwise eligible for
643 membership or renewed membership in the Regular Class of the
644 Florida Retirement System, as provided in s. 121.021(11) and
645 (12) or s. 121.122.

646 b. The employee is ~~must be~~ employed in a full-time position
647 classified in the Accounting Manual for Florida's Public
648 Community Colleges as:

649 (I) Instructional; or

650 (II) Executive Management, Instructional Management, or
651 Institutional Management and the, ~~if a~~ community college
652 determines that recruiting to fill a vacancy in the position is
653 to be conducted in the national or regional market, and the
654 duties and responsibilities of the position include the
655 formulation, interpretation, or implementation of policies, or
656 the performance of functions that are unique or specialized
657 within higher education and that frequently support the mission
658 of the community college.

659 c. The employee is ~~must be~~ employed in a position not
660 included in the Senior Management Service Class of the Florida
661 Retirement System, ~~as described~~ in s. 121.055.

662 5. Participants in the program are subject to the same
663 reemployment limitations, renewed membership provisions, and
664 forfeiture provisions ~~as are~~ applicable to regular members of
665 the Florida Retirement System under ss. 121.091(9), 121.122, and
666 121.091(5), respectively. A participant who receives a program
667 distribution funded by employer contributions is ~~shall be~~ deemed

32-01276C-11

20111130__

668 to be retired from a state-administered retirement system if the
669 participant is subsequently employed with an employer that
670 participates in the Florida Retirement System.

671 6. Eligible community college employees are compulsory
672 members of the Florida Retirement System until, pursuant to s.
673 1012.875, a written election to withdraw from the system and
674 participate in the ~~State Community College System~~ optional
675 retirement program is filed with the program administrator and
676 received by the division.

677 a. A community college employee whose program eligibility
678 results from initial employment shall ~~must~~ be enrolled in the
679 ~~State Community College System~~ optional retirement program
680 retroactive to the first day of eligible employment. The
681 employer retirement contributions paid through the month of the
682 employee plan change shall be transferred to the community
683 college to the employee's optional program account, and,
684 effective the first day of the next month, the employer shall
685 pay the applicable contributions based upon subparagraph 1.

686 b. A community college employee whose program eligibility
687 is due to the subsequent designation of the employee's position
688 as one of those specified in subparagraph 4., or due to the
689 employee's appointment, promotion, transfer, or reclassification
690 to a position specified in subparagraph 4., must be enrolled in
691 the program on the first day of the first full calendar month
692 that such change in status becomes effective. The employer
693 retirement contributions paid from the effective date through
694 the month of the employee plan change must be transferred to the
695 community college to the employee's optional program account,
696 and, effective the first day of the next month, the employer

32-01276C-11

20111130

697 shall pay the applicable contributions based upon subparagraph
698 1.

699 7. Effective July 1, 2003, through December 31, 2008, any
700 participant in ~~of~~ the ~~State Community College System~~ optional
701 retirement program who has service credit in the defined benefit
702 program plan of the Florida Retirement System for the period
703 between his or her first eligibility to transfer from the
704 defined benefit program plan to the optional retirement program
705 and the actual date of transfer may, during employment, transfer
706 to the optional retirement program a sum representing the
707 present value of the accumulated benefit obligation under the
708 defined benefit retirement program for the period of service
709 credit. Upon transfer, all service credit previously earned
710 under the defined benefit program ~~of the Florida Retirement~~
711 ~~System~~ during this period is nullified for purposes of
712 entitlement to a future benefit under the defined benefit
713 program ~~of the Florida Retirement System~~.

714 (d) The governing body of a charter school or a charter
715 technical career center may elect to participate in the system
716 upon proper application to the administrator and shall cover its
717 units as approved by the Secretary of Health and Human Services
718 and the administrator. At the time of joining the Florida
719 Retirement System, but before July 1, 2011, the governing body
720 of the charter school may elect to provide, or not provide,
721 benefits based on the past service of officers and employees as
722 described in s. 121.081(1). Once this election is made and
723 approved, it may not be revoked, and all present officers and
724 employees selecting coverage under this chapter and all future
725 officers and employees shall be compulsory members of the

32-01276C-11

20111130

726 Florida Retirement System.

727 (e) All eligible employees initially enrolled on or after
728 July 1, 2011, become compulsory members of the defined
729 contribution plan and membership in the defined benefit plan is
730 not permitted. Employees initially enrolled on or after July 1,
731 2011, may not use the election opportunity specified in s.
732 121.4501(4)(e).

733 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
734 shall be provided for all officers and employees who become
735 members under ~~the provisions of~~ subsection (1) or subsection
736 (2). Any modification of the present agreement with the Social
737 Security Administration, or referendum required under the Social
738 Security Act, for the purpose of providing social security
739 coverage for any member shall be requested by the state agency
740 in compliance with the applicable provisions of the Social
741 Security Act governing such coverage. However, retroactive
742 social security coverage for service ~~prior to December 1, 1970,~~
743 with the employer before December 1, 1970, may ~~shall~~ not be
744 provided for a ~~any~~ member who was not covered under the
745 agreement as of November 30, 1970. The employer-paid employee
746 contributions specified in s. 121.71(2) are subject to taxes
747 imposed under the Federal Insurance Contributions Act, 26 U.S.C.
748 ss. 3101-3128.

749 Section 8. Paragraph (b) of subsection (5) and paragraph
750 (a) of subsection (7) of section 121.0515, Florida Statutes, are
751 amended to read:

752 121.0515 Special risk membership.—

753 (5) CREDIT FOR PAST SERVICE.—A special risk member may
754 purchase retirement credit in the Special Risk Class based upon

32-01276C-11

20111130__

755 past service, and may upgrade retirement credit for such past
756 service, to the extent of 2 percent of the member's average
757 monthly compensation as specified in s. 121.091(1)(a) for such
758 service as follows:

759 (b) Contributions for upgrading the additional special risk
760 credit are ~~pursuant to this subsection~~ shall be equal to the
761 difference in the employer and, if applicable, employee
762 contributions paid and the special risk percentage rate of gross
763 salary in effect at the time of purchase for the period being
764 claimed, plus interest thereon at the rate of 4 percent a year
765 compounded annually from the date of such service until July 1,
766 1975, and 6.5 percent a year thereafter until the date of
767 payment. ~~This~~ Past service may be purchased by the member or by
768 the employer on behalf of the member.

769 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.—

770 (a) A special risk member who is moved or reassigned to a
771 nonspecial risk law enforcement, firefighting, correctional, or
772 emergency medical care administrative support position within
773 ~~with~~ the same agency, or who is subsequently employed in such a
774 position with any law enforcement, firefighting, correctional,
775 or emergency medical care agency under the Florida Retirement
776 System, shall participate in the Special Risk Administrative
777 Support Class and ~~shall~~ earn credit for such service at the same
778 percentage rate as that earned by a regular member.
779 Notwithstanding ~~the provisions of~~ subsection (4), service in
780 ~~such~~ an administrative support position ~~shall~~, for purposes of
781 s. 121.091, applies ~~apply~~ toward satisfaction of the special
782 risk normal retirement date, as defined in s. 121.021(29)(b) if,
783 ~~provided that~~, while in such position, the member remains

32-01276C-11

20111130__

784 certified as a law enforcement officer, firefighter,
785 correctional officer, emergency medical technician, or
786 paramedic; remains subject to reassignment at any time to a
787 position qualifying for special risk membership; and completes
788 an aggregate of 6 or more years of service as a designated
789 special risk member before ~~prior to~~ retirement.

790 Section 9. Paragraphs (a) and (d) of subsection (4) and
791 paragraph (b) of subsection (7) of section 121.052, Florida
792 Statutes, are amended, present paragraph (c) of subsection (7)
793 of that section is redesignated as paragraph (d), a new
794 paragraph (c) is added to that subsection, and subsection (8) of
795 that section is amended, to read:

796 121.052 Membership class of elected officers.—

797 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED
798 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

799 (a) An ~~Any~~ ~~duly~~ elected officer whose term of office was
800 shortened by legislative or judicial apportionment pursuant to
801 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,
802 after the term of office to which he or she was elected is
803 completed, pay into the Florida Retirement System Trust Fund the
804 amount of contributions that would have been made by the officer
805 or the officer's employer on his or her behalf, plus 4 percent
806 interest compounded annually from the date he or she left office
807 until July 1, 1975, and 6.5 percent interest compounded annually
808 thereafter, and may receive service credit for the length of
809 time the officer would have served if such term had not been
810 shortened by apportionment.

811 (d)1. Any justice or judge, or any retired justice or judge
812 who retired before July 1, 1993, who has attained the age of 70

32-01276C-11

20111130__

813 years and who is prevented under s. 8, Art. V of the State
814 Constitution from completing his or her term of office because
815 of age may elect to purchase credit for all or a portion of the
816 months he or she would have served during the remainder of the
817 term of office; however, ~~but~~ he or she may claim those months
818 only after the date the service would have occurred. The justice
819 or judge must pay into the Florida Retirement System Trust Fund
820 the amount of contributions that would have been made by the
821 employer on his or her behalf for the period of time being
822 claimed, plus 6.5 percent interest thereon compounded each June
823 30 from the date he or she left office, in order to receive
824 service credit in this class for the period of time being
825 claimed. After the date the service would have occurred, and
826 upon payment of the required contributions, the retirement
827 benefit of a retired justice or judge shall ~~will~~ be adjusted
828 prospectively to include the ~~this~~ additional creditable service;
829 however, such adjustment may be made only once.

830 2. Any justice or judge who does not seek election to a
831 subsequent term of office because he or she would be prevented
832 under s. 8, Art. V of the State Constitution from completing
833 such term of office upon attaining the age of 70 years may elect
834 to purchase service credit for service as a temporary judge as
835 assigned by the court if the temporary assignment ~~follows~~
836 immediately follows the last full term of office served and the
837 purchase is limited to the number of months of service needed to
838 vest retirement benefits. To receive retirement credit for ~~such~~
839 temporary service beyond termination, the justice or judge must
840 pay into the Florida Retirement System Trust Fund the amount of
841 contributions that would have been made by the justice or judge

32-01276C-11

20111130__

842 and the employer on his or her behalf had he or she continued in
843 office for the period of time being claimed, plus 6.5 percent
844 interest thereon compounded each June 30 from the date he or she
845 left office.

846 (7) CONTRIBUTIONS.—

847 (b) The employer paying the salary of a member of the
848 Elected Officers' Class shall contribute an amount as specified
849 in this subsection or s. 121.71, as appropriate, which shall
850 constitute the ~~entire~~ employer retirement contribution with
851 respect to such member. The employer shall also withhold one-
852 half of the entire contribution of the member required for
853 social security coverage. Effective July 1, 2011, each member of
854 the Elected Officers' Class hired on or after that date shall
855 pay retirement contributions as specified in s. 121.71.

856 (c) If a member of the Elected Officers' Class ceases to
857 fill an office covered by this class for 3 calendar months for
858 any reason other than retirement and has not been employed in
859 any capacity with any participating employer for 3 calendar
860 months, the member may receive a refund of all contributions he
861 or she made to the defined benefit plan, subject to the
862 restrictions otherwise provided in this chapter. Partial refunds
863 are not permitted. The refund may not include any interest
864 earnings on contributions to the defined benefit plan. Employer
865 contributions made on behalf of the member are not refundable. A
866 member may not receive a refund of employee contributions if a
867 pending or an approved qualified domestic relations order is
868 filed against the member's retirement account. By obtaining a
869 refund of contributions, a member waives all rights under the
870 Florida Retirement System, including the health insurance

32-01276C-11

20111130__

871 subsidy under this subsection, to the service credit represented
872 by the refunded contributions, except the right to purchase
873 prior service credit in accordance with s. 121.081(2).

874 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member
875 of the Elected Officers' Class has ~~shall have~~ the same normal
876 retirement date as defined in s. 121.021(29) for a member of the
877 regular class of the Florida Retirement System. A ~~Any~~ public
878 service commissioner who was removed from the Elected State
879 Officers' Class on July 1, 1979, after attaining at least 8
880 years of creditable service in that class is ~~shall be~~ considered
881 to have reached the normal retirement date upon attaining the
882 required age as provided ~~62 as required~~ in s. 121.021(29)(a).

883 Section 10. Paragraph (a) of subsection (7) of section
884 121.053, Florida Statutes, is amended to read:

885 121.053 Participation in the Elected Officers' Class for
886 retired members.—

887 (7) A member who is elected or appointed to an elective
888 office and who is participating in the Deferred Retirement
889 Option Program is not subject to termination as defined in s.
890 121.021, or reemployment limitations as provided in s.
891 121.091(9), until the end of his or her current term of office
892 or, if the officer is consecutively elected or reelected to an
893 elective office eligible for coverage under the Florida
894 Retirement System, until he or she no longer holds an elective
895 office, as follows:

896 (a) At the end of the 60-month DROP period:

897 1. The officer's DROP account may not accrue additional
898 monthly benefits, but does continue to earn interest as provided
899 in s. 121.091(13). However, an officer whose DROP participation

32-01276C-11

20111130__

900 begins on or after July 1, 2010, may not continue to earn such
901 interest.

902 2. Except for unfunded actuarial liability and health
903 insurance subsidy contributions required under ss. 121.71(5) and
904 121.76, retirement contributions are not required of the officer
905 or the employer of the elected officer and additional retirement
906 credit may not be earned under the Florida Retirement System.

907 Section 11. Paragraphs (b) and (j) of subsection (1),
908 paragraph (b) of subsection (3), and paragraphs (d) and (e) of
909 subsection (6) of section 121.055, Florida Statutes, are
910 amended, present paragraph (c) of subsection (3) of that section
911 is redesignated as paragraph (d), and a new paragraph (c) is
912 added to that subsection, to read:

913 121.055 Senior Management Service Class.—There is hereby
914 established a separate class of membership within the Florida
915 Retirement System to be known as the "Senior Management Service
916 Class," which shall become effective February 1, 1987.

917 (1)

918 (b)1. Except as provided in subparagraph 2., effective
919 January 1, 1990, participation in the Senior Management Service
920 Class is ~~shall be~~ compulsory for the president of each community
921 college, the manager of each participating city or county, and
922 all appointed district school superintendents. Effective January
923 1, 1994, additional positions may be designated for inclusion in
924 the Senior Management Service Class if ~~of the Florida Retirement~~
925 ~~System, provided that:~~

926 a. Positions to be included in the class are ~~shall be~~
927 designated by the local agency employer. Notice of intent to
928 designate positions for inclusion in the class must ~~shall~~ be

32-01276C-11

20111130__

929 published once a week for 2 consecutive weeks in a newspaper of
 930 general circulation published in the county or counties
 931 affected, as provided under ~~in~~ chapter 50.

932 b. Up to 10 nonelective full-time positions may be
 933 designated for each local agency employer reporting to the
 934 department ~~of Management Services~~; for local agencies with 100
 935 or more regularly established positions, additional nonelective
 936 full-time positions may be designated, up to ~~not to exceed~~ 1
 937 percent of the regularly established positions within the
 938 agency.

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

943 (I) Heads an organizational unit; or

944 (II) Has responsibility to effect or recommend personnel,
 945 budget, expenditure, or policy decisions in his or her areas of
 946 responsibility.

947 2. In lieu of participation in the Senior Management
 948 Service Class, members of the ~~Senior Management Service~~ class,
 949 pursuant to ~~the provisions of~~ subparagraph 1., l may withdraw from
 950 the Florida Retirement System altogether. The decision to
 951 withdraw from the ~~Florida Retirement~~ system is ~~shall be~~
 952 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
 953 position. Any service creditable under the Senior Management
 954 Service Class shall be retained after the member withdraws from
 955 the ~~Florida Retirement~~ system; however, additional service
 956 credit in the Senior Management Service Class may ~~shall~~ not be
 957 earned after such withdrawal. Such members are ~~shall~~ not be

32-01276C-11

20111130__

958 eligible to participate in the Senior Management Service
959 Optional Annuity Program.

960 3. Effective January 1, 2006, through June 30, 2006, an
961 employee who has withdrawn from the Florida Retirement System
962 under subparagraph 2. has one opportunity to elect to
963 participate in either the defined benefit program or the defined
964 contribution program ~~Public Employee Optional Retirement Program~~
965 of the Florida Retirement System.

966 a. If the employee elects to participate in the defined
967 contribution ~~Public Employee Optional Retirement~~ program,
968 membership is ~~shall be~~ prospective, and the applicable
969 provisions of s. 121.4501(4) shall govern the election.

970 b. If the employee elects to participate in the defined
971 benefit program ~~of the Florida Retirement System~~, the employee
972 shall, upon payment to the system trust fund of the amount
973 calculated under sub-sub-subparagraph (I), receive service
974 credit for prior service based upon the time during which the
975 employee had withdrawn from the system.

976 (I) The cost for such credit shall be an amount
977 representing the actuarial accrued liability for the affected
978 period of service. The cost shall be calculated using the
979 discount rate and other relevant actuarial assumptions that were
980 used to value the Florida Retirement System defined benefit plan
981 liabilities in the most recent actuarial valuation. The
982 calculation must ~~shall~~ include any service already maintained
983 under the defined benefit plan in addition to the period of
984 withdrawal. The actuarial accrued liability attributable to any
985 service already maintained under the defined benefit plan shall
986 be applied as a credit to the total cost resulting from the

32-01276C-11

20111130__

987 calculation. The division must ~~shall~~ ensure that the transfer
988 sum is prepared using a formula and methodology certified by an
989 actuary.

990 (II) The employee must transfer a sum representing the net
991 cost owed for the actuarial accrued liability in sub-sub-
992 subparagraph (I) immediately following the time of such
993 movement, determined assuming that attained service equals the
994 sum of service in the defined benefit program and the period of
995 withdrawal.

996 (j) Except as may otherwise be provided, a ~~any~~ member of
997 the Senior Management Service Class may purchase additional
998 retirement credit in such class for creditable service within
999 the purview of the Senior Management Service Class retroactive
1000 to February 1, 1987, and may upgrade retirement credit for such
1001 service, to the extent of 2 percent of the member's average
1002 monthly compensation as specified in paragraph (4) (d) for such
1003 service. Contributions for upgrading ~~the~~ additional Senior
1004 Management Service credit are pursuant to this paragraph shall
1005 ~~be~~ equal to the difference in the employer and, if applicable,
1006 employee contributions paid and the Senior Management Service
1007 Class contribution rate as a percentage of gross salary in
1008 effect for the period being claimed, plus interest thereon at
1009 the rate of 6.5 percent a year, compounded annually until the
1010 date of payment. The ~~This~~ service credit may be purchased by the
1011 employer on behalf of the member.

1012 (3)

1013 (b) The employer or member of the Senior Management Service
1014 Class, as applicable, ~~paying the salary of a member of the~~
1015 ~~Senior Management Service Class~~ shall contribute an amount as

32-01276C-11

20111130

1016 specified in this section or s. 121.71, as appropriate, which
1017 shall constitute the entire ~~employer~~ retirement contribution
1018 with respect to such member. The employer shall also withhold
1019 one-half of the entire contribution of the member required for
1020 social security coverage. Effective July 1, 2011, each member
1021 shall pay employee contributions as specified in s. 121.71.

1022 (c) Three months after termination of employment for any
1023 reason other than retirement, a member is entitled to a full
1024 refund of the contributions he or she made before or after
1025 participation in the noncontributory plan, subject to the
1026 restrictions provided in this chapter. Employer contributions
1027 made on behalf of the member are not refundable. The refund may
1028 not include any interest earnings on the contributions to the
1029 defined benefit program. A member may not receive a refund of
1030 employee contributions if a pending or an approved qualified
1031 domestic relations order is filed against the member's
1032 retirement account. By obtaining a refund of contributions, a
1033 member waives all rights under the Florida Retirement System,
1034 including the health insurance subsidy under paragraph (d), to
1035 the service credit represented by the refunded contributions,
1036 except the right to purchase his or her prior service credit in
1037 accordance with s. 121.081(2).

1038 (6)

1039 (d) *Contributions.*—

1040 1.a. Through June 30, 2001, each employer shall contribute
1041 on behalf of each participant in the Senior Management Service
1042 Optional Annuity Program an amount equal to the normal cost
1043 portion of the employer retirement contribution which would be
1044 required if the participant were a Senior Management Service

32-01276C-11

20111130__

1045 Class member of the Florida Retirement System defined benefit
1046 program, plus the portion of the contribution rate required in
1047 s. 112.363(8) which ~~that~~ would otherwise be assigned to the
1048 Retiree Health Insurance Subsidy Trust Fund.

1049 b. Effective July 1, 2001, each employer shall contribute
1050 on behalf of each participant in the optional annuity program an
1051 amount equal to 12.49 percent of the participant's gross monthly
1052 compensation.

1053 c. Effective July 1, 2011, each member who is participating
1054 in the optional annuity program shall contribute an amount equal
1055 to the employee contribution required in s. 121.71(3). The
1056 employer shall contribute on behalf of each such participant an
1057 amount equal to the difference between 12.49 percent of the
1058 participant's gross monthly compensation and the amount equal to
1059 the employee's required contribution based on the employee's
1060 gross monthly compensation.

1061 ~~d. The department shall deduct an amount approved by the~~
1062 ~~Legislature to provide for the administration of this program.~~
1063 ~~The Payment of the contributions, including contributions made~~
1064 ~~by the participant, to the optional program which is required by~~
1065 ~~this subparagraph for each participant shall be made by the~~
1066 ~~employer to the department, which shall forward the~~
1067 ~~contributions to the designated company or companies contracting~~
1068 ~~for payment of benefits for the participant under the optional~~
1069 ~~annuity program. The department shall deduct an amount approved~~
1070 ~~by the Legislature to provide for the administration of the~~
1071 ~~program.~~

1072 2. Each employer shall contribute on behalf of each
1073 participant in the Senior Management Service Optional Annuity

32-01276C-11

20111130__

1074 Program an amount equal to the unfunded actuarial accrued
1075 liability portion of the employer contribution which would be
1076 required for members of the Senior Management Service Class in
1077 the Florida Retirement System. This contribution shall be paid
1078 to the department for transfer to the Florida Retirement System
1079 Trust Fund.

1080 3. An Optional Annuity Program Trust Fund shall be
1081 established in the State Treasury and administered by the
1082 department to make payments to provider companies on behalf of
1083 the optional annuity program participants, and to transfer the
1084 unfunded liability portion of the state optional annuity program
1085 contributions to the Florida Retirement System Trust Fund.

1086 4. Contributions required for social security by each
1087 employer and each participant under, ~~in the amount required for~~
1088 ~~social security coverage as now or hereafter may be provided by~~
1089 the federal Social Security Act shall be maintained for each
1090 participant in the Senior Management Service retirement program
1091 and are ~~shall be~~ in addition to the retirement contributions
1092 specified in this paragraph.

1093 5. Each participant in the ~~Senior Management Service~~
1094 optional annuity program may contribute by way of salary
1095 reduction or deduction a percentage amount of the participant's
1096 gross compensation not to exceed the percentage amount
1097 contributed by the employer to the optional annuity program.
1098 Payment of the participant's contributions shall be made by the
1099 employer to the department, which shall forward the
1100 contributions to the designated company or companies contracting
1101 for payment of benefits for the participant under the program.

1102 (e) *Benefits.*—

32-01276C-11

20111130__

1103 1. Benefits under the Senior Management Service Optional
1104 Annuity Program are payable only to participants in the program,
1105 or their beneficiaries as designated by the participant in the
1106 contract with the provider company, and must be paid by the
1107 designated company in accordance with the terms of the annuity
1108 contract applicable to the participant. A participant must be
1109 terminated from all employment relationships with Florida
1110 Retirement System employers as provided in s. 121.021(39) to
1111 begin receiving the employer-funded benefit. Benefits funded by
1112 employer contributions are ~~payable under the terms of the~~
1113 ~~contract to the participant, his or her beneficiary, or his or~~
1114 ~~her estate,~~ in addition to:

1115 a. A lump-sum payment to the beneficiary upon the death of
1116 the participant;

1117 b. A cash-out of a de minimis account upon the request of a
1118 former participant who has been terminated for a minimum of 6
1119 calendar months from the employment that entitled him or her to
1120 optional annuity program participation. Such cash-out must be a
1121 complete liquidation of the account balance with that company
1122 and is subject to the Internal Revenue Code;

1123 c. A mandatory distribution of a de minimis account of a
1124 former participant who has been terminated for a minimum of 6
1125 calendar months from the employment that entitled him or her to
1126 optional annuity program participation as authorized by the
1127 department; or

1128 d. A lump-sum direct rollover distribution whereby all
1129 accrued benefits, plus interest and investment earnings, are
1130 paid from the participant's account directly to the custodian of
1131 an eligible retirement plan, as defined in s. 402(c)(8)(B) of

32-01276C-11

20111130__

1132 the Internal Revenue Code, on behalf of the participant.

1133 2. The benefits payable to any person under the ~~Senior~~
1134 ~~Management Service~~ optional annuity program, and any
1135 contribution accumulated under such program, are not subject to
1136 assignment, execution, or attachment or to any legal process
1137 ~~whatsoever~~.

1138 3. Except as provided in subparagraph 4., a participant who
1139 terminates employment and receives a distribution, including a
1140 rollover or trustee-to-trustee transfer, funded by employer or
1141 participant contributions ~~is shall be~~ deemed to be retired from
1142 a state-administered retirement system if the participant is
1143 subsequently employed with an employer that participates in the
1144 Florida Retirement System.

1145 4. A participant who receives optional annuity program
1146 benefits funded by employer or participant contributions as a
1147 mandatory distribution of a de minimis account authorized by the
1148 department is not considered a retiree.

1149
1150 As used in this paragraph, a "de minimis account" means an
1151 account with a provider company containing employer or
1152 participant contributions and accumulated earnings of not more
1153 than \$5,000 made under this chapter.

1154 Section 12. Subsections (2) and (5) and paragraph (c) of
1155 subsection (6) of section 121.071, Florida Statutes, are
1156 amended, present paragraph (d) of subsection (6) of that section
1157 is redesignated as paragraph (e), and a new paragraph (d) is
1158 added to that subsection, to read:

1159 121.071 Contributions.—Contributions to the system shall be
1160 made as follows:

32-01276C-11

20111130

1161 (2) (a) Effective January 1, 1975, or October 1, 1975, as
1162 applicable, and through June 30, 2011, each employer shall make
1163 ~~accomplish~~ the contribution required by subsection (1) by a
1164 procedure in which no employee's gross salary is ~~shall be~~
1165 reduced. Effective July 1, 2011, each employee, and his or her
1166 employer, shall pay retirement contributions as specified in s.
1167 121.71.

1168 (b) Three calendar months after ~~Upon~~ termination of
1169 employment for any reason other than retirement, a member is
1170 ~~shall be~~ entitled to a full refund of the contributions he or
1171 she ~~has~~ made before or after ~~prior or subsequent to~~
1172 participation in the noncontributory plan, subject to ~~the~~
1173 restrictions otherwise provided in this chapter. Partial refunds
1174 are not permitted. Employer contributions made on behalf of the
1175 member are not refundable. The refund may not include interest
1176 earnings on contributions for a participant of the defined
1177 benefit program. A member may not receive a refund of employee
1178 contributions if an approved qualified domestic relations order
1179 is filed against his or her retirement account. By obtaining a
1180 refund of contributions, a member waives all rights under the
1181 Florida Retirement System and the health insurance subsidy to
1182 the service credit represented by the refunded contributions,
1183 except the right to purchase his or her prior service credit in
1184 accordance with s. 121.081(2).

1185 (5) Contributions made in accordance with subsections (1),
1186 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
1187 into the system trust funds in accordance with rules adopted by
1188 the administrator pursuant to chapter 120, except as ~~may be~~
1189 otherwise specified herein. Effective July 1, 2002,

32-01276C-11

20111130__

1190 contributions paid under subsections (1) and (4) and
1191 accompanying payroll data are due and payable by ~~no later than~~
1192 the 5th working day of the month immediately following the month
1193 during which the payroll period ended.

1194 (6)

1195 (c) By obtaining a refund of contributions, a member waives
1196 all rights under the Florida Retirement System, including the
1197 health insurance subsidy under subsection (4), to the service
1198 credit represented by the refunded contributions, except the
1199 right to purchase his or her prior service credit in accordance
1200 with s. 121.081(2).

1201 (d) If a member or former member of the defined benefit
1202 program receives an invalid refund from the Florida Retirement
1203 System Trust Fund, such person must repay the full amount of the
1204 refund, plus interest at 6.5 percent compounded annually on each
1205 June 30 from the date of refund until full repayment is made.
1206 The invalid refund must be repaid before the member retires or,
1207 if applicable, transfers to the defined contribution plan.

1208 Section 13. Paragraphs (b) and (c) of subsection (1) and
1209 subsection (2) of section 121.081, Florida Statutes, are amended
1210 to read:

1211 121.081 Past service; prior service; contributions.—
1212 Conditions under which past service or prior service may be
1213 claimed and credited are:

1214 (1)

1215 (b) Past service earned after January 1, 1975, may be
1216 claimed by officers or employees of a municipality, metropolitan
1217 planning organization, charter school, charter technical career
1218 center, or special district who become a covered group under

32-01276C-11

20111130__

1219 this system. The governing body of a covered group may elect to
1220 provide benefits for past service earned after January 1, 1975,
1221 in accordance with this chapter. ~~and~~ The cost for such past
1222 service is established by applying the following formula: The
1223 employer shall contribute an amount equal to the employer or
1224 employee contribution rate in effect at the time the service was
1225 earned, as applicable, multiplied by the employee's gross salary
1226 for each year of past service claimed, plus 6.5 percent ~~6.5-~~
1227 ~~percent~~ interest thereon, compounded annually, for ~~figured on~~
1228 each year of past service, with interest compounded from date of
1229 annual salary earned until date of payment.

1230 (c) If an ~~Should the~~ employer joined the Florida Retirement
1231 System before July 1, 2011, and does not elect to provide past
1232 service for the member on the date of joining the system, ~~then~~
1233 the member may claim and pay for the service as provided in
1234 ~~same, based on~~ paragraphs (a) and (b).

1235 (2) Prior service, as defined in s. 121.021~~(19)~~, may be
1236 claimed as creditable service under the Florida Retirement
1237 System after a member has been reemployed for 1 complete year of
1238 creditable service ~~within a period of 12 consecutive months~~,
1239 except as provided in paragraph (c). Service performed as a
1240 participant of the optional retirement program for the State
1241 University System under s. 121.35 or the Senior Management
1242 Service Optional Annuity Program under s. 121.055 may be used to
1243 satisfy the reemployment requirement of 1 complete year of
1244 creditable service. The member may ~~shall not be permitted to~~
1245 make any contributions for prior service until after completion
1246 of the 1 year of creditable service. If a member does not wish
1247 to claim credit for all of his or her prior service, the service

32-01276C-11

20111130__

1248 the member claims must be the most recent period of service. The
1249 required contributions for claiming the various types of prior
1250 service are:

1251 (a) For prior service performed before ~~prior to~~ the date
1252 the system becomes noncontributory for the member and for which
1253 the member had credit under one of the existing retirement
1254 systems and received a refund of contributions upon termination
1255 of employment, the member shall contribute 4 percent of all
1256 salary received during the period being claimed, plus 4 percent
1257 ~~4 percent~~ interest compounded annually from date of refund until
1258 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded
1259 annually thereafter, until full payment is made to the Florida
1260 Retirement System Trust Fund, and shall receive credit in the
1261 Regular Class. A member who elected to transfer to the Florida
1262 Retirement System from an existing system may receive credit for
1263 prior service under the existing system if he or she was
1264 eligible under the existing system to claim the prior service at
1265 the time of the transfer. Contributions for such prior service
1266 shall be determined by the applicable provisions of the system
1267 under which the prior service is claimed and shall be paid by
1268 the member, with matching contributions paid by the employer at
1269 the time the service was performed. Effective July 1, 1978, the
1270 account of a person who terminated under s. 238.05(3) may not be
1271 charged interest for contributions that remained on deposit in
1272 the Annuity Savings Trust Fund established under chapter 238,
1273 upon retirement under this chapter or chapter 238.

1274 (b) For prior service performed before ~~prior to~~ the date
1275 the system becomes noncontributory for the member and for which
1276 the member had credit under the Florida Retirement System and

32-01276C-11

20111130__

1277 received a refund of contributions upon termination of
1278 employment, the member shall contribute at the rate that was
1279 required of him or her during the period of service being
1280 claimed, on all salary received during such period, plus 4
1281 percent ~~4-percent~~ interest compounded annually from date of
1282 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest
1283 compounded annually thereafter, until the full payment is made
1284 to the Florida Retirement System Trust Fund, and ~~shall~~ receive
1285 credit in the membership class in which the member participated
1286 during the period claimed.

1287 (c) For prior service as defined in s. 121.021(19)(b) and
1288 (c) during which no contributions were made because the member
1289 did not participate in a retirement system, the member shall
1290 contribute 14.38 percent of all salary received during such
1291 period or 14.38 percent of \$100 per month during such period,
1292 whichever is greater, plus 4 percent ~~4-percent~~ interest
1293 compounded annually from the first year of service claimed until
1294 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded
1295 annually thereafter, until full payment is made to the
1296 Retirement Trust Fund, and shall receive credit in the Regular
1297 Class.

1298 (d) In order to claim credit for prior service as defined
1299 in s. 121.021(19)(d) for which no retirement contributions were
1300 paid during the period of such service, the member shall
1301 contribute the total employee and employer contributions which
1302 were required to be made to the Highway Patrol Pension Trust
1303 Fund, as provided in chapter 321, during the period claimed,
1304 plus 4 percent ~~4-percent~~ interest compounded annually from the
1305 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~

32-01276C-11

20111130__

1306 ~~percent~~ interest compounded annually thereafter, until full
1307 payment is made to the Retirement Trust Fund. However, any
1308 governmental entity that ~~which~~ employed such member may elect to
1309 pay up to 50 percent of the contributions and interest required
1310 to purchase the ~~this~~ prior service credit. The service shall be
1311 credited in accordance with the ~~provisions of the~~ Highway Patrol
1312 Pension Plan in effect during the period claimed unless the
1313 member terminated and withdrew his or her retirement
1314 contributions and was thereafter enrolled in the State and
1315 County Officers and Employees' Retirement System or the Florida
1316 Retirement System, in which case the service shall be credited
1317 as Regular Class service.

1318 (e) For service performed under the Florida Retirement
1319 System after December 1, 1970, which ~~that~~ was never reported to
1320 the division or the department due to error, retirement credit
1321 may be claimed by a member of the Florida Retirement System. The
1322 department shall adopt rules establishing criteria for claiming
1323 such credit and detailing the documentation required to
1324 substantiate the error.

1325 (f) For prior service performed on or after July 1, 2011,
1326 for which the member had credit under the Florida Retirement
1327 System and received a refund of contributions 3 months after
1328 termination of employment, the member shall contribute at the
1329 rate that was required during the period of service being
1330 claimed, plus 6.5 percent interest, compounded annually on each
1331 June 30 from date of refund until the full payment is made to
1332 the Florida Retirement System Trust Fund, and shall receive
1333 credit in the membership class in which the member participated
1334 during the period claimed.

32-01276C-11

20111130__

1335 (g)~~(f)~~ The employer may not ~~be required to~~ make
1336 contributions for prior service credit for any member, except
1337 that the employer shall pay the employer portion of
1338 contributions for any legislator who elects to withdraw from the
1339 Florida Retirement System and later rejoins the system and pays
1340 any employee contributions required in accordance with s.
1341 121.052(3)(d).

1342 Section 14. Paragraph (a) of subsection (3), paragraphs (a)
1343 and (c) of subsection (5), and paragraph (d) of subsection (9),
1344 of section 121.091, Florida Statutes, are amended, present
1345 paragraphs (e) through (k) of subsection (5) of that section are
1346 renumbered as paragraphs (f) through (l), respectively, and a
1347 new paragraph (d) is added to that subsection, to read:

1348 121.091 Benefits payable under the system.—Benefits may not
1349 be paid under this section unless the member has terminated
1350 employment as provided in s. 121.021(39)(a) or begun
1351 participation in the Deferred Retirement Option Program as
1352 provided in subsection (13), and a proper application has been
1353 filed in the manner prescribed by the department. The department
1354 may cancel an application for retirement benefits when the
1355 member or beneficiary fails to timely provide the information
1356 and documents required by this chapter and the department's
1357 rules. The department shall adopt rules establishing procedures
1358 for application for retirement benefits and for the cancellation
1359 of such application when the required information or documents
1360 are not received.

1361 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
1362 early retirement date, the member shall receive an immediate
1363 monthly benefit that shall begin to accrue on the first day of

32-01276C-11

20111130

1364 the month of the retirement date and be payable on the last day
1365 of that month and each month thereafter during his or her
1366 lifetime. Such benefit shall be calculated as follows:

1367 (a) The amount of each monthly payment shall be computed in
1368 the same manner as ~~for~~ a normal retirement benefit, in
1369 accordance with subsection (1), but shall be based on the
1370 member's average monthly compensation and creditable service as
1371 of the member's early retirement date. The benefit so computed
1372 shall be reduced by five-twelfths of 1 percent for each complete
1373 month by which the early retirement date precedes the normal
1374 retirement date of age 62 for a member of the Regular Class,
1375 Senior Management Service Class, or the Elected Officers' Class,
1376 and age 55 for a member of the Special Risk Class, or age 52 if
1377 a Special Risk member has completed 25 years of creditable
1378 service in accordance with s. 121.021(29) ~~(b) 3~~.

1379 (5) TERMINATION BENEFITS.—A member whose employment is
1380 terminated before ~~prior to~~ retirement retains membership rights
1381 to previously earned member-noncontributory service credit, and
1382 to member-contributory service credit, if the member leaves the
1383 member contributions on deposit in his or her retirement
1384 account. If a terminated member receives a refund of member
1385 contributions, such member may reinstate membership rights to
1386 the previously earned service credit represented by the refund
1387 by completing 1 year of creditable service and repaying the
1388 refunded member contributions, plus interest.

1389 (a) A member whose employment is terminated for any reason
1390 other than death or retirement before ~~prior to~~ becoming vested
1391 is entitled to the return of his or her accumulated employee
1392 contributions as of the date of termination.

32-01276C-11

20111130

1393 (c) In lieu of the deferred monthly benefit provided in
1394 paragraph (b), the terminated member may elect to receive a
1395 lump-sum amount equal to his or her accumulated employee
1396 contributions as of the date of termination.

1397 (d) Effective July 1, 2011, upon termination of employment
1398 from all participating employers for 3 calendar months for any
1399 reason other than retirement pursuant to s. 121.021(39)(c), a
1400 member may receive a refund of all contributions he or she has
1401 made to the defined benefit program, subject to restrictions
1402 otherwise provided in this chapter. Partial refunds are not
1403 permitted. The refund may not include any interest earnings on
1404 the contributions for a member of the defined benefit program.
1405 Employer contributions made on behalf of the member are not
1406 refundable. A member may not receive a refund of employee
1407 contributions if a pending or an approved qualified domestic
1408 relations order is filed against his or her retirement account.
1409 By obtaining a refund of contributions, a member waives all
1410 rights under the Florida Retirement System and the health
1411 insurance subsidy to the service credit represented by the
1412 refunded contributions, except the right to purchase his or her
1413 prior service credit in accordance with s. 121.081(2).

1414 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

1415 (d) ~~The provisions of~~ This subsection applies apply to
1416 retirees, as defined in s. 121.4501(2), of the Florida Public
1417 ~~Employee Optional Retirement System Investment Plan Program,~~
1418 subject to the following conditions:

1419 1. The retiree ~~retirees~~ may not be reemployed with an
1420 employer participating in the Florida Retirement System until
1421 such person has been retired for 6 calendar months.

32-01276C-11

20111130

1422 2. A retiree employed in violation of this subsection and
1423 an employer that employs or appoints such person are jointly and
1424 severally liable for reimbursement of any benefits paid to the
1425 retirement trust fund from which the benefits were paid,
1426 ~~including the Retirement System Trust Fund and the Public~~
1427 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~
1428 The employer must have a written statement from the retiree that
1429 he or she is not retired from a state-administered retirement
1430 system.

1431 Section 15. Effective July 1, 2012, paragraph (a) of
1432 subsection (3) and paragraphs (a) and (b) of subsection (13) of
1433 section 121.091, Florida Statutes, as amended by this act, are
1434 amended to read:

1435 121.091 Benefits payable under the system.—Benefits may not
1436 be paid under this section unless the member has terminated
1437 employment as provided in s. 121.021(39) (a) or begun
1438 participation in the Deferred Retirement Option Program as
1439 provided in subsection (13), and a proper application has been
1440 filed in the manner prescribed by the department. The department
1441 may cancel an application for retirement benefits when the
1442 member or beneficiary fails to timely provide the information
1443 and documents required by this chapter and the department's
1444 rules. The department shall adopt rules establishing procedures
1445 for application for retirement benefits and for the cancellation
1446 of such application when the required information or documents
1447 are not received.

1448 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
1449 early retirement date, the member shall receive an immediate
1450 monthly benefit that shall begin to accrue on the first day of

32-01276C-11

20111130

1451 the month of the retirement date and be payable on the last day
1452 of that month and each month thereafter during his or her
1453 lifetime. Such benefit shall be calculated as follows:

1454 (a) The amount of each monthly payment shall be computed in
1455 the same manner as a normal retirement benefit in accordance
1456 with subsection (1), but shall be based on the member's average
1457 monthly compensation and creditable service as of the member's
1458 early retirement date. The benefit so computed shall be reduced
1459 by five-twelfths of 1 percent for each complete month by which
1460 the early retirement date precedes the normal retirement date ~~of~~
1461 ~~age 62 for a member of the Regular Class, Senior Management~~
1462 ~~Service Class, or the Elected Officers' Class, and age 55 for a~~
1463 ~~member of the Special Risk Class, or age 52 if a Special Risk~~
1464 ~~member has completed 25 years of creditable service in~~
1465 accordance with s. 121.021(29).

1466 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
1467 subject to this section, the Deferred Retirement Option Program,
1468 hereinafter referred to as DROP, is a program under which an
1469 eligible member of the Florida Retirement System may elect to
1470 participate, deferring receipt of retirement benefits while
1471 continuing employment with his or her Florida Retirement System
1472 employer. The deferred monthly benefits shall accrue in the
1473 Florida Retirement System on behalf of the participant, plus
1474 interest compounded monthly, for the specified period of the
1475 DROP participation, as provided in paragraph (c). Upon
1476 termination of employment, the participant shall receive the
1477 total DROP benefits and begin to receive the previously
1478 determined normal retirement benefits. Participation in the DROP
1479 does not guarantee employment for the specified period of DROP.

32-01276C-11

20111130__

1480 Participation in DROP by an eligible member beyond the initial
 1481 60-month period as authorized in this subsection shall be on an
 1482 annual contractual basis for all participants.

1483 (a) *Eligibility of member to participate in DROP.*—All
 1484 active Florida Retirement System members in a regularly
 1485 established position, and all active members of the Teachers'
 1486 Retirement System established in chapter 238 or the State and
 1487 County Officers' and Employees' Retirement System established in
 1488 chapter 122, which are consolidated within the Florida
 1489 Retirement System under s. 121.011, are eligible to elect
 1490 participation in DROP if:

1491 1. The member is not a renewed member under s. 121.122 or a
 1492 member of the State Community College System Optional Retirement
 1493 Program under s. 121.051, the Senior Management Service Optional
 1494 Annuity Program under s. 121.055, or the optional retirement
 1495 program for the State University System under s. 121.35.

1496 2. For members enrolled before July 1, 2011, except as
 1497 provided in subparagraph 6., election to participate must be ~~is~~
 1498 made within 12 months immediately following the date on which
 1499 the member first reaches normal retirement date; however, ~~or,~~
 1500 for a member who reaches normal retirement date based on service
 1501 before he or she reaches age 62, or age 55 for Special Risk
 1502 Class members, election to participate may be deferred to the 12
 1503 months immediately following the date the member attains age 57,
 1504 or age 52 for Special Risk Class members. For members enrolled
 1505 on or after July 1, 2011, except as provided in subparagraph 6.,
 1506 election to participate must be made within 12 months
 1507 immediately following the date on which the member first reaches
 1508 normal retirement date; however, for a member who reaches normal

32-01276C-11

20111130__

1509 retirement date based on service before he or she reaches age
1510 65, or age 60 for Special Risk Class members, election to
1511 participate may be deferred to the 12 months immediately
1512 following the date the member attains age 60, or age 55 for
1513 Special Risk Class members. A member who delays DROP
1514 participation during the 12-month period immediately following
1515 his or her maximum DROP deferral date, ~~except as provided in~~
1516 ~~subparagraph 6.,~~ loses a month of DROP participation for each
1517 month delayed. A member who fails to make an election within the
1518 12-month limitation period forfeits all rights to participate in
1519 DROP. The member shall advise his or her employer and the
1520 division in writing of the date DROP begins. The beginning date
1521 may be subsequent to the 12-month election period but must be
1522 within the original 60-month participation period provided in
1523 subparagraph (b)1. When establishing the eligibility of the
1524 member to participate in DROP, the member may elect to include
1525 or exclude any optional service credit purchased by the member
1526 from the total service used to establish the normal retirement
1527 date. A member who has dual normal retirement dates may ~~is~~
1528 ~~eligible to~~ elect to participate in DROP after attaining the
1529 normal retirement date in either class.

1530 3. The employer of a member electing to participate in
1531 DROP, or employers if dually employed, shall acknowledge in
1532 writing to the division the date the member's participation in
1533 DROP begins and the date the member's employment and DROP
1534 participation ~~will~~ terminate.

1535 4. Simultaneous employment of a participant by additional
1536 Florida Retirement System employers subsequent to the
1537 commencement of participation in DROP is permissible if such

32-01276C-11

20111130__

1538 employers acknowledge in writing a DROP termination date no
1539 later than the participant's existing termination date or the
1540 maximum participation period provided in subparagraph (b)1.

1541 5. A DROP participant may change employers while
1542 participating in DROP, subject to the following:

1543 a. A change of employment must take place without a break
1544 in service so that the member receives salary for each month of
1545 continuous DROP participation. If a member receives no salary
1546 during a month, DROP participation shall cease unless the
1547 employer verifies a continuation of the employment relationship
1548 ~~for such participant~~ pursuant to s. 121.021(39)(b).

1549 b. Such participant and new employer shall notify the
1550 division of the identity of the new employer on forms required
1551 by the division.

1552 c. The new employer shall acknowledge, in writing, the
1553 participant's DROP termination date, which may be extended but
1554 not beyond the maximum participation period provided in
1555 subparagraph (b)1., shall acknowledge liability for any
1556 additional retirement contributions and interest required if the
1557 participant fails to timely terminate employment, and is subject
1558 to the adjustment required in sub-subparagraph (c)5.d.

1559 6. Effective July 1, 2001, for instructional personnel as
1560 defined in s. 1012.01(2), election to participate in DROP may be
1561 made at any time following the date on which the member first
1562 reaches normal retirement date. The member shall advise his or
1563 her employer and the division in writing of the date on which
1564 DROP begins. When establishing the eligibility of the member to
1565 participate in DROP for the 60-month participation period
1566 provided in subparagraph (b)1., the member may elect to include

32-01276C-11

20111130

1567 or exclude any optional service credit purchased by the member
1568 from the total service used to establish the normal retirement
1569 date. A member who has dual normal retirement dates may ~~is~~
1570 ~~eligible to~~ elect to participate in either class.

1571 (b) *Participation in DROP.*—

1572 1. An eligible member may elect to participate in DROP for
1573 ~~a period not to exceed~~ a maximum of 60 calendar months. However,
1574 members who are instructional personnel employed by the Florida
1575 School for the Deaf and the Blind and authorized by the Board of
1576 Trustees of the Florida School for the Deaf and the Blind, who
1577 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
1578 in grades K-12 and authorized by the district school
1579 superintendent, or who are instructional personnel as defined in
1580 s. 1012.01(2)(a) employed by a developmental research school and
1581 authorized by the school's director, or if the school has no
1582 director, by the school's principal, may participate in DROP for
1583 up to 36 calendar months beyond the 60-month period.

1584 2. Upon electing ~~deciding~~ to participate in DROP, the
1585 member shall submit, on forms required by the division:

1586 a. A written election to participate in DROP;

1587 b. Selection of DROP participation and termination dates
1588 that satisfy the limitations stated in paragraph (a) and
1589 subparagraph 1. The termination date must be in a binding letter
1590 of resignation to the employer establishing a deferred
1591 termination date. The member may change the termination date
1592 within the limitations of subparagraph 1., but only with the
1593 written approval of the employer;

1594 c. A properly completed DROP application for service
1595 retirement as provided in this section; and

32-01276C-11

20111130__

- 1596 d. Any other information required by the division.
- 1597 3. The DROP participant is a retiree under the Florida
1598 Retirement System for all purposes, except for paragraph (5)(f)
1599 and subsection (9) and ss. 112.3173, 112.363, 121.053, and
1600 121.122. DROP participation is final and may not be canceled by
1601 the participant after the first payment is credited during the
1602 DROP participation period. However, participation in DROP does
1603 not alter the participant's employment status, and the member is
1604 not deemed retired from employment until his or her deferred
1605 resignation is effective and termination occurs as defined in s.
1606 121.021.
- 1607 4. Elected officers are eligible to participate in DROP
1608 subject to the following:
- 1609 a. An elected officer who reaches normal retirement date
1610 during a term of office may defer the election to participate
1611 until the next succeeding term in that office. An elected
1612 officer who exercises this option may participate in DROP for up
1613 to 60 calendar months or no longer than the succeeding term of
1614 office, whichever is less.
- 1615 b. An elected or a nonelected participant may run for a
1616 term of office while participating in DROP and, if elected,
1617 extend the DROP termination date accordingly; however, if the
1618 ~~such~~ additional term of office exceeds the 60-month limitation
1619 established in subparagraph 1., and the officer does not resign
1620 from office within such 60-month limitation, the retirement and
1621 the participant's DROP is null and void as provided in sub-
1622 subparagraph (c)5.d.
- 1623 c. An elected officer who is dually employed and elects to
1624 participate in DROP must terminate all employment relationships

32-01276C-11

20111130__

1625 as provided in s. 121.021(39) for the nonelected position within
1626 the original 60-month period or maximum participation period as
1627 provided in subparagraph 1. For DROP participation ending:

1628 (I) Before July 1, 2010, the officer may continue
1629 employment as an elected officer as provided in s. 121.053. The
1630 elected officer shall be enrolled as a renewed member in the
1631 Elected Officers' Class or the Regular Class, as provided in ss.
1632 121.053 and 121.122, on the first day of the month after
1633 termination of employment in the nonelected position and
1634 termination of DROP. Distribution of the DROP benefits shall be
1635 made as provided in paragraph (c).

1636 (II) On or after July 1, 2010, the officer may continue
1637 employment as an elected officer but must defer termination as
1638 provided in s. 121.053.

1639 Section 16. Subsection (1) of section 121.121, Florida
1640 Statutes, is amended to read:

1641 121.121 Authorized leaves of absence.—

1642 (1) A member may purchase creditable service for up to 2
1643 work years of authorized leaves of absence, including any leaves
1644 of absence covered under the Family Medical Leave Act, if:

1645 (a) The member has completed a minimum of 6 years of
1646 creditable service, excluding periods for which a leave of
1647 absence was authorized;

1648 (b) The leave of absence is authorized in writing by the
1649 employer of the member and approved by the administrator;

1650 (c) The member returns to active employment performing
1651 service with a Florida Retirement System employer in a regularly
1652 established position immediately upon termination of the leave
1653 of absence and remains on the employer's payroll for 1 calendar

32-01276C-11

20111130__

1654 month, except that a member who retires on disability while on a
1655 medical leave of absence may ~~shall~~ not be required to return to
1656 employment. A member whose work year is less than 12 months and
1657 whose leave of absence terminates between school years is
1658 eligible to receive credit for the leave of absence if ~~as long~~
1659 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at
1660 the beginning of the next school year and remains on the
1661 employer's payroll for 1 calendar month; and

1662 (d) The member makes the required contributions for service
1663 credit during the leave of absence, which shall be 8 percent
1664 until January 1, 1975, and 9 percent thereafter of his or her
1665 rate of monthly compensation in effect immediately before ~~prior~~
1666 ~~to~~ the commencement of such leave for each month of such period,
1667 plus 4 percent interest until July 1, 1975, and 6.5 percent
1668 interest thereafter on such contributions, compounded annually
1669 each June 30 from the due date of the contribution to date of
1670 payment. Effective July 1, 1980, any leave of absence purchased
1671 pursuant to this section is ~~shall be~~ at the contribution rates
1672 specified in s. 121.071 or s. 121.71 in effect at the time the
1673 leave is granted for the class of membership from which the
1674 leave of absence was granted; however, any member who purchased
1675 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a
1676 leave of absence from a position in a class other than the
1677 regular membership class, may pay the appropriate additional
1678 contributions plus compound interest thereon and receive
1679 creditable service for such leave of absence in the membership
1680 class from which the member was granted the leave of absence.
1681 Effective July 1, 2011, any leave of absence purchased pursuant
1682 to this section shall be at the employee and employer

32-01276C-11

20111130

1683 contribution rates specified in s. 121.71 in effect during the
1684 leave for the class of membership from which the leave of
1685 absence was granted.

1686 Section 17. Section 121.125, Florida Statutes, is amended
1687 to read:

1688 121.125 Credit for workers' compensation payment periods.—A
1689 member of the retirement system created by this chapter who has
1690 been eligible or becomes eligible for ~~to receive~~ workers'
1691 compensation payments for an injury or illness that occurred
1692 ~~occurring~~ during ~~his or her~~ employment while a member of a ~~any~~
1693 state retirement system shall, upon return to active employment
1694 with a covered employer for 1 calendar month or upon approval
1695 for disability retirement in accordance with s. 121.091(4),
1696 receive full retirement credit for the period before ~~prior to~~
1697 such return to active employment or disability retirement for
1698 which the workers' compensation payments were received. However,
1699 a ~~no~~ member may not receive retirement credit for ~~any~~ such
1700 period occurring after the earlier of the date of maximum
1701 medical improvement as defined in s. 440.02 or the date
1702 termination has occurred as defined in s. 121.021(39). The
1703 employer of record at the time of the worker's compensation
1704 injury or illness shall make the required employee and employer
1705 retirement contributions based on the member's rate of monthly
1706 compensation immediately before ~~prior to his or her~~ receiving
1707 workers' compensation payments for retirement credit received by
1708 the member.

1709 Section 18. Paragraphs (g) and (i) of subsection (3) and
1710 subsection (4) of section 121.35, Florida Statutes, are amended
1711 to read:

32-01276C-11

20111130__

1712 121.35 Optional retirement program for the State University
1713 System.—

1714 (3) ELECTION OF OPTIONAL PROGRAM.—

1715 (g) An eligible employee who is a member of the Florida
1716 Retirement System at the time of electing ~~election~~ to
1717 participate in the optional retirement program shall retain all
1718 retirement service credit earned under the Florida Retirement
1719 System, ~~at the rate earned. No~~ Additional service credit in the
1720 ~~Florida Retirement~~ system may not ~~shall~~ be earned while the
1721 employee participates in the optional program, and ~~nor shall~~ the
1722 employee is not ~~be~~ eligible for disability retirement under the
1723 ~~Florida Retirement~~ system. An eligible employee may transfer
1724 from the Florida Retirement System to his or her accounts under
1725 the State University System Optional Retirement Program a sum
1726 representing the present value of the employee's accumulated
1727 benefit obligation under the defined benefit program of the
1728 Florida Retirement System for any service credit accrued from
1729 the employee's first eligible transfer date to the optional
1730 retirement program through the actual date of such transfer, if
1731 such service credit was earned ~~in the period~~ from July 1, 1984,
1732 through December 31, 1992. The present value of the employee's
1733 accumulated benefit obligation shall be calculated as described
1734 in s. 121.4501(3) ~~s. 121.4501(3)(c)2~~. Upon ~~such~~ transfer, all
1735 ~~such~~ service credit ~~previously~~ earned under the defined benefit
1736 program ~~of the Florida Retirement System~~ during this period is
1737 ~~shall be~~ nullified for purposes of entitlement to a future
1738 benefit under the defined benefit program ~~of the Florida~~
1739 ~~Retirement System~~.

1740 (i) Effective January 1, 2008, through December 31, 2008,

32-01276C-11

20111130__

1741 except for an employee who is a mandatory participant of the
1742 State University System Optional Retirement Program, an employee
1743 who has elected to participate in the State University System
1744 Optional Retirement Program shall have one opportunity, at the
1745 employee's discretion, ~~to choose~~ to transfer from this program
1746 to the defined benefit program or the defined contribution
1747 program of the Florida Retirement System ~~or to the Public~~
1748 ~~Employee Optional Retirement Program~~, subject to the terms of
1749 the applicable contracts of the State University System Optional
1750 Retirement Program.

1751 1. If the employee chooses to move to the defined
1752 contribution ~~Public Employee Optional Retirement~~ program, any
1753 contributions, interest, and earnings creditable to the employee
1754 under the State University System Optional Retirement Program
1755 must ~~shall~~ be retained by the employee in the State University
1756 System Optional Retirement Program, and the applicable
1757 provisions of s. 121.4501(4) shall govern the election.

1758 2. If the employee chooses to move to the defined benefit
1759 program ~~of the Florida Retirement System~~, the employee shall
1760 receive service credit equal to his or her years of service
1761 under the State University System Optional Retirement Program.

1762 a. The cost for such credit must be in ~~shall be~~ an amount
1763 representing the actuarial accrued liability for the affected
1764 period of service. The cost must ~~shall~~ be calculated using the
1765 discount rate and other relevant actuarial assumptions that were
1766 used to value the ~~Florida Retirement System~~ defined benefit plan
1767 liabilities in the most recent actuarial valuation. The
1768 calculation must ~~shall~~ include any service already maintained
1769 under the defined benefit program ~~plan~~ in addition to the years

32-01276C-11

20111130__

1770 under the State University System Optional Retirement Program.
1771 The actuarial accrued liability of any service already
1772 maintained under the defined benefit program must ~~plan shall~~ be
1773 applied as a credit to total cost resulting from the
1774 calculation. The division must ~~shall~~ ensure that the transfer
1775 sum is prepared using a formula and methodology certified by an
1776 enrolled actuary.

1777 b. The employee must transfer from his or her State
1778 University System Optional Retirement Program account, and from
1779 other employee moneys as necessary, a sum representing the
1780 actuarial accrued liability immediately following the time of
1781 such movement, determined assuming that attained service equals
1782 the sum of service in the defined benefit program and service in
1783 the State University System Optional Retirement Program.

1784 (4) CONTRIBUTIONS.—

1785 (a) 1. Through June 30, 2001, each employer shall contribute
1786 on behalf of each participant in the optional retirement program
1787 an amount equal to the normal cost portion of the employer
1788 retirement contribution which would be required if the
1789 participant were a regular member of the Florida Retirement
1790 System defined benefit program, plus the portion of the
1791 contribution rate required in s. 112.363(8) that would otherwise
1792 be assigned to the Retiree Health Insurance Subsidy Trust Fund.

1793 2. Effective July 1, 2001, through June 30, 2011, each
1794 employer shall contribute on behalf of each participant in the
1795 optional retirement program an amount equal to 10.43 percent of
1796 the participant's gross monthly compensation.

1797 3. Effective July 1, 2011, each participant in the optional
1798 retirement program shall contribute an amount equal to the

32-01276C-11

20111130__

1799 employee contribution required in s. 121.71(3). The employer
1800 shall contribute on behalf of each such participant an amount
1801 equal to the difference between 10.43 percent of the
1802 participant's gross monthly compensation and the amount equal to
1803 the employee's required contribution based on the employee's
1804 gross monthly compensation.

1805 ~~4. The department shall deduct an amount approved by the~~
1806 ~~Legislature to provide for the administration of this program.~~
1807 The payment of the contributions, including contributions by the
1808 participant, to the optional program which is required by this
1809 paragraph for each participant shall be made by the employer to
1810 the department, which shall forward the contributions to the
1811 designated company or companies contracting for payment of
1812 benefits for the participant under the program. However, such
1813 contributions paid on behalf of an employee described in
1814 paragraph (3)(c) may shall not be forwarded to a company and do
1815 shall not begin to accrue interest until the employee has
1816 executed a contract and notified the department. The department
1817 shall deduct an amount from the contributions to provide for the
1818 administration of this program.

1819 (b) Each employer shall contribute on behalf of each
1820 participant in the optional retirement program an amount equal
1821 to the unfunded actuarial accrued liability portion of the
1822 employer contribution which would be required for members of the
1823 Florida Retirement System. This contribution shall be paid to
1824 the department for transfer to the Florida Retirement System
1825 Trust Fund.

1826 (c) An Optional Retirement Program Trust Fund shall be
1827 established in the State Treasury and administered by the

32-01276C-11

20111130__

1828 department to make payments to the provider companies on behalf
1829 of the optional retirement program participants, and to transfer
1830 the unfunded liability portion of the state optional retirement
1831 program contributions to the Florida Retirement System Trust
1832 Fund.

1833 (d) Contributions required for social security by each
1834 employer and each participant under, ~~in the amount required for~~
1835 ~~social security coverage as now or hereafter may be provided by~~
1836 the federal Social Security Act, shall be maintained for each
1837 participant in the optional retirement program and are ~~shall be~~
1838 in addition to the retirement contributions specified in this
1839 subsection.

1840 (e) Each participant in the optional retirement program who
1841 has executed a contract may contribute by way of salary
1842 reduction or deduction a percentage amount of the participant's
1843 gross compensation not to exceed the percentage amount
1844 contributed by the employer to the optional program, but ~~in no~~
1845 ~~case may~~ such contribution may not exceed federal limitations.
1846 Payment of the participant's contributions shall be made by the
1847 financial officer of the employer to the division which shall
1848 forward the contributions to the designated company or companies
1849 contracting for payment of benefits for the participant under
1850 the program. A participant may not make, through salary
1851 reduction, any voluntary employee contributions to any other
1852 plan under s. 403(b) of the Internal Revenue Code, with the
1853 exception of a custodial account under s. 403(b)(7) of the
1854 Internal Revenue Code, until he or she has made an employee
1855 contribution to his or her optional program equal to the
1856 employer contribution. A participant is responsible for

32-01276C-11

20111130__

1857 monitoring his or her individual tax-deferred income to ensure
1858 he or she does not exceed the maximum deferral amounts permitted
1859 under the Internal Revenue Code.

1860 (f) The Optional Retirement Trust Fund may accept for
1861 deposit into participant contracts contributions in the form of
1862 rollovers or direct trustee-to-trustee transfers by or on behalf
1863 of participants who are reasonably determined by the department
1864 to be eligible for rollover or transfer to the optional
1865 retirement program pursuant to the Internal Revenue Code, if
1866 such contributions are made in accordance with rules adopted by
1867 the department. Such contributions shall be accounted for in
1868 accordance with any applicable requirements of the Internal
1869 Revenue Code and department rules ~~of the department~~.

1870 (g) Effective July 1, 2008, for purposes of paragraph (a)
1871 and notwithstanding s. 121.021(22)(b)1., the term "participant's
1872 gross monthly compensation" includes salary payments made to
1873 eligible clinical faculty from a state university using funds
1874 provided by a faculty practice plan authorized by the Board of
1875 Governors of the State University System if:

1876 1. There is no ~~not any~~ employer contribution from the state
1877 university to any other retirement program with respect to such
1878 salary payments; and

1879 2. The employer contribution on behalf of the participant
1880 in the optional retirement program with respect to such salary
1881 payments is made using funds provided by the faculty practice
1882 plan.

1883 Section 19. Section 121.4501, Florida Statutes, is amended
1884 to read:

1885 121.4501 Florida ~~Public Employee Optional Retirement System~~

32-01276C-11

20111130__

1886 Investment Plan Program.—

1887 (1) The Trustees of the State Board of Administration shall
 1888 establish a ~~an optional~~ defined contribution ~~retirement~~ program
 1889 called the Florida Retirement System Investment Plan for members
 1890 of the Florida Retirement System under which retirement benefits
 1891 are ~~will be~~ provided for eligible employees initially employed
 1892 before July 1, 2011, who elect to participate in the plan, and
 1893 as a compulsory requirement for all eligible employees employed
 1894 on or after July 1, 2011 ~~program~~. The retirement benefits ~~to be~~
 1895 ~~provided for or on behalf of participants in such optional~~
 1896 ~~retirement program~~ shall be provided through employee-directed
 1897 investments, in accordance with s. 401(a) of the Internal
 1898 Revenue Code and ~~its~~ related regulations. ~~The~~ Employers and
 1899 participants shall make contributions ~~contribute~~, as provided in
 1900 this section and ~~ss. 121.571,~~ and 121.71, to the Florida Public
 1901 ~~Employee Optional Retirement System Investment Plan Program~~
 1902 Trust Fund toward the funding of ~~such optional~~ benefits.

1903 (2) DEFINITIONS.—As used in this part, the term:

1904 (a) "Approved provider" or "provider" means a private
 1905 sector company that is selected and approved by the state board
 1906 to offer one or more investment products or services to the
 1907 investment plan ~~optional retirement program~~. The term includes a
 1908 bundled provider that offers participants a range of
 1909 individually allocated or unallocated investment products and
 1910 may offer a range of administrative and customer services, which
 1911 may include accounting and administration of individual
 1912 participant benefits and contributions; individual participant
 1913 recordkeeping; asset purchase, control, and safekeeping; direct
 1914 execution of the participant's instructions as to asset and

32-01276C-11

20111130

1915 contribution allocation; calculation of daily net asset values;
1916 direct access to participant account information; periodic
1917 reporting to participants, at least quarterly, on account
1918 balances and transactions; guidance, advice, and allocation
1919 services directly relating to the provider's own investment
1920 options or products, but only if the bundled provider complies
1921 with the standard of care of s. 404(a)(1)(A-B) of the Employee
1922 Retirement Income Security Act of 1974 (ERISA) and if providing
1923 such guidance, advice, or allocation services does not
1924 constitute a prohibited transaction under s. 4975(c)(1) of the
1925 Internal Revenue Code or s. 406 of ERISA, notwithstanding that
1926 such prohibited transaction provisions do not apply to the
1927 ~~optional~~ retirement program; a broad array of distribution
1928 options; asset allocation; and retirement counseling and
1929 education. Private sector companies include investment
1930 management companies, insurance companies, depositories, and
1931 mutual fund companies.

1932 (b) "Average monthly compensation" means one-twelfth of
1933 average final compensation as defined in s. 121.021.

1934 (c) "Covered employment" means employment in a regularly
1935 established position as defined in s. 121.021.

1936 (d) "Defined benefit program" means the defined benefit
1937 program of the Florida Retirement System administered under part
1938 I of this chapter.

1939 (e) "District school board employer" means a district
1940 school board that participates in the Florida Retirement System
1941 for the benefit of certain employees, or a charter school or
1942 charter technical career center that participates in the Florida
1943 Retirement System as provided under s. 121.051(2)(d).

32-01276C-11

20111130__

1944 (f)~~(e)~~ "Division" means the Division of Retirement within
 1945 the department.

1946 (g)~~(f)~~ "Electronic means" means by telephone, if ~~the~~
 1947 ~~required~~ information is received on a recorded line, or through
 1948 Internet access, if ~~the required~~ information is captured online.

1949 (h)~~(g)~~ "Eligible employee" means an officer or employee, as
 1950 defined in s. 121.021, who:

1951 1. Is a member of, or is eligible for membership in, the
 1952 Florida Retirement System, including any renewed member of the
 1953 Florida Retirement System initially enrolled before July 1,
 1954 2010; or

1955 2. Participates in, or is eligible to participate in, the
 1956 Senior Management Service Optional Annuity Program as
 1957 established under s. 121.055(6), the State Community College
 1958 System Optional Retirement Program as established under s.
 1959 121.051(2)(c), or the State University System Optional
 1960 Retirement Program established under s. 121.35.

1961
 1962 The term does not include any member participating in the
 1963 Deferred Retirement Option Program established under s.
 1964 121.091(13), a retiree of a state-administered retirement system
 1965 initially reemployed on or after July 1, 2010, or a mandatory
 1966 participant of the State University System Optional Retirement
 1967 Program established under s. 121.35.

1968 (i)~~(h)~~ "Employer" means an employer, as defined in s.
 1969 121.021, of an eligible employee.

1970 (j) "Investment plan" means the Florida Retirement System
 1971 Investment Plan established under this part.

1972 (k) "Local employer" means an employer that is not a state

32-01276C-11

20111130__

1973 employer or a district school board employer.

1974 ~~(i) "Optional retirement program" or "optional program"~~

1975 ~~means the Public Employee Optional Retirement Program~~

1976 ~~established under this part.~~

1977 (l)~~(j)~~ "Participant" means an eligible employee who is
 1978 enrolled ~~enrolls~~ in the investment plan ~~optional program~~ as
 1979 provided in subsection (4) or a terminated Deferred Retirement
 1980 Option Program participant as described in subsection (21).

1981 (m)~~(k)~~ "Retiree" means a former participant of the
 1982 investment plan ~~optional retirement program~~ who has terminated
 1983 employment and has taken a distribution as provided in s.
 1984 121.591, except for a mandatory distribution of a de minimis
 1985 account authorized by the state board.

1986 (n) "State employer" means an agency, board, branch,
 1987 commission, community college, department, institution,
 1988 institution of higher education, or water management district
 1989 that participates in the Florida Retirement System for the
 1990 benefit of certain employees.

1991 (o)~~(l)~~ "Vested" or "vesting" means the guarantee that a
 1992 participant is eligible to receive a retirement benefit upon
 1993 completion of the required years of service under the investment
 1994 plan ~~optional retirement program~~.

1995 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF
 1996 BENEFITS.—

1997 ~~(a) Participation in the Public Employee Optional~~
 1998 ~~Retirement Program is limited to eligible employees.~~
 1999 ~~Participation in the optional retirement program is in lieu of~~
 2000 ~~participation in the defined benefit program of the Florida~~
 2001 ~~Retirement System.~~

32-01276C-11

20111130

2002 (a)~~(b)~~ An eligible employee who is employed in a regularly
 2003 established position by a state employer on June 1, 2002; by a
 2004 district school board employer on September 1, 2002; or by a
 2005 local employer on December 1, 2002, and who is a member of the
 2006 defined benefit ~~retirement~~ program ~~of the Florida Retirement~~
 2007 ~~System~~ at the time of his or her election to participate in the
 2008 investment plan ~~Public Employee Optional Retirement Program~~
 2009 shall retain all retirement service credit earned under the
 2010 defined benefit ~~retirement~~ program of the Florida Retirement
 2011 System as credited under the system and is ~~shall be~~ entitled to
 2012 a deferred benefit upon termination, ~~if eligible under the~~
 2013 ~~system~~. However, election to participate in the investment plan
 2014 ~~Public Employee Optional Retirement Program~~ terminates the
 2015 active membership of the employee in the defined benefit program
 2016 ~~of the Florida Retirement System~~, and the service of a
 2017 participant in the investment plan ~~is~~ ~~Public Employee Optional~~
 2018 ~~Retirement Program~~ shall not be creditable under the defined
 2019 benefit ~~retirement~~ program ~~of the Florida Retirement System~~ for
 2020 purposes of benefit accrual but is creditable ~~shall be credited~~
 2021 for purposes of vesting.

2022 (b)~~(c)~~1. Notwithstanding paragraph (a), ~~an (b)~~, each
 2023 eligible employee who elects to participate in the investment
 2024 plan ~~Public Employee Optional Retirement Program~~ and establishes
 2025 one or more individual participant accounts ~~under the optional~~
 2026 ~~program~~ may elect to transfer to the investment plan ~~optional~~
 2027 ~~program~~ a sum representing the present value of the employee's
 2028 accumulated benefit obligation under the defined benefit
 2029 ~~retirement~~ program ~~of the Florida Retirement System~~. Upon ~~such~~
 2030 transfer, all service credit ~~previously~~ earned under the defined

32-01276C-11

20111130__

2031 benefit program ~~is of the Florida Retirement System shall be~~
2032 nullified for purposes of entitlement to a future benefit under
2033 the defined benefit program ~~of the Florida Retirement System~~. A
2034 participant may not transfer ~~is precluded from transferring~~ the
2035 accumulated benefit obligation balance from the defined benefit
2036 program after the time ~~upon the expiration of the period for~~
2037 enrolling ~~afforded to enroll~~ in the investment plan ~~optional~~
2038 ~~program~~.

2039 ~~1.2.~~ For purposes of this subsection, the present value of
2040 the member's accumulated benefit obligation is based upon the
2041 member's estimated creditable service and estimated average
2042 final compensation under the defined benefit program, subject to
2043 recomputation under subparagraph 2. ~~3.~~ For state employees
2044 ~~enrolling under subparagraph (4)(a)1.~~, initial estimates shall
2045 ~~will~~ be based upon creditable service and average final
2046 compensation as of midnight on June 30, 2002; for district
2047 school board employees ~~enrolling under subparagraph (4)(b)1.~~,
2048 initial estimates shall ~~will~~ be based upon creditable service
2049 and average final compensation as of midnight on September 30,
2050 2002; and for local government employees ~~enrolling under~~
2051 ~~subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be based
2052 upon creditable service and average final compensation as of
2053 midnight on December 31, 2002. The dates ~~respectively~~ specified
2054 are above ~~shall be construed as~~ the "estimate date" for these
2055 employees. The actuarial present value of the employee's
2056 accumulated benefit obligation shall be based on the following:
2057 a. The discount rate and other relevant actuarial
2058 assumptions used to value the Florida Retirement System Trust
2059 Fund at the time the amount to be transferred is determined,

32-01276C-11

20111130__

2060 consistent with the factors provided in sub-subparagraphs b. and
2061 c.

2062 b. A benefit commencement age, based on the member's
2063 estimated creditable service as of the estimate date. The
2064 benefit commencement age is ~~shall be~~ the younger of the
2065 following, but may ~~shall~~ not be younger than the member's age as
2066 of the estimate date:

2067 (I) Age 62 or, for persons enrolled on or after July 1,
2068 2011, age 65; or

2069 (II) The age the member would attain if the member
2070 completed 30 years of service with an employer, assuming the
2071 member worked continuously from the estimate date, and
2072 disregarding any vesting requirement that would otherwise apply
2073 under the defined benefit program ~~of the Florida Retirement~~
2074 ~~System.~~

2075 c. For members of the Special Risk Class, and for members
2076 of the Special Risk Administrative Support Class entitled to
2077 retain the special risk normal retirement date, the benefit
2078 commencement age is ~~shall be~~ the younger of the following, but
2079 may ~~shall~~ not be younger than the member's age as of the
2080 estimate date:

2081 (I) Age 55 or, for persons enrolled on or after July 1,
2082 2011, age 60; or

2083 (II) The age the member would attain if the member
2084 completed 25 years of service with an employer, or, for persons
2085 employed on or after July 1, 2011, 30 years of service with an
2086 employer, assuming the member worked continuously from the
2087 estimate date, and disregarding any vesting requirement that
2088 would otherwise apply under the defined benefit program ~~of the~~

32-01276C-11

20111130__

2089 ~~Florida Retirement System.~~

2090 d. The calculation must ~~shall~~ disregard vesting
2091 requirements and early retirement reduction factors that would
2092 otherwise apply under the defined benefit ~~retirement~~ program.

2093 ~~2.3.~~ For each participant who elects to transfer moneys
2094 from the defined benefit program to his or her account in the
2095 investment plan ~~optional program~~, the division shall recompute
2096 the amount transferred under subparagraph 1. ~~within 2. not later~~
2097 ~~than~~ 60 days after the actual transfer of funds based upon the
2098 participant's actual creditable service and actual final average
2099 compensation as of the initial date of participation in the
2100 investment plan ~~optional program~~. If the recomputed amount
2101 differs from the amount transferred ~~under subparagraph 2.~~ by \$10
2102 or more, the division shall:

2103 a. Transfer, or cause to be transferred, from the Florida
2104 Retirement System Trust Fund to the participant's account ~~in the~~
2105 ~~optional program~~ the excess, if any, of the recomputed amount
2106 over the previously transferred amount together with interest
2107 from the initial date of transfer to the date of transfer under
2108 this subparagraph, based upon the effective annual interest
2109 equal to the assumed return on the actuarial investment which
2110 was used in the most recent actuarial valuation of the system,
2111 compounded annually.

2112 b. Transfer, or cause to be transferred, from the
2113 participant's account to the Florida Retirement System Trust
2114 Fund the excess, if any, of the previously transferred amount
2115 over the recomputed amount, together with interest from the
2116 initial date of transfer to the date of transfer under this
2117 subparagraph, based upon 6 percent effective annual interest,

32-01276C-11

20111130__

2118 compounded annually, pro rata based on the participant's
2119 allocation plan.

2120 3. If contribution adjustments are made as a result of
2121 employer errors or corrections, including plan corrections,
2122 following recomputation of the amount transferred under
2123 subparagraph 1., the participant is entitled to the additional
2124 contributions or is responsible for returning any excess
2125 contributions resulting from the correction if the return of
2126 such contributions by the plan is made within 1 year after the
2127 making of the erroneous contributions or such other period
2128 allowed by applicable Internal Revenue Service guidance. The
2129 present value of the member's accumulated benefit obligation may
2130 not be recalculated.

2131 4. As directed by the participant, the state board shall
2132 transfer or cause to be transferred the appropriate amounts to
2133 the designated accounts within. ~~The board shall establish~~
2134 ~~transfer procedures by rule, but the actual transfer shall not~~
2135 ~~be later than~~ 30 days after the effective date of the member's
2136 participation in the investment plan ~~optional program~~ unless the
2137 major financial markets for securities available for a transfer
2138 are seriously disrupted by an unforeseen event that ~~which also~~
2139 causes the suspension of trading on any national securities
2140 exchange in the country where the securities are ~~were~~ issued. In
2141 that event, the ~~such~~ 30-day period ~~of time~~ may be extended by a
2142 resolution of the state board ~~trustees~~. The state board shall
2143 establish transfer procedures by rule. Transfers are not
2144 commissionable or subject to other fees and may be in the form
2145 of securities or cash, as determined by the state board. Such
2146 securities are ~~shall be~~ valued as of the date of receipt in the

32-01276C-11

20111130__

2147 participant's account.

2148 5. If the state board or the division receives notification
2149 from the United States Internal Revenue Service that this
2150 paragraph or any portion of this paragraph will cause the
2151 retirement system, or a portion thereof, to be disqualified for
2152 tax purposes under the Internal Revenue Code, ~~then~~ the portion
2153 that will cause the disqualification does not apply. Upon such
2154 notice, the state board and the division shall notify the
2155 presiding officers of the Legislature.

2156 (4) PARTICIPATION; ENROLLMENT.—

2157 (a)~~1.~~ With respect to an eligible employee who is employed
2158 in a regularly established position by a state employer after on
2159 June 1, 2002; by a district school board employer after
2160 September 1, 2002; or by a local employer after December 1,
2161 2002, but before July 1, 2011, the, ~~by a state employer:~~

2162 ~~a. Any such employee may elect to participate in the Public~~
2163 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2164 ~~her membership in the defined benefit program of the Florida~~
2165 ~~Retirement System. The election must be made in writing or by~~
2166 ~~electronic means and must be filed with the third party~~
2167 ~~administrator by August 31, 2002, or, in the case of an active~~
2168 ~~employee who is on a leave of absence on April 1, 2002, by the~~
2169 ~~last business day of the 5th month following the month the leave~~
2170 ~~of absence concludes. This election is irrevocable, except as~~
2171 ~~provided in paragraph (c). Upon making such election, the~~
2172 ~~employee shall be enrolled as a participant of the Public~~
2173 ~~Employee Optional Retirement Program, the employee's membership~~
2174 ~~in the Florida Retirement System shall be governed by the~~
2175 ~~provisions of this part, and the employee's membership in the~~

32-01276C-11

20111130

2176 ~~defined benefit program of the Florida Retirement System shall~~
2177 ~~terminate. The employee's enrollment in the Public Employee~~
2178 ~~Optional Retirement Program shall be effective the first day of~~
2179 ~~the month for which a full month's employer contribution is made~~
2180 ~~to the optional program.~~

2181 ~~b. Any such employee who fails to elect to participate in~~
2182 ~~the Public Employee Optional Retirement Program within the~~
2183 ~~prescribed time period is deemed to have elected to retain~~
2184 ~~membership in the defined benefit program of the Florida~~
2185 ~~Retirement System, and the employee's option to elect to~~
2186 ~~participate in the optional program is forfeited.~~

2187 ~~2. With respect to employees who become eligible to~~
2188 ~~participate in the Public Employee Optional Retirement Program~~
2189 ~~by reason of employment in a regularly established position with~~
2190 ~~a state employer commencing after April 1, 2002:~~

2191 ~~a. Any such employee shall, by default, be enrolled in the~~
2192 ~~defined benefit retirement program of the Florida Retirement~~
2193 ~~System at the commencement of employment, and may, by the last~~
2194 ~~business day of the 5th month following the employee's month of~~
2195 ~~hire, elect to participate in the investment plan Public~~
2196 ~~Employee Optional Retirement Program. The employee's election~~
2197 ~~must be made in writing or by electronic means and must be filed~~
2198 ~~with the third-party administrator. The election to participate~~
2199 ~~in the investment plan optional program is irrevocable, except~~
2200 ~~as provided in paragraph (e).~~

2201 ~~1.b.~~ If the employee files such election within the
2202 prescribed time period, enrollment in the investment plan is
2203 ~~optional program shall be effective on the first day of~~
2204 ~~employment. The employer and participant retirement~~

32-01276C-11

20111130__

2205 contributions paid through the month of the employee plan change
2206 shall be transferred to the investment plan ~~optional program~~,
2207 and, effective the first day of the next month, the employer and
2208 participant must ~~shall~~ pay the applicable contributions based on
2209 the employee membership class in the plan ~~optional program~~.

2210 2.e. An ~~Any such~~ employee who fails to elect to participate
2211 in the investment plan ~~Public Employee Optional Retirement~~
2212 ~~Program~~ within the prescribed time period is deemed to have
2213 elected to retain membership in the defined benefit program ~~of~~
2214 ~~the Florida Retirement System~~, and the employee's option to
2215 elect to participate in the investment plan ~~optional program~~ is
2216 forfeited.

2217 3. With respect to employees who become eligible to
2218 participate in the investment plan ~~Public Employee Optional~~
2219 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.
2220 121.35(3)(i), the ~~any such~~ employee may elect to participate in
2221 the investment plan ~~Public Employee Optional Retirement Program~~
2222 in lieu of retaining his or her participation in the State
2223 Community College System Optional Retirement Program or the
2224 State University System Optional Retirement Program. The
2225 election must be made in writing or by electronic means and must
2226 be filed with the third-party administrator. This election is
2227 irrevocable, except as provided in paragraph (e). Upon making
2228 such election, the employee shall be enrolled as a participant
2229 in ~~of~~ the investment plan ~~Public Employee Optional Retirement~~
2230 ~~Program~~, the employee's membership in the Florida Retirement
2231 System shall be governed by the provisions of this part, and the
2232 employee's participation in the State Community College System
2233 Optional Retirement Program or the State University System

32-01276C-11

20111130__

2234 Optional Retirement Program shall terminate. The employee's
2235 enrollment in the investment plan is ~~Public Employee Optional~~
2236 ~~Retirement Program shall be~~ effective on the first day of the
2237 month for which a full month's employer and participant
2238 contributions are ~~contribution is~~ made to the investment plan
2239 ~~optional program.~~

2240 4. ~~For purposes of this paragraph, "state employer" means~~
2241 ~~any agency, board, branch, commission, community college,~~
2242 ~~department, institution, institution of higher education, or~~
2243 ~~water management district of the state, which participates in~~
2244 ~~the Florida Retirement System for the benefit of certain~~
2245 ~~employees.~~

2246 (b)1. ~~With respect to an eligible employee who is employed~~
2247 ~~in a regularly established position on September 1, 2002, by a~~
2248 ~~district school board employer:~~

2249 a. ~~Any such employee may elect to participate in the Public~~
2250 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2251 ~~her membership in the defined benefit program of the Florida~~
2252 ~~Retirement System. The election must be made in writing or by~~
2253 ~~electronic means and must be filed with the third party~~
2254 ~~administrator by November 30, or, in the case of an active~~
2255 ~~employee who is on a leave of absence on July 1, 2002, by the~~
2256 ~~last business day of the 5th month following the month the leave~~
2257 ~~of absence concludes. This election is irrevocable, except as~~
2258 ~~provided in paragraph (c). Upon making such election, the~~
2259 ~~employee shall be enrolled as a participant of the Public~~
2260 ~~Employee Optional Retirement Program, the employee's membership~~
2261 ~~in the Florida Retirement System shall be governed by the~~
2262 ~~provisions of this part, and the employee's membership in the~~

32-01276C-11

20111130

2263 ~~defined benefit program of the Florida Retirement System shall~~
2264 ~~terminate. The employee's enrollment in the Public Employee~~
2265 ~~Optional Retirement Program shall be effective the first day of~~
2266 ~~the month for which a full month's employer contribution is made~~
2267 ~~to the optional program.~~

2268 ~~b. Any such employee who fails to elect to participate in~~
2269 ~~the Public Employee Optional Retirement Program within the~~
2270 ~~prescribed time period is deemed to have elected to retain~~
2271 ~~membership in the defined benefit program of the Florida~~
2272 ~~Retirement System, and the employee's option to elect to~~
2273 ~~participate in the optional program is forfeited.~~

2274 ~~2. With respect to employees who become eligible to~~
2275 ~~participate in the Public Employee Optional Retirement Program~~
2276 ~~by reason of employment in a regularly established position with~~
2277 ~~a district school board employer commencing after July 1, 2002:~~

2278 ~~a. Any such employee shall, by default, be enrolled in the~~
2279 ~~defined benefit retirement program of the Florida Retirement~~
2280 ~~System at the commencement of employment, and may, by the last~~
2281 ~~business day of the 5th month following the employee's month of~~
2282 ~~hire, elect to participate in the Public Employee Optional~~
2283 ~~Retirement Program. The employee's election must be made in~~
2284 ~~writing or by electronic means and must be filed with the third-~~
2285 ~~party administrator. The election to participate in the optional~~
2286 ~~program is irrevocable, except as provided in paragraph (c).~~

2287 ~~b. If the employee files such election within the~~
2288 ~~prescribed time period, enrollment in the optional program shall~~
2289 ~~be effective on the first day of employment. The employer~~
2290 ~~retirement contributions paid through the month of the employee~~
2291 ~~plan change shall be transferred to the optional program, and,~~

32-01276C-11

20111130__

2292 ~~effective the first day of the next month, the employer shall~~
2293 ~~pay the applicable contributions based on the employee~~
2294 ~~membership class in the optional program.~~

2295 ~~e. Any such employee who fails to elect to participate in~~
2296 ~~the Public Employee Optional Retirement Program within the~~
2297 ~~prescribed time period is deemed to have elected to retain~~
2298 ~~membership in the defined benefit program of the Florida~~
2299 ~~Retirement System, and the employee's option to elect to~~
2300 ~~participate in the optional program is forfeited.~~

2301 ~~3. For purposes of this paragraph, "district school board~~
2302 ~~employer" means any district school board that participates in~~
2303 ~~the Florida Retirement System for the benefit of certain~~
2304 ~~employees, or a charter school or charter technical career~~
2305 ~~center that participates in the Florida Retirement System as~~
2306 ~~provided in s. 121.051(2)(d).~~

2307 ~~(c)1. With respect to an eligible employee who is employed~~
2308 ~~in a regularly established position on December 1, 2002, by a~~
2309 ~~local employer:~~

2310 ~~a. Any such employee may elect to participate in the Public~~
2311 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2312 ~~her membership in the defined benefit program of the Florida~~
2313 ~~Retirement System. The election must be made in writing or by~~
2314 ~~electronic means and must be filed with the third party~~
2315 ~~administrator by February 28, 2003, or, in the case of an active~~
2316 ~~employee who is on a leave of absence on October 1, 2002, by the~~
2317 ~~last business day of the 5th month following the month the leave~~
2318 ~~of absence concludes. This election is irrevocable, except as~~
2319 ~~provided in paragraph (c). Upon making such election, the~~
2320 ~~employee shall be enrolled as a participant of the Public~~

32-01276C-11

20111130

2321 ~~Employee Optional Retirement Program, the employee's membership~~
2322 ~~in the Florida Retirement System shall be governed by the~~
2323 ~~provisions of this part, and the employee's membership in the~~
2324 ~~defined benefit program of the Florida Retirement System shall~~
2325 ~~terminate. The employee's enrollment in the Public Employee~~
2326 ~~Optional Retirement Program shall be effective the first day of~~
2327 ~~the month for which a full month's employer contribution is made~~
2328 ~~to the optional program.~~

2329 ~~b. Any such employee who fails to elect to participate in~~
2330 ~~the Public Employee Optional Retirement Program within the~~
2331 ~~prescribed time period is deemed to have elected to retain~~
2332 ~~membership in the defined benefit program of the Florida~~
2333 ~~Retirement System, and the employee's option to elect to~~
2334 ~~participate in the optional program is forfeited.~~

2335 ~~2. With respect to employees who become eligible to~~
2336 ~~participate in the Public Employee Optional Retirement Program~~
2337 ~~by reason of employment in a regularly established position with~~
2338 ~~a local employer commencing after October 1, 2002:~~

2339 ~~a. Any such employee shall, by default, be enrolled in the~~
2340 ~~defined benefit retirement program of the Florida Retirement~~
2341 ~~System at the commencement of employment, and may, by the last~~
2342 ~~business day of the 5th month following the employee's month of~~
2343 ~~hire, elect to participate in the Public Employee Optional~~
2344 ~~Retirement Program. The employee's election must be made in~~
2345 ~~writing or by electronic means and must be filed with the third-~~
2346 ~~party administrator. The election to participate in the optional~~
2347 ~~program is irrevocable, except as provided in paragraph (c).~~

2348 ~~b. If the employee files such election within the~~
2349 ~~prescribed time period, enrollment in the optional program shall~~

32-01276C-11

20111130__

2350 ~~be effective on the first day of employment. The employer~~
2351 ~~retirement contributions paid through the month of the employee~~
2352 ~~plan change shall be transferred to the optional program, and,~~
2353 ~~effective the first day of the next month, the employer shall~~
2354 ~~pay the applicable contributions based on the employee~~
2355 ~~membership class in the optional program.~~

2356 ~~e. Any such employee who fails to elect to participate in~~
2357 ~~the Public Employee Optional Retirement Program within the~~
2358 ~~prescribed time period is deemed to have elected to retain~~
2359 ~~membership in the defined benefit program of the Florida~~
2360 ~~Retirement System, and the employee's option to elect to~~
2361 ~~participate in the optional program is forfeited.~~

2362 ~~3. For purposes of this paragraph, "local employer" means~~
2363 ~~any employer not included in paragraph (a) or paragraph (b).~~

2364 ~~(b)(d)~~ Contributions available for self-direction by a
2365 participant who has not selected one or more specific investment
2366 products shall be allocated as prescribed by the state board.
2367 The third-party administrator shall notify the any such
2368 participant at least quarterly that the participant should take
2369 an affirmative action to make an asset allocation among the
2370 investment plan optional program products.

2371 (c) On or after July 1, 2011, a member of the defined
2372 benefit program who obtains a refund of employee contributions
2373 retains his or her prior plan choice upon return to employment
2374 in a regularly established position with a participating
2375 employer.

2376 (d) A member of the investment plan who takes a
2377 distribution of any contributions from his investment plan
2378 account is considered a retiree. Upon reemployment in a

32-01276C-11

20111130

2379 regularly established position with a participating employer,
2380 the member returns as a new hire and, if applicable, may
2381 participate in the Florida Retirement System. A retiree who is
2382 initially reemployed on or after July 1, 2010, is not eligible
2383 for renewed membership.

2384 (e) After the period during which an eligible employee had
2385 the choice to elect the defined benefit program or the
2386 investment plan ~~optional retirement program~~, or the month
2387 following the receipt of the eligible employee's plan election,
2388 if sooner, the employee shall have one opportunity, at the
2389 employee's discretion, to choose to move from the defined
2390 benefit program to the investment plan ~~optional retirement~~
2391 ~~program~~ or from the investment plan ~~optional retirement~~
2392 ~~program~~ to the defined benefit program. Eligible employees may elect to
2393 move between Florida Retirement System programs only if they are
2394 earning service credit in an employer-employee relationship
2395 consistent with s. 121.021(17)(b), excluding leaves of absence
2396 without pay. Effective July 1, 2005, such elections are
2397 effective on the first day of the month following the receipt of
2398 the election by the third-party administrator and are not
2399 subject to the requirements regarding an employer-employee
2400 relationship or receipt of contributions for the eligible
2401 employee in the effective month, except when the election is
2402 received by the third-party administrator. This paragraph is
2403 contingent upon receiving approval from the Internal Revenue
2404 Service to include ~~for including~~ the choice described herein
2405 within the programs offered by the Florida Retirement System.

2406 1. If the employee chooses to move to the investment plan
2407 ~~optional retirement program~~, the applicable provisions of

32-01276C-11

20111130__

2408 subsection (3) ~~this section shall~~ govern the transfer.

2409 2. If the employee chooses to move to the defined benefit
2410 program, the employee must transfer from his or her investment
2411 plan ~~optional retirement program~~ account, and from other
2412 employee moneys as necessary, a sum representing the present
2413 value of that employee's accumulated benefit obligation
2414 immediately following the time of such movement, determined
2415 assuming that attained service equals the sum of service in the
2416 defined benefit program and service in the investment plan
2417 ~~optional retirement program~~. Benefit commencement occurs on the
2418 first date the employee is eligible for unreduced benefits,
2419 using the discount rate and other relevant actuarial assumptions
2420 that were used to value the defined benefit plan liabilities in
2421 the most recent actuarial valuation. For any employee who, at
2422 the time of the second election, already maintains an accrued
2423 benefit amount in the defined benefit program, the then-present
2424 value of the accrued benefit shall be deemed part of the
2425 required transfer amount. The division shall ensure that the
2426 transfer sum is prepared using a formula and methodology
2427 certified by an enrolled actuary. A refund of any employee
2428 contributions or additional employee payments which exceed the
2429 employee contributions that would have accrued had the employee
2430 remained in the defined benefit program and not transferred to
2431 the investment plan is not permitted.

2432 3. Notwithstanding subparagraph 2., an employee who chooses
2433 to move to the defined benefit program ~~and who became eligible~~
2434 ~~to participate in the optional retirement program by reason of~~
2435 ~~employment in a regularly established position with a state~~
2436 ~~employer after June 1, 2002; a district school board employer~~

32-01276C-11

20111130

2437 ~~after September 1, 2002; or a local employer after December 1,~~
2438 ~~2002,~~ must transfer from his or her investment plan ~~optional~~
2439 ~~retirement program~~ account, and from other employee moneys as
2440 necessary, a sum representing the employee's actuarial accrued
2441 liability. A refund of any employee contributions or additional
2442 employee payments which exceed the employee contributions that
2443 would have accrued had the employee remained in the defined
2444 benefit program and not transferred to the investment plan is
2445 not permitted.

2446 4. An employee's ability to transfer from the defined
2447 benefit program to the investment plan ~~optional retirement~~
2448 ~~program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~, and the
2449 ability of a current employee to have an option to later
2450 transfer back into the defined benefit program under
2451 subparagraph 2., shall be deemed a significant system amendment.
2452 Pursuant to s. 121.031(4), any resulting unfunded liability
2453 arising from actual original transfers from the defined benefit
2454 program to the investment plan ~~optional program~~ must be
2455 amortized within 30 plan years as a separate unfunded actuarial
2456 base independent of the reserve stabilization mechanism defined
2457 in s. 121.031(3)(f). For the first 25 years, a direct
2458 amortization payment may not be calculated for this base. During
2459 this 25-year period, the separate base shall be used to offset
2460 the impact of employees exercising their second program election
2461 under this paragraph. It is the intent of the Legislature that
2462 the actuarial funded status of the defined benefit program not
2463 be affected by such second program elections in any significant
2464 manner, after due recognition of the separate unfunded actuarial
2465 base. Following the initial 25-year period, any remaining

32-01276C-11

20111130

2466 balance of the original separate base shall be amortized over
2467 the remaining 5 years of the required 30-year amortization
2468 period.

2469 5. If the employee chooses to transfer from the investment
2470 plan ~~optional retirement program~~ to the defined benefit program
2471 and retains an excess account balance in the investment plan
2472 ~~optional program~~ after satisfying the buy-in requirements under
2473 this paragraph, the excess may not be distributed until the
2474 member retires from the defined benefit program. The excess
2475 account balance may be rolled over to the defined benefit
2476 program and used to purchase service credit or upgrade
2477 creditable service in that program.

2478 (f) On or after July 1, 2011, an employee in the defined
2479 benefit program who obtains a refund of employee contributions
2480 shall retain his or her prior plan choice upon return to
2481 employment in a regularly established position with an employer
2482 participating in the Florida Retirement System.

2483 (g) A participant in the investment plan who terminates
2484 covered employment in the Florida Retirement System and takes a
2485 distribution of any contributions from his investment plan
2486 account is considered a retiree. Upon reemployment in a
2487 regularly established position with a covered employer, the
2488 participant returns as a new hire and, if applicable, may
2489 participate in the Florida Retirement System. A retiree who is
2490 initially reemployed on or after July 1, 2011, is not eligible
2491 for renewed membership.

2492 (h) All eligible employees initially enrolled on or after
2493 July 1, 2011, are compulsory members of the investment plan and
2494 membership in the defined benefit program is not be permitted

32-01276C-11

20111130__

2495 except as provided in s. 121.591. Such employees may not use the
2496 election opportunity specified in paragraph (e).

2497 (5) CONTRIBUTIONS.—

2498 (a) The ~~Each~~ employer and participant shall make the
2499 required contributions to the investment plan based on a
2500 percentage of the participant's gross monthly compensation
2501 ~~contribute on behalf of each participant in the Public Employee~~
2502 ~~optional retirement Program,~~ as provided in part III of this
2503 chapter.

2504 (b) Participant contributions shall be paid on a pretax
2505 basis, as provided in s. 401 of the Internal Revenue Code. Such
2506 contributions may not exceed federal limitations. A participant
2507 is responsible for monitoring his or her individual
2508 contributions to ensure that he or she does not exceed the
2509 maximum deferral amounts permitted under the Internal Revenue
2510 Code. A participant's total contribution equals the sum of all
2511 amounts deducted from the participant's salary by his or her
2512 employer in accordance with s. 121.71(2) and credited to his or
2513 her individual account in the investment plan, plus any earnings
2514 on such amounts and any contributions specified in paragraph
2515 (e).

2516 (c) The state board, acting as plan fiduciary, shall ensure
2517 that all plan assets are held in a trust, pursuant to s. 401 of
2518 the Internal Revenue Code. The fiduciary shall ensure that said
2519 contributions are allocated as follows:

2520 1. The employer and participant portion earmarked for
2521 participant accounts shall be used to purchase interests in the
2522 appropriate investment vehicles ~~for the accounts of each~~
2523 participant as specified by the participant, or in accordance

32-01276C-11

20111130__

2524 with paragraph (4) (b) ~~(4) (d)~~.

2525 2. The employer portion earmarked for administrative and
2526 educational expenses shall be transferred to the state board.

2527 3. The employer portion earmarked for disability benefits
2528 shall be transferred to the department.

2529 ~~(d) (b)~~ Employers are responsible for notifying participants
2530 regarding maximum contribution levels authorized ~~permitted~~ under
2531 the Internal Revenue Code. If a participant contributes to any
2532 other tax-deferred plan, he or she is responsible for ensuring
2533 that total contributions made to the investment plan ~~optional~~
2534 ~~program~~ and to any other such plan do not exceed federally
2535 permitted maximums.

2536 ~~(e) (c)~~ The investment plan ~~Public Employee Optional~~
2537 ~~Retirement Program~~ may accept for deposit into participant
2538 accounts contributions in the form of rollovers or direct
2539 trustee-to-trustee transfers by or on behalf of participants,
2540 reasonably determined by the state board to be eligible for
2541 rollover or transfer to the investment plan ~~optional retirement~~
2542 ~~program~~ pursuant to the Internal Revenue Code, if such
2543 contributions are made in accordance with rules ~~as may be~~
2544 adopted by the board. Such contributions must ~~shall~~ be accounted
2545 for in accordance with ~~any~~ applicable Internal Revenue Code
2546 requirements and rules of the state board.

2547 (6) VESTING REQUIREMENTS.—

2548 (a) A participant is fully and immediately vested in all
2549 participant contributions paid to the investment plan as
2550 provided in s. 121.72(2), plus interest and earnings thereon and
2551 less investment fees and administrative charges.

2552 (b) (a)1. With respect to employer contributions paid on

32-01276C-11

20111130__

2553 behalf of the participant to the investment plan ~~optional~~
 2554 ~~retirement program~~, plus interest and earnings thereon and less
 2555 investment fees and administrative charges, a participant who
 2556 voluntarily elected to participate in the investment plan before
 2557 July 1, 2011, or an eligible employee initially enrolled in the
 2558 Florida Retirement System before July 1, 2011, who has the
 2559 option to voluntarily elect to participate in the investment
 2560 plan, is vested after completing 1 work year with an employer,
 2561 including any service while the participant was a member of the
 2562 defined benefit program or an optional retirement program
 2563 authorized under s. 121.051(2)(c), ~~or~~ s. 121.055(6), or s.
 2564 121.35.

2565 2. With respect to employer contributions paid on behalf of
 2566 the participant to the investment plan, plus interest and
 2567 earnings thereon and less investment fees and administrative
 2568 charges, a participant initially enrolled in the Florida
 2569 Retirement System on or after July 1, 2011, is vested according
 2570 to the following schedule:

- 2571 a. Prior to completion of 3 years of Service.....0%
- 2572 b. Upon completion of 3 years of Service.....40%
- 2573 c. Upon completion of 4 years of Service.....80%
- 2574 d. Upon completion of 5 or more years of Service.....100%

2575

2576 Years of service includes any service completed while the
 2577 participant was a member of the defined benefit program or an
 2578 optional retirement program authorized under s. 121.051(2)(c),
 2579 s. 121.055(6), or s. 121.35.

2580 3.2. If the participant terminates employment before
 2581 satisfying the vesting requirements, the nonvested accumulation

32-01276C-11

20111130__

2582 must be transferred from the participant's accounts to the state
2583 board for deposit and investment by the state board in the
2584 suspense account created within the Florida Public Employee
2585 ~~Optional Retirement System Investment Plan Program~~ Trust Fund.
2586 If the terminated participant is reemployed as an eligible
2587 employee within 5 years, the state board shall transfer to the
2588 participant's account any amount previously transferred from the
2589 participant's accounts to the suspense account, plus actual
2590 earnings on such amount while in the suspense account.

2591 (c) ~~(b)~~ 1. With respect to amounts transferred from the
2592 defined benefit program to the investment plan ~~program~~, plus
2593 interest and earnings, and less investment fees and
2594 administrative charges, a participant shall be vested in the
2595 employer amount transferred upon meeting the service
2596 requirements for the participant's membership class as set forth
2597 in s. 121.021(29). The third-party administrator shall account
2598 for such amounts for each participant. The division shall notify
2599 the participant and the third-party administrator when the
2600 participant has satisfied the vesting period for Florida
2601 Retirement System purposes.

2602 2. If the participant terminates employment before
2603 satisfying the vesting requirements, the nonvested employer
2604 accumulation must be transferred from the participant's accounts
2605 to the state board for deposit and investment by the state board
2606 in the suspense account created within the Florida Public
2607 ~~Employee Optional Retirement System Investment Plan Program~~
2608 Trust Fund. If the terminated participant is reemployed as an
2609 eligible employee within 5 years, the state board shall transfer
2610 to the participant's account any amount previously transferred

32-01276C-11

20111130__

2611 from the participant's accounts to the suspense account, plus
2612 the actual earnings on such amount while in the suspense
2613 account.

2614 (d)~~(e)~~ Any nonvested accumulations transferred from a
2615 participant's account to the state board's suspense account,
2616 including any accompanying services credit, shall be forfeited
2617 by the participant if the participant is not reemployed as an
2618 eligible employee within 5 years after termination.

2619 (e) If the participant elects to receive any of his or her
2620 vested employer or participant contributions upon termination of
2621 employment as defined in s. 121.021, except for a mandatory
2622 distribution of a de minimis account authorized by the state
2623 board or a minimum required distribution provided by s.
2624 401(a)(9) of the Internal Revenue Code, the participant shall
2625 forfeit all nonvested employer contributions and accompanying
2626 service credit paid on behalf of the participant to the
2627 investment plan.

2628 (7) BENEFITS.—Under the investment plan the normal
2629 retirement date is the date on which a member attains age 62 or
2630 completes 5 years of service, whichever occurs later. Plan
2631 benefits must ~~Public Employee Optional Retirement program:~~

2632 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)
2633 of the Internal Revenue Code.

2634 (b) ~~Benefits shall~~ Accrue in individual accounts that are
2635 participant-directed, portable, and funded by employer
2636 contributions and earnings thereon.

2637 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~
2638 ~~provisions of~~ s. 121.591.

2639 (8) ADMINISTRATION OF PLAN PROGRAM.—

32-01276C-11

20111130

2640 (a) The investment plan ~~optional retirement program~~ shall
2641 be administered by the state board and affected employers. The
2642 state board may require oaths, by affidavit or otherwise, and
2643 acknowledgments from persons in connection with the
2644 administration of its statutory duties and responsibilities for
2645 the plan ~~this program~~. An oath, by affidavit or otherwise, may
2646 not be required of an employee participant at the time of
2647 enrollment. For members enrolled before July 1, 2011,
2648 acknowledgment of an employee's election to participate in the
2649 plan ~~program shall~~ be no greater than necessary to confirm
2650 the employee's election. The state board shall adopt rules to
2651 carry out its statutory duties with respect to administering the
2652 investment plan ~~optional retirement program~~, including
2653 ~~establishing~~ the roles and responsibilities of affected state,
2654 local government, and education-related employers, the state
2655 board, the department, and third-party contractors. The
2656 department shall adopt rules necessary to administer the
2657 investment plan ~~optional program~~ in coordination with the
2658 defined benefit program and the disability benefits available
2659 under the investment plan ~~optional program~~.

2660 ~~(a) (b)~~ 1. The state board shall select and contract with a
2661 ~~one~~ third-party administrator to provide administrative services
2662 if those services cannot be competitively and contractually
2663 provided by the division ~~of Retirement within the Department of~~
2664 ~~Management Services~~. With the approval of the state board, the
2665 third-party administrator may subcontract ~~with other~~
2666 ~~organizations or individuals~~ to provide components of the
2667 administrative services. As a cost of administration, the state
2668 board may compensate ~~any~~ such contractor for its services, in

32-01276C-11

20111130__

2669 accordance with the terms of the contract, as is deemed
2670 necessary or proper by the board. The third-party administrator
2671 may not be an approved provider or be affiliated with an
2672 approved provider.

2673 2. These administrative services may include, but are not
2674 limited to, enrollment of eligible employees, collection of
2675 employer and participant contributions, disbursement of ~~such~~
2676 contributions to approved providers in accordance with the
2677 allocation directions of participants; services relating to
2678 consolidated billing; individual and collective recordkeeping
2679 and accounting; asset purchase, control, and safekeeping; and
2680 direct disbursement of funds to and from the third-party
2681 administrator, the division, the state board, employers,
2682 participants, approved providers, and beneficiaries. This
2683 section does not prevent or prohibit a bundled provider from
2684 providing any administrative or customer service, including
2685 accounting and administration of individual participant benefits
2686 and contributions; individual participant recordkeeping; asset
2687 purchase, control, and safekeeping; direct execution of the
2688 participant's instructions as to asset and contribution
2689 allocation; calculation of daily net asset values; direct access
2690 to participant account information; or periodic reporting to
2691 participants, at least quarterly, on account balances and
2692 transactions, if these services are authorized by the state
2693 board as part of the contract.

2694 (b)1.3. The state board shall select and contract with one
2695 or more organizations to provide educational services. With
2696 approval of the state board, the organizations may subcontract
2697 ~~with other organizations or individuals~~ to provide components of

32-01276C-11

20111130__

2698 the educational services. As a cost of administration, the state
2699 board may compensate any such contractor for its services in
2700 accordance with the terms of the contract, as is deemed
2701 necessary or proper by the board. The education organization may
2702 not be an approved provider or be affiliated with an approved
2703 provider.

2704 ~~2.4.~~ Educational services shall be designed by the state
2705 board and department to assist employers, eligible employees,
2706 participants, and beneficiaries in order to maintain compliance
2707 with United States Department of Labor regulations under s.
2708 404(c) of the Employee Retirement Income Security Act of 1974,
2709 ~~and to assist employees in understanding their choice of defined~~
2710 ~~benefit or defined contribution retirement program, and, if~~
2711 applicable, the choice between the defined benefit program and
2712 the investment plan alternatives. Educational services include,
2713 but are not limited to, disseminating educational materials;
2714 providing retirement planning education; explaining the
2715 ~~differences between the defined benefit retirement plan and the~~
2716 defined contribution retirement programs ~~plan~~; and offering
2717 financial planning guidance on matters such as investment
2718 diversification, investment risks, investment costs, and asset
2719 allocation. An approved provider may also provide educational
2720 information, including retirement planning and investment
2721 allocation information concerning its products and services.

2722 (c)1. In evaluating and selecting a third-party
2723 administrator, the state board shall establish criteria for
2724 evaluating ~~under which it shall consider~~ the relative
2725 capabilities and qualifications of each proposed administrator.
2726 In developing such criteria, the state board shall consider:

32-01276C-11

20111130__

2727 a. The administrator's demonstrated experience in providing
2728 administrative services to public or private sector retirement
2729 systems.

2730 b. The administrator's demonstrated experience in providing
2731 daily valued recordkeeping to defined contribution programs
2732 plans.

2733 c. The administrator's ability and willingness to
2734 coordinate its activities with ~~the Florida Retirement System~~
2735 employers, the state board, and the division, and to supply to
2736 such employers, the board, and the division the information and
2737 data they require, including, but not limited to, monthly
2738 management reports, quarterly participant reports, and ad hoc
2739 reports requested by the department or state board.

2740 d. The cost-effectiveness and levels of the administrative
2741 services provided.

2742 e. The administrator's ability to interact with the
2743 participants, the employers, the state board, the division, and
2744 the providers; the means by which participants may access
2745 account information, direct investment of contributions, make
2746 changes to their accounts, transfer moneys between available
2747 investment vehicles, and transfer moneys between investment
2748 products; and any fees that apply to such activities.

2749 f. Any other factor deemed necessary by the ~~Trustees of the~~
2750 ~~state board of Administration~~.

2751 2. In evaluating and selecting an educational provider, the
2752 state board shall establish criteria under which it shall
2753 consider the relative capabilities and qualifications of each
2754 proposed educational provider. In developing such criteria, the
2755 board shall consider:

32-01276C-11

20111130__

2756 a. Demonstrated experience in providing educational
2757 services to public or private sector retirement systems.

2758 b. Ability and willingness to coordinate its activities
2759 with the ~~Florida Retirement System~~ employers, the state board,
2760 and the division, and to supply to such employers, the board,
2761 and the division the information and data they require,
2762 including, but not limited to, reports on educational contacts.

2763 c. The cost-effectiveness and levels of the educational
2764 services provided.

2765 d. Ability to provide educational services via different
2766 media, including, but not limited to, the Internet, personal
2767 contact, seminars, brochures, and newsletters.

2768 e. Any other factor deemed necessary by the ~~Trustees of the~~
2769 state board ~~of Administration~~.

2770 3. The establishment of the criteria shall be solely within
2771 the discretion of the state board.

2772 (d) The state board shall develop the form and content of
2773 any contracts to be offered under the investment plan ~~Public~~
2774 ~~Employee Optional Retirement Program~~. In developing the ~~its~~
2775 contracts, the board shall ~~must~~ consider:

2776 1. The nature and extent of the rights and benefits to be
2777 afforded in relation to the ~~required~~ contributions required
2778 under the plan ~~program~~.

2779 2. The suitability of the rights and benefits provided ~~to~~
2780 ~~be afforded~~ and the interests of employers in the recruitment
2781 and retention of eligible employees.

2782 (e)1. The state board may contract ~~with any consultant~~ for
2783 professional services, including legal, consulting, accounting,
2784 and actuarial services, deemed necessary to implement and

32-01276C-11

20111130__

2785 administer the investment plan ~~optional program by the Trustees~~
2786 ~~of the state board of Administration~~. The board may enter into a
2787 contract with one or more vendors to provide low-cost investment
2788 advice to participants, supplemental to education provided by
2789 the third-party administrator. All fees under ~~any~~ such contract
2790 shall be paid by those participants who choose to use the
2791 services of the vendor.

2792 2. The department may contract ~~with consultants~~ for
2793 professional services, including legal, consulting, accounting,
2794 and actuarial services, deemed necessary to implement and
2795 administer the investment plan ~~optional program~~ in coordination
2796 with the defined benefit program ~~of the Florida Retirement~~
2797 ~~System~~. The department, in coordination with the state board,
2798 may enter into a contract with the third-party administrator in
2799 order to coordinate services common to the various programs
2800 within the Florida Retirement System.

2801 (f) The third-party administrator may ~~shall~~ not receive
2802 direct or indirect compensation from an approved provider,
2803 except as specifically provided for in the contract with the
2804 state board.

2805 (g) The state board shall receive and resolve participant
2806 complaints against the investment plan ~~program~~, the third-party
2807 administrator, or any plan ~~program~~ vendor or provider; shall
2808 resolve any conflict between the third-party administrator and
2809 an approved provider if such conflict threatens the
2810 implementation or administration of the plan ~~program~~ or the
2811 quality of services to employees; and may resolve any other
2812 conflicts. The third-party administrator shall retain all
2813 participant records for at least 5 years for use in resolving

32-01276C-11

20111130__

2814 any participant conflicts. The state board, the third-party
2815 administrator, or a provider is not required to produce
2816 documentation or an audio recording to justify action taken with
2817 regard to a participant if the action occurred 5 or more years
2818 before the complaint is submitted to the ~~state~~ board. It is
2819 presumed that all action taken 5 or more years before the
2820 complaint is submitted was taken at the request of the
2821 participant and with the participant's full knowledge and
2822 consent. To overcome this presumption, the participant must
2823 present documentary evidence or an audio recording demonstrating
2824 otherwise.

2825 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

2826 (a) The state board shall develop policy and procedures for
2827 selecting, evaluating, and monitoring the performance of
2828 approved providers and investment products ~~to which employees~~
2829 ~~may direct retirement contributions~~ under the investment plan
2830 program. In accordance with such policy and procedures, the
2831 state board shall designate and contract for a number of
2832 investment products as determined by the board. The board shall
2833 also select one or more bundled providers, each of which ~~whom~~
2834 may offer multiple investment options and related services, if
2835 ~~when~~ such ~~an~~ approach is determined by the board to provide
2836 ~~afford~~ value to the participants otherwise not available through
2837 individual investment products. Each approved bundled provider
2838 may offer investment options that provide participants with the
2839 opportunity to invest in each of the following asset classes, to
2840 be composed of individual options that represent ~~either~~ a single
2841 asset class or a combination thereof: money markets, United
2842 States fixed income, United States equities, and foreign stock.

32-01276C-11

20111130__

2843 The state board shall review and manage all educational
2844 materials, contract terms, fee schedules, and other aspects of
2845 ~~the~~ approved provider relationships to ensure that no provider
2846 is unduly favored or penalized by virtue of its status within
2847 the investment plan.

2848 (b) The state board shall consider investment options or
2849 products it considers appropriate to give participants the
2850 opportunity to accumulate retirement benefits, subject to the
2851 following:

2852 1. The investment plan ~~Public Employee Optional Retirement~~
2853 ~~Program~~ must offer a diversified mix of low-cost investment
2854 products that span the risk-return spectrum and may include a
2855 guaranteed account as well as investment products, such as
2856 individually allocated guaranteed and variable annuities, which
2857 meet the requirements of this subsection and combine the ability
2858 to accumulate investment returns with the option of receiving
2859 lifetime income consistent with the long-term retirement
2860 security of a pension plan and similar to the lifetime-income
2861 benefit provided by the Florida Retirement System.

2862 2. Investment options or products offered by ~~the group of~~
2863 approved providers may include mutual funds, group annuity
2864 contracts, individual retirement annuities, interests in trusts,
2865 collective trusts, separate accounts, and other such financial
2866 instruments, and ~~may include~~ products that give participants the
2867 option of committing their contributions for an extended time
2868 period in an effort to obtain returns higher than those that
2869 could be obtained from investment products offering full
2870 liquidity.

2871 3. The state board may ~~shall~~ not contract with a ~~any~~

32-01276C-11

20111130__

2872 provider that imposes a front-end, back-end, contingent, or
2873 deferred sales charge, or any other fee that limits or restricts
2874 the ability of participants to select any investment product
2875 available in the investment plan ~~optional program~~. This
2876 prohibition does not apply to fees or charges that are imposed
2877 on withdrawals from products that give participants the option
2878 of committing ~~their~~ contributions for an extended time period in
2879 an effort to obtain returns higher than those that could be
2880 obtained from investment products offering full liquidity,
2881 provided that the product ~~in question~~, net of all fees and
2882 charges, produces material benefits relative to other comparable
2883 products in the plan ~~program~~ offering full liquidity.

2884 4. Fees or charges for insurance features, such as
2885 mortality and expense-risk charges, must be reasonable relative
2886 to the benefits provided.

2887 (c) In evaluating and selecting approved providers and
2888 products, the state board shall establish criteria for
2889 evaluating ~~under which it shall consider~~ the relative
2890 capabilities and qualifications of each proposed provider
2891 company and product. In developing such criteria, the board
2892 shall consider the following to the extent such factors may be
2893 applied in connection with investment products, services, or
2894 providers:

2895 1. Experience in the United States providing retirement
2896 products and related financial services under a defined
2897 contribution retirement program ~~plans~~.

2898 2. Financial strength and stability as ~~which shall be~~
2899 evidenced by the highest ratings assigned by nationally
2900 recognized rating services when comparing proposed providers

32-01276C-11

20111130__

2901 that are so rated.

2902 3. Intrastate and interstate portability of the product
2903 offered, including early withdrawal options.

2904 4. Compliance with the Internal Revenue Code.

2905 5. The cost-effectiveness of the product provided and the
2906 levels of service supporting the product relative to its
2907 benefits and its characteristics, including, ~~without limitation,~~
2908 the level of risk borne by the provider.

2909 6. The provider company's ability and willingness to
2910 coordinate its activities with Florida Retirement System
2911 employers, the department, and the state board, and to supply ~~to~~
2912 the ~~such~~ employers, the department, and the board with the
2913 information and data they require.

2914 7. The methods available to participants to interact with
2915 the provider company; the means by which participants may access
2916 account information, direct investment of contributions, make
2917 changes to their accounts, transfer moneys between available
2918 investment vehicles, and transfer moneys between provider
2919 companies; and any fees that apply to such activities.

2920 8. The provider company's policies with respect to the
2921 transfer of individual account balances, contributions, and
2922 earnings thereon, both internally among investment products
2923 offered by the provider company and externally between approved
2924 providers, as well as any fees, charges, reductions, or
2925 penalties that may be applied.

2926 9. An evaluation of specific investment products, taking
2927 into account each product's experience in meeting its investment
2928 return objectives net of all related fees, expenses, and
2929 charges, including, but not limited to, investment management

32-01276C-11

20111130__

2930 fees, loads, distribution and marketing fees, custody fees,
2931 recordkeeping fees, education fees, annuity expenses, and
2932 consulting fees.

2933 10. Organizational factors, including, but not limited to,
2934 financial solvency, organizational depth, and experience in
2935 providing institutional and retail investment services.

2936 (d) ~~By March 1, 2010,~~ The state board shall identify and
2937 offer at least one terror-free investment product that allocates
2938 its funds among securities not subject to divestiture as
2939 provided in s. 215.473 if the investment product is deemed by
2940 the board to be consistent with prudent investor standards. No
2941 person may bring a civil, criminal, or administrative action
2942 against an approved provider; the state board; or any employee,
2943 officer, director, or trustee of such provider based upon the
2944 divestiture of any security or the offering of a terror-free
2945 investment product as specified in this paragraph.

2946 (e) As a condition of offering an ~~any~~ investment option or
2947 product in the investment plan ~~optional retirement program~~, the
2948 approved provider must agree to make the investment product or
2949 service available under the most beneficial terms offered to any
2950 other customer, subject to approval by the ~~Trustees of the state~~
2951 board ~~of Administration~~.

2952 (f) The state board shall regularly review the performance
2953 of each approved provider and product and related organizational
2954 factors to ensure continued compliance with established
2955 selection criteria and with board policy and procedures.
2956 Providers and products may be terminated subject to contract
2957 provisions. The state board shall adopt procedures to transfer
2958 account balances from terminated products or providers to other

32-01276C-11

20111130__

2959 products or providers in the investment plan ~~optional program~~.

2960 (g)1. An approved provider shall comply with all applicable
2961 federal and state securities and insurance laws and regulations
2962 ~~applicable to the provider~~, as well as with the applicable rules
2963 and guidelines of the National Association of Securities Dealers
2964 which govern the ethical marketing of investment products. In
2965 furtherance of this mandate, an approved provider must agree in
2966 its contract with the state board to establish and maintain a
2967 compliance education and monitoring system to supervise the
2968 activities of all personnel who directly communicate with
2969 individual participants and recommend investment products, which
2970 system is consistent with rules of the National Association of
2971 Securities Dealers.

2972 2. Approved provider personnel who directly communicate
2973 with individual participants and who recommend investment
2974 products shall make an independent and unbiased determination as
2975 to whether an investment product is suitable for a particular
2976 participant.

2977 3. The state board shall develop procedures to receive and
2978 resolve participant complaints against a provider or approved
2979 provider personnel, and, if ~~when~~ appropriate, refer such
2980 complaints to the appropriate agency.

2981 4. Approved providers may not sell or in any way distribute
2982 any customer list or participant identification information
2983 generated through their offering of products or services through
2984 the investment plan ~~optional retirement program~~.

2985 (10) EDUCATION COMPONENT.—

2986 (a) The state board, in coordination with the department,
2987 shall provide ~~for~~ an education component for eligible employees

32-01276C-11

20111130__

2988 ~~system members~~ in a manner consistent with ~~the provisions of~~
2989 this section. The education component must be available to
2990 eligible employees at least 90 days before ~~prior to~~ the
2991 beginning date of the election period for the employees of the
2992 respective types of employers.

2993 (b) The education component must provide eligible employees
2994 ~~system members~~ with impartial and balanced information about
2995 plan choices. The education component must involve multimedia
2996 formats. Plan Program ~~comparisons~~ must, to the greatest extent
2997 possible, be based upon the retirement income that different
2998 retirement programs may provide to the participant. The state
2999 board shall monitor the performance of the contract for the
3000 education component to ensure that the program is conducted in
3001 accordance with the contract, applicable law, and the rules of
3002 the board.

3003 (c) The state board, in coordination with the department,
3004 shall provide for an initial and ongoing transfer education
3005 component to provide system members with information necessary
3006 to make informed plan choice decisions. The transfer education
3007 component must include, but is not limited to, information on:

3008 1. The amount of money available to a member to transfer to
3009 the defined contribution program.

3010 2. The features of and differences between the defined
3011 benefit program and the defined contribution program, both
3012 generally and specifically, as those differences may affect the
3013 member.

3014 3. The expected benefit available if the member were to
3015 retire under each of the retirement programs, based on
3016 appropriate alternative sets of assumptions.

32-01276C-11

20111130__

3017 4. The rate of return from investments in the defined
3018 contribution program and the period of time over which such rate
3019 of return must be achieved to equal or exceed the expected
3020 monthly benefit payable to the member under the defined benefit
3021 program.

3022 5. The historical rates of return for the investment
3023 alternatives available in the defined contribution program
3024 ~~programs~~.

3025 6. The benefits and historical rates of return on
3026 investments available in a typical deferred compensation plan or
3027 a typical plan under s. 403(b) of the Internal Revenue Code for
3028 which the employee may be eligible.

3029 7. The program choices available to employees of the State
3030 University System and the comparative benefits of each available
3031 program, if applicable.

3032 8. Payout options available in each of the retirement
3033 programs.

3034 (d) An ongoing education and communication component must
3035 provide eligible employees ~~system members~~ with information
3036 necessary to make informed decisions about choices within their
3037 retirement program ~~of membership~~ and in preparation for
3038 retirement. The component must include, but is not limited to,
3039 information concerning:

3040 1. Rights and conditions of membership.

3041 2. Benefit features within the program, options, and
3042 effects of certain decisions.

3043 3. Coordination of contributions and benefits with a
3044 deferred compensation plan under s. 457 or a plan under s.
3045 403(b) of the Internal Revenue Code.

32-01276C-11

20111130__

3046 4. Significant program changes.

3047 5. Contribution rates and program funding status.

3048 6. Planning for retirement.

3049 (e) Descriptive materials must be prepared under the
3050 assumption that the employee is an unsophisticated investor, and
3051 all materials used in the education component must be approved
3052 by the state board before ~~prior to~~ dissemination.

3053 (f) The state board and the department shall also establish
3054 a communication component to provide program information to
3055 participating employers and the employers' personnel and payroll
3056 officers and to explain their respective responsibilities in
3057 conjunction with the retirement programs.

3058 (g) Funding for education of new employees may reflect
3059 administrative costs to the defined contribution ~~optional~~
3060 program and the defined benefit program.

3061 (h) Pursuant to paragraph (8)(a), all Florida Retirement
3062 System employers have an obligation to regularly communicate the
3063 existence of the two Florida Retirement System plans and the
3064 plan choice in the natural course of administering their
3065 personnel functions, using the educational materials supplied by
3066 the state board and the department ~~of Management Services~~.

3067 (11) PARTICIPANT INFORMATION REQUIREMENTS.—The state board
3068 shall ensure that each participant is provided a quarterly
3069 statement that accounts for participant and employer ~~the~~
3070 contributions made on behalf of the ~~such~~ participant; the
3071 interest and investment earnings thereon; and any fees,
3072 penalties, or other deductions that apply ~~thereto~~. At a minimum,
3073 such statements must:

3074 (a) Indicate the participant's investment options.

32-01276C-11

20111130__

3075 (b) State the market value of the account at the close of
3076 the current quarter and previous quarter.

3077 (c) Show account gains and losses ~~for the period~~ and
3078 changes in account accumulation unit values for the quarter
3079 ~~period~~.

3080 (d) Itemize account contributions for the quarter.

3081 (e) Indicate any account changes due to adjustment of
3082 contribution levels, reallocation of contributions, balance
3083 transfers, or withdrawals.

3084 (f) Set forth any fees, charges, penalties, and deductions
3085 that apply to the account.

3086 (g) Indicate the amount of the account in which the
3087 participant is fully vested and the amount of the account in
3088 which the participant is not vested.

3089 (h) Indicate each investment product's performance relative
3090 to an appropriate market benchmark.

3091

3092 The third-party administrator shall provide quarterly and annual
3093 summary reports to the state board and any other reports

3094 requested by the department or the board. In any solicitation or
3095 offer of coverage under the defined contribution ~~an optional~~

3096 ~~retirement~~ program, a provider company shall be governed by the
3097 contract readability provisions of s. 627.4145, notwithstanding

3098 s. 627.4145(6)(c). In addition, all descriptive materials must
3099 be prepared under the assumption that the participant is an

3100 unsophisticated investor. Provider companies must maintain an

3101 internal system of quality assurance, have proven functional

3102 systems that are date-calculation compliant, and be subject to a

3103 due-diligence inquiry that proves their capacity and fitness to

32-01276C-11

20111130__

3104 undertake service responsibilities.

3105 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The
3106 Investment Advisory Council, created pursuant to s. 215.444,
3107 shall assist the state board in implementing and administering
3108 the investment plan ~~Public Employee Optional Retirement Program~~.
3109 The ~~Investment Advisory council~~, ~~created pursuant to s. 215.444~~,
3110 shall review the state board's initial recommendations regarding
3111 the criteria to be used in selecting and evaluating approved
3112 providers and investment products. The council may provide
3113 comments on the recommendations to the board within 45 days
3114 after receiving the initial recommendations. The state board
3115 shall make the final determination as to whether any investment
3116 provider or product, any contractor, or any and all contract
3117 provisions are ~~shall be~~ approved for the investment plan
3118 ~~program~~.

3119 (13) FEDERAL REQUIREMENTS.—

3120 (a) ~~Provisions of~~ This section shall be construed, and the
3121 investment plan ~~Public Employee Optional Retirement Program~~
3122 shall be administered, so as to comply with the Internal Revenue
3123 Code, 26 U.S.C., and specifically with plan qualification
3124 requirements imposed on governmental plans under s. 401(a) of
3125 the Internal Revenue Code. The state board may ~~shall have the~~
3126 ~~power and authority to~~ adopt rules reasonably necessary to
3127 establish or maintain the qualified status of the investment
3128 plan ~~Optional Retirement Program~~ under the Internal Revenue Code
3129 and to implement and administer the plan ~~Optional Retirement~~
3130 ~~Program~~ in compliance with the Internal Revenue Code and as
3131 designated under this part; ~~provided however, that the board~~
3132 ~~shall not have the authority to adopt any rule which makes a~~

32-01276C-11

20111130__

3133 ~~substantive change to the Optional Retirement Program as~~
3134 ~~designed by this part.~~

3135 (b) Any section or provision of this chapter which is
3136 susceptible to more than one construction shall ~~must~~ be
3137 interpreted in favor of the construction most likely to satisfy
3138 requirements imposed by s. 401(a) of the Internal Revenue Code.

3139 (c) Employer and participant contributions payable under
3140 this section for any limitation year may not exceed the maximum
3141 amount allowable for qualified defined contribution pension
3142 plans under applicable provisions of the Internal Revenue Code.
3143 If an employee who is enrolled ~~who has elected to participate~~ in
3144 the investment plan ~~Public Employee Optional Retirement Program~~
3145 participates in any other plan that is maintained by the
3146 participating employer, benefits that accrue under the
3147 investment plan ~~are Public Employee Optional Retirement Program~~
3148 ~~shall be~~ considered primary for any aggregate limitation
3149 applicable under s. 415 of the Internal Revenue Code.

3150 (14) INVESTMENT POLICY STATEMENT.—

3151 (a) Investment products and approved providers selected for
3152 the investment plan ~~Public Employee Optional Retirement Program~~
3153 must ~~shall~~ conform with the Florida ~~Public Employee Optional~~
3154 ~~Retirement System Program~~ Investment Plan Policy Statement,
3155 herein referred to as the "statement," as developed and approved
3156 by the ~~Trustees of the~~ state board of Administration. The
3157 statement must include, among other items, the investment
3158 objectives of the investment plan ~~Public Employee Optional~~
3159 ~~Retirement Program~~, manager selection and monitoring guidelines,
3160 and performance measurement criteria. As required from time to
3161 time, the executive director of the state board may present

32-01276C-11

20111130

3162 recommended changes in the statement to the board for approval.

3163 (b) Before ~~Prior to~~ presenting the statement, or any
3164 recommended changes ~~thereto~~, to the state board, the executive
3165 director of the board shall present such statement or changes to
3166 the Investment Advisory Council for review. The council shall
3167 present the results of its review to the board prior to the
3168 board's final approval of the statement or changes in the
3169 statement.

3170 (15) STATEMENT OF FIDUCIARY STANDARDS AND
3171 RESPONSIBILITIES.—

3172 (a) Investment of ~~optional~~ defined contribution program
3173 ~~retirement plan~~ assets shall be made for the sole interest and
3174 exclusive purpose of providing benefits to ~~plan~~ participants and
3175 beneficiaries and defraying reasonable expenses of administering
3176 the plan. The program's assets shall ~~are to~~ be invested, on
3177 behalf of the program participants, with the care, skill, and
3178 diligence that a prudent person acting in a like manner would
3179 undertake. The performance of the investment duties set forth in
3180 this paragraph shall comply with the fiduciary standards set
3181 forth in the Employee Retirement Income Security Act of 1974 at
3182 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of conflict with other
3183 provisions of law authorizing investments, the investment and
3184 fiduciary standards set forth in this subsection shall prevail.

3185 (b) If a participant or beneficiary of the defined
3186 contribution ~~Public Employee Optional Retirement~~ program
3187 exercises control over the assets in his or her account, as
3188 determined by reference to regulations of the United States
3189 Department of Labor under s. 404(c) of the Employee Retirement
3190 Income Security Act of 1974 and all applicable laws governing

32-01276C-11

20111130

3191 the operation of the program, a no program fiduciary is not
 3192 ~~shall be~~ liable for any loss to a participant's or beneficiary's
 3193 account which results from the such participant's or
 3194 beneficiary's exercise of control.

3195 (c) Subparagraph (8) (b) 2. ~~(8) (b) 4.~~ and paragraph ~~(15) (b)~~
 3196 incorporate the federal law concept of participant control,
 3197 established by regulations of the United States Department of
 3198 Labor under s. 404(c) of the Employee Retirement Income Security
 3199 Act of 1974 (ERISA). The purpose of this paragraph is to assist
 3200 employers and the state board ~~of Administration~~ in maintaining
 3201 compliance with s. 404(c), while avoiding unnecessary costs and
 3202 eroding participant benefits under the defined contribution
 3203 ~~Public Employee Optional Retirement~~ program. Pursuant to 29
 3204 C.F.R. s. 2550.404c-1(b) (2) (i) (B) (1) (viii), the state board ~~of~~
 3205 ~~Administration~~ or its designated agents shall deliver to
 3206 participants of the defined contribution ~~Public Employee~~
 3207 ~~Optional Retirement~~ program a copy of the prospectus most
 3208 recently provided to the plan, and, pursuant to 29 C.F.R. s.
 3209 2550.404c-1(b) (2) (i) (B) (2) (ii), shall provide such participants
 3210 an opportunity to obtain this information, except that:

3211 1. The requirement to deliver a prospectus shall be ~~deemed~~
 3212 ~~to be~~ satisfied by delivery of a fund profile or summary profile
 3213 that contains the information that would be included in a
 3214 summary prospectus as described by Rule 498 under the Securities
 3215 Act of 1933, 17 C.F.R. s. 230.498. If ~~when~~ the transaction fees,
 3216 expense information, or other information provided by a mutual
 3217 fund in the prospectus does not reflect terms negotiated by the
 3218 state board ~~of Administration~~ or its designated agents, the
 3219 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery

32-01276C-11

20111130__

3220 of a separate document described by Rule 498 substituting
3221 accurate information; and

3222 2. Delivery shall be ~~deemed to have been~~ effected if
3223 delivery is through electronic means and the following standards
3224 are satisfied:

3225 a. Electronically-delivered documents are prepared and
3226 provided consistent with style, format, and content requirements
3227 applicable to printed documents;

3228 b. Each participant is provided timely and adequate notice
3229 of the documents that are to be delivered and their significance
3230 thereof, and of the participant's right to obtain a paper copy
3231 of such documents free of charge;

3232 c. ~~(I)~~ Participants have adequate access to the electronic
3233 documents, at locations such as their worksites or public
3234 facilities, and have the ability to convert the documents to
3235 paper free of charge by the state board of ~~Administration~~, and
3236 the board or its designated agents take appropriate and
3237 reasonable measures to ensure that the system for furnishing
3238 electronic documents results in actual receipt. ~~or~~

3239 ~~(II)~~ Participants have provided consent to receive
3240 information in electronic format, which consent may be revoked;
3241 and

3242 d. The state board of ~~Administration~~, or its designated
3243 agent, actually provides paper copies of the documents free of
3244 charge, upon request.

3245 (16) DISABILITY BENEFITS.—For any participant of the
3246 investment plan ~~optional retirement program~~ who becomes totally
3247 and permanently disabled, benefits must ~~shall~~ be paid in
3248 accordance with the provisions of s. 121.591.

32-01276C-11

20111130__

3249 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
3250 shall be provided for all officers and employees who become
3251 participants of the investment plan ~~optional program~~. Any
3252 modification of the present agreement with the Social Security
3253 Administration, or referendum required under the Social Security
3254 Act, for the purpose of providing social security coverage for
3255 any member shall be requested by the state agency in compliance
3256 with the applicable provisions of the Social Security Act
3257 governing such coverage. However, retroactive social security
3258 coverage for service before ~~prior to~~ December 1, 1970, with the
3259 employer may ~~shall~~ not be provided for any member who was not
3260 covered under the agreement as of November 30, 1970.

3261 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
3262 employees who are participants of the investment plan are
3263 ~~optional program shall be~~ eligible to receive the retiree health
3264 insurance subsidy, subject to ~~the provisions of~~ s. 112.363.

3265 (19) PARTICIPANT RECORDS.—Personal identifying information
3266 of a participant in the investment plan ~~Public Employee Optional~~
3267 ~~Retirement Program~~ contained in Florida Retirement System
3268 records held by the state board of ~~Administration~~ or the
3269 department of ~~Management Services~~ is exempt from s. 119.07(1)
3270 and s. 24(a), Art. I of the State Constitution.

3271 (20) DESIGNATION OF BENEFICIARIES.—

3272 (a) Each participant may, by electronic means or on a form
3273 provided for that purpose, signed and filed with the third-party
3274 administrator, designate a choice of one or more persons, named
3275 sequentially or jointly, as his or her beneficiary for receiving
3276 ~~who shall receive~~ the benefits, if any, which may be payable
3277 pursuant to this chapter in the event of the participant's

32-01276C-11

20111130__

3278 death. If no beneficiary is named in this manner, or if no
3279 beneficiary designated by the participant survives the
3280 participant, the beneficiary shall be the spouse of the
3281 deceased, if living. If the participant's spouse is not alive at
3282 the time of the beneficiary's ~~his or her~~ death, the beneficiary
3283 shall be the living children of the participant. If no children
3284 survive, the beneficiary shall be the participant's father or
3285 mother, if living; otherwise, the beneficiary shall be the
3286 participant's estate. The beneficiary most recently designated
3287 by a participant ~~on a form or letter filed with the third-party~~
3288 ~~administrator~~ shall be the beneficiary entitled to any benefits
3289 payable at the time of the participant's death. However
3290 ~~Notwithstanding any other provision in this subsection to the~~
3291 ~~contrary~~, for a participant who dies before ~~prior to~~ his or her
3292 effective date of retirement, the spouse at the time of death
3293 shall be the participant's beneficiary unless the such
3294 participant designates a different beneficiary ~~as provided in~~
3295 ~~this subsection~~ subsequent to the participant's most recent
3296 marriage.

3297 (b) If a participant designates a primary beneficiary other
3298 than the participant's spouse, the participant's spouse must
3299 sign the beneficiary designation form to acknowledge the
3300 designation. This requirement does not apply to the designation
3301 of one or more contingent beneficiaries to receive benefits
3302 remaining upon the death of the primary beneficiary or
3303 beneficiaries.

3304 (c) Notwithstanding the participant's designation of
3305 benefits to be paid through a trust to a beneficiary that is a
3306 natural person, ~~and notwithstanding~~ the provisions of the trust,

32-01276C-11

20111130__

3307 benefits must ~~shall~~ be paid directly to the beneficiary if the
3308 person is no longer a minor or an incapacitated person as
3309 defined in s. 744.102.

3310 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
3311 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law
3312 ~~to the contrary~~, participants in the Deferred Retirement Option
3313 Program offered under part I may, after conclusion of their
3314 participation in the program, elect to roll over or authorize a
3315 direct trustee-to-trustee transfer to an account under the
3316 investment plan ~~Public Employee Optional Retirement Program~~ of
3317 their Deferred Retirement Option Program proceeds distributed as
3318 provided under s. 121.091(13)(c)5. The transaction must
3319 constitute an “eligible rollover distribution” within the
3320 meaning of s. 402(c)(4) of the Internal Revenue Code.

3321 (a) The investment plan ~~Public Employee Optional Retirement~~
3322 ~~Program~~ may accept such amounts for deposit into participant
3323 accounts as provided in paragraph (5)(e) ~~(5)(e)~~.

3324 (b) The affected participant shall direct the investment of
3325 his or her investment account; however, unless he or she becomes
3326 a renewed member of the Florida Retirement System under s.
3327 121.122 and elects to participate in the investment plan ~~Public~~
3328 ~~Employee Optional Retirement program~~, employer and participant
3329 contributions may not be made to the participant’s account as
3330 provided under paragraph (5)(a).

3331 (c) The state board or the department is not responsible
3332 for locating those persons who may be eligible to participate in
3333 the investment plan ~~Public Employee Optional Retirement Program~~
3334 under this subsection.

3335 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any

32-01276C-11

20111130__

3336 member of the investment program includes ~~Public Employee~~
3337 ~~Optional Retirement Program shall include~~ military service in
3338 the Armed Forces of the United States as provided in ~~the~~
3339 ~~conditions outlined in~~ s. 121.111(1).

3340 Section 20. Section 121.4502, Florida Statutes, is amended
3341 to read:

3342 121.4502 Florida Public Employee Optional Retirement System
3343 Investment Plan Program Trust Fund.—

3344 (1) The Florida Public Employee Optional Retirement System
3345 Investment Plan Program Trust Fund is created to hold the assets
3346 of the Florida Public Employee Optional Retirement System
3347 Investment Plan Program in trust for the exclusive benefit of
3348 plan such program's participants and beneficiaries, and for the
3349 payment of reasonable administrative expenses of the plan
3350 ~~program~~, in accordance with s. 401 of the Internal Revenue Code,
3351 and shall be administered by the State Board of Administration
3352 as trustee. Funds shall be credited to the trust fund as
3353 provided in this part and, ~~to be~~ used for the purposes of this
3354 part. The trust fund is exempt from the service charges imposed
3355 by s. 215.20.

3356 (2) The Florida Public Employee Optional Retirement System
3357 Investment Plan Program Trust Fund is a ~~retirement~~ trust fund of
3358 the Florida Retirement System that accounts for retirement plan
3359 assets held by the state in a trustee capacity as a fiduciary
3360 for individual participants in the Florida Public Employee
3361 ~~Optional Retirement System Investment Plan Program~~ and, pursuant
3362 to s. 19(f), Art. III of the State Constitution, is not subject
3363 to termination.

3364 Section 21. Subsections (1) and (3) of section 121.4503,

32-01276C-11

20111130__

3365 Florida Statutes, are amended to read:

3366 121.4503 Florida Retirement System Contributions Clearing
3367 Trust Fund.—

3368 (1) The Florida Retirement System Contributions Clearing
3369 Trust Fund is created as a clearing fund for disbursing employer
3370 and employee contributions to the component plans of the Florida
3371 Retirement System and shall be administered by the department ~~of~~
3372 ~~Management Services~~. Funds shall be credited to the trust fund
3373 as provided in this chapter and ~~shall be~~ held in trust for the
3374 contributing employers and employees until ~~such time as~~ the
3375 assets are transferred by the department to the Florida
3376 Retirement System Trust Fund, the Florida Public Employee
3377 ~~Optional Retirement System Investment Plan Program~~ Trust Fund,
3378 or other trust funds as authorized by law, to be used for the
3379 purposes of this chapter. The trust fund is exempt from the
3380 service charges imposed by s. 215.20.

3381 (3) The department ~~of Management Services~~ may adopt rules
3382 governing the receipt and disbursement of amounts received by
3383 the Florida Retirement System Contributions Clearing Trust Fund
3384 from employers and employees contributing to the component plans
3385 of the Florida Retirement System.

3386 Section 22. Section 121.571, Florida Statutes, is amended
3387 to read:

3388 121.571 Contributions.—Contributions to the Florida Public
3389 ~~Employee Optional Retirement System Investment Plan Program~~
3390 shall be made as follows:

3391 (1) CONTRIBUTORY ~~NONCONTRIBUTORY~~ PLAN.—Each employer and
3392 participant shall submit ~~accomplish the~~ contributions as
3393 required under ~~by~~ s. 121.71 ~~by a procedure in which no~~

32-01276C-11

20111130__

3394 ~~employee's gross salary shall be reduced.~~

3395 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
3396 retirement and disability benefits provided under this part must
3397 ~~shall~~ be based on the uniform contribution rates established by
3398 s. 121.71 and on the membership class or subclass of the
3399 participant. Such contributions must ~~shall~~ be allocated as
3400 provided in ss. 121.72 and 121.73.

3401 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
3402 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
3403 s. 121.71 are ~~this section shall be~~ in addition to employer and
3404 member contributions ~~required~~ for social security and the
3405 Retiree Health Insurance Subsidy Trust Fund as required under
3406 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as
3407 appropriate.

3408 Section 23. Section 121.591, Florida Statutes, is amended
3409 to read:

3410 121.591 Payment of benefits payable under the Public
3411 ~~Employee Optional Retirement Program of the Florida Retirement~~
3412 ~~System.~~—Benefits may not be paid under the Florida Retirement
3413 System Investment Plan ~~this section~~ unless the member has
3414 terminated employment as provided in s. 121.021(39)(a) or is
3415 deceased and a proper application has been filed as in the
3416 ~~manner~~ prescribed by the state board or the department. Benefits
3417 are not payable under the investment plan before termination of
3418 employment as provided in s. 121.021(39)(a) for employee
3419 hardships, unforeseeable emergencies, loans, medical expenses,
3420 educational expenses, purchase of a principal residence,
3421 payments necessary to prevent eviction or foreclosure on an
3422 employee's principal residence, or for any other reason. The

32-01276C-11

20111130__

3423 state board or department, as appropriate, may cancel an
3424 application for retirement benefits if ~~when~~ the member or
3425 beneficiary fails to timely provide the information and
3426 documents required by this chapter and the rules of the state
3427 board and department. In accordance with their respective
3428 responsibilities ~~as provided herein~~, the state board ~~of~~
3429 ~~Administration~~ and the department ~~of Management Services~~ shall
3430 adopt rules establishing procedures for application for
3431 retirement benefits and for the cancellation of such application
3432 if ~~when~~ the required information or documents are not received.
3433 The state board ~~of Administration~~ and the department ~~of~~
3434 ~~Management Services~~, as appropriate, are authorized to cash out
3435 a de minimis account of not more than \$5,000 of a participant
3436 who has been terminated from Florida Retirement System covered
3437 employment for a minimum of 6 calendar months. ~~A de minimis~~
3438 ~~account is an account containing employer contributions and~~
3439 ~~accumulated earnings of not more than \$5,000 made under the~~
3440 ~~provisions of this chapter~~. Such cash-out must ~~either~~ be a
3441 complete lump-sum liquidation of the account balance, subject to
3442 the provisions of the Internal Revenue Code, or a lump-sum
3443 direct rollover distribution paid directly to the custodian of
3444 an eligible retirement plan, as defined by the Internal Revenue
3445 Code, on behalf of the participant. Any nonvested accumulations,
3446 including amounts transferred to the suspense account of the
3447 Florida Retirement System Investment Plan Trust Fund, are
3448 forfeited upon payment of any vested benefit to a participant or
3449 beneficiary, except for de minimis distributions or minimum
3450 required distributions as provided under this section. If any
3451 financial instrument issued for the payment of retirement

32-01276C-11

20111130

3452 benefits under this section is not presented for payment within
 3453 180 days after the last day of the month in which it was
 3454 originally issued, the third-party administrator or other duly
 3455 authorized agent of the state board ~~of Administration~~ shall
 3456 cancel the instrument and credit the amount of the instrument to
 3457 the suspense account of the Florida Public Employee Optional
 3458 Retirement System Investment Plan Program Trust Fund authorized
 3459 under s. 121.4501(6). Any ~~such~~ amounts transferred to the
 3460 suspense account are payable upon a proper application, not to
 3461 include earnings thereon, as provided in this section, within 10
 3462 years after the last day of the month in which the instrument
 3463 was originally issued, after which time such amounts and any
 3464 earnings attributable to employer contributions are ~~thereon~~
 3465 ~~shall be~~ forfeited. Any ~~such~~ forfeited amounts are assets of the
 3466 ~~Public Employee Optional Retirement Program~~ trust fund and are
 3467 not subject to the provisions of chapter 717.

3468 (1) NORMAL BENEFITS.—Under the Florida Public Employee
 3469 Optional Retirement System Investment Plan Program:

3470 (a) Benefits in the form of vested accumulations as
 3471 described in s. 121.4501(6) are payable under this subsection in
 3472 accordance with the following terms and conditions:

3473 1. ~~To the extent vested,~~ Benefits are payable only to a
 3474 participant, alternate payee or a qualified domestic relations
 3475 order, or a beneficiary.

3476 2. Benefits shall be paid by the third-party administrator
 3477 or designated approved providers in accordance with the law, the
 3478 contracts, and any applicable board rule or policy.

3479 3. ~~To receive benefits,~~ The participant must be terminated
 3480 from all employment with all Florida Retirement System

32-01276C-11

20111130__

3481 employers, as provided in s. 121.021(39).

3482 4. Benefit payments may not be made until the participant
3483 has been terminated for 3 calendar months, except that the state
3484 board may authorize by rule for the distribution of up to 10
3485 percent of the participant's account after being terminated for
3486 1 calendar month if the participant has reached the normal
3487 retirement date as defined in s. 121.021 ~~of the defined benefit~~
3488 ~~plan~~.

3489 5. If a member or former member of the Florida Retirement
3490 System receives an invalid distribution ~~from the Public Employee~~
3491 ~~Optional Retirement Program Trust Fund~~, such person must repay
3492 the full amount ~~invalid distribution to the trust fund~~ within 90
3493 days after receipt of final notification by the state board or
3494 the third-party administrator that the distribution was invalid,
3495 or, in lieu of repayment, must terminate employment from all
3496 participating employers. If such person fails to repay the full
3497 invalid distribution within 90 days after receipt of final
3498 notification, the person may be deemed retired from the
3499 investment plan ~~optional retirement program~~ by the state board,
3500 ~~as provided pursuant to s. 121.4501(2)(k)~~, and is subject to s.
3501 121.122. If such person is deemed retired ~~by the state board~~,
3502 any joint and several liability set out in s. 121.091(9)(d)2. is
3503 ~~becomes~~ null and void, and the state board, the department, or
3504 the employing agency is not liable for gains on payroll
3505 contributions that have not been deposited to the person's
3506 account in the investment plan ~~retirement program~~, pending
3507 resolution of the invalid distribution. The member or former
3508 member who has been deemed retired or who has been determined by
3509 the state board to have taken an invalid distribution may appeal

32-01276C-11

20111130__

3510 the agency decision through the complaint process as provided
3511 under s. 121.4501(9)(g)3. As used in this subparagraph, the term
3512 "invalid distribution" means any distribution from an account in
3513 the investment plan ~~optional retirement program~~ which is taken
3514 in violation of this section, s. 121.091(9), or s. 121.4501.

3515 (b) If a participant elects to receive his or her benefits
3516 upon termination of employment as defined in s. 121.021, the
3517 participant must submit a written application or an application
3518 by electronic means to the third-party administrator indicating
3519 his or her preferred distribution date and selecting an
3520 authorized method of distribution as provided in paragraph (c).
3521 The participant may defer receipt of benefits until he or she
3522 chooses to make such application, subject to federal
3523 requirements.

3524 (c) Upon receipt by the third-party administrator of a
3525 properly executed application for distribution of benefits, the
3526 total accumulated benefit is ~~shall be~~ payable to the participant
3527 pro rata across all Florida Retirement System benefit sources,
3528 as:

- 3529 1. A lump-sum or partial distribution to the participant;
- 3530 2. A lump-sum direct rollover distribution whereby all
3531 accrued benefits, plus interest and investment earnings, are
3532 paid from the participant's account directly to the custodian of
3533 an eligible retirement plan, as defined in s. 402(c)(8)(B) of
3534 the Internal Revenue Code, on behalf of the participant; or
- 3535 3. Periodic distributions, as authorized by the state
3536 board.

3537 (d) The distribution payment method selected by the
3538 participant or beneficiary, and the retirement of the

32-01276C-11

20111130__

3539 participant or beneficiary, is final and irrevocable at the time
3540 a benefit distribution payment is cashed, deposited, or
3541 transferred to another financial institution. Any additional
3542 service that remains unclaimed at retirement may not be claimed
3543 or purchased, and the type of retirement may not be changed,
3544 except that if a participant recovers from a disability, the
3545 participant may subsequently request normal service benefits
3546 under subsection (2).

3547 (e) A participant may not receive a distribution of
3548 participant contributions if a pending qualified domestic
3549 relations order is filed against the participant's investment
3550 plan account.

3551 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
3552 this subsection are payable in lieu of the benefits that ~~which~~
3553 would otherwise be payable under the provisions of subsection
3554 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer
3555 contributions ~~made under s. 121.571~~, transferred participant
3556 contributions and funds accumulated pursuant to paragraph (a),
3557 and interest and earnings thereon. ~~Pursuant thereto:~~

3558 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly
3559 disability benefits under this subsection:

3560 1. All moneys accumulated in the participant's ~~Public~~
3561 ~~Employee Optional Retirement Program~~ accounts, including vested
3562 and nonvested accumulations as described in s. 121.4501(6), must
3563 ~~shall~~ be transferred from such individual accounts to the
3564 division ~~of Retirement~~ for deposit in the disability account of
3565 the Florida Retirement System Trust Fund. Such moneys must ~~shall~~
3566 be ~~separately~~ accounted for separately. Earnings must ~~shall~~ be
3567 credited on an annual basis for amounts held in the disability

32-01276C-11

20111130

3568 accounts ~~of the Florida Retirement System Trust Fund~~ based on
 3569 actual earnings of the ~~Florida Retirement System~~ trust fund.

3570 2. If the participant has retained retirement credit ~~he or~~
 3571 ~~she had~~ earned under the defined benefit program ~~of the Florida~~
 3572 ~~Retirement System~~ as provided in s. 121.4501(3) ~~s.~~
 3573 ~~121.4501(3)(b)~~, a sum representing the actuarial present value
 3574 of such credit within the Florida Retirement System Trust Fund
 3575 shall be reassigned by the division ~~of Retirement~~ from the
 3576 defined benefit program to the disability program as implemented
 3577 under this subsection and shall be deposited in the disability
 3578 account of the ~~Florida Retirement System~~ trust fund. Such moneys
 3579 must ~~shall~~ be ~~separately~~ accounted for separately.

3580 (b) *Disability retirement; entitlement.*—

3581 1. A participant of the investment plan ~~Public Employee~~
 3582 ~~Optional Retirement program~~ who becomes totally and permanently
 3583 disabled, as defined in paragraph (d) ~~s. 121.091(4)(b)~~, after
 3584 completing 8 years of creditable service, or a participant who
 3585 becomes totally and permanently disabled in the line of duty
 3586 regardless of ~~his or her~~ length of service, is ~~shall be~~ entitled
 3587 to a monthly disability benefit ~~as provided herein~~.

3588 2. In order for service to apply toward the 8 years of
 3589 creditable service required ~~to vest~~ for regular disability
 3590 benefits, or toward the creditable service used in calculating a
 3591 service-based benefit as provided ~~for~~ under paragraph (g), the
 3592 service must be creditable service as described below:

3593 a. The participant's period of service under the investment
 3594 plan shall ~~Public Employee Optional Retirement program will~~ be
 3595 considered creditable service, except as provided in
 3596 subparagraph d.

32-01276C-11

20111130

3597 b. If the participant has elected to retain credit for his
3598 ~~or her~~ service under the defined benefit program ~~of the Florida~~
3599 ~~Retirement System~~ as provided under s. 121.4501(3) ~~s.~~
3600 ~~121.4501(3)(b)~~, all such service shall ~~will~~ be considered
3601 creditable service.

3602 c. If the participant elects ~~has elected~~ to transfer to his
3603 or her participant accounts a sum representing the present value
3604 of his or her retirement credit under the defined benefit
3605 program as provided under s. 121.4501(3) ~~s. 121.4501(3)(c)~~, the
3606 period of service under the defined benefit program represented
3607 in the present value amounts transferred shall ~~will~~ be
3608 considered creditable service ~~for purposes of vesting for~~
3609 ~~disability benefits~~, except as provided in subparagraph d.

3610 d. Whenever a participant has terminated employment and has
3611 taken distribution of his or her funds as provided in subsection
3612 (1), all creditable service represented by such distributed
3613 funds is forfeited for purposes of this subsection.

3614 (c) *Disability retirement effective date.*—The effective
3615 retirement date for a participant who applies and is approved
3616 for disability retirement shall be established as provided under
3617 s. 121.091(4)(a)2. and 3.

3618 (d) *Total and permanent disability.*—A participant shall be
3619 considered totally and permanently disabled if, in the opinion
3620 of the division, he or she is prevented, by reason of a
3621 medically determinable physical or mental impairment, from
3622 rendering useful and efficient service as an officer or
3623 employee.

3624 (e) *Proof of disability.*—~~The division,~~ Before approving
3625 payment of any disability retirement benefit, the division shall

32-01276C-11

20111130__

3626 require proof that the participant is totally and permanently
 3627 disabled ~~in the same manner as provided for members of the~~
 3628 ~~defined benefit program of the Florida Retirement System~~ under
 3629 s. 121.091(4)(c).

3630 (f) *Disability retirement benefit.*—Upon the disability
 3631 retirement of a participant under this subsection, the
 3632 participant shall receive a monthly benefit that begins accruing
 3633 ~~shall begin to accrue~~ on the first day of the month of
 3634 disability retirement, as approved by the division, and is ~~shall~~
 3635 ~~be~~ payable on the last day of that month and each month
 3636 thereafter during his or her lifetime and continued disability.
 3637 All disability benefits must ~~payable to such member shall~~ be
 3638 paid out of the disability account of the Florida Retirement
 3639 System Trust Fund established under this subsection.

3640 (g) *Computation of disability retirement benefit.*—The
 3641 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~
 3642 ~~same manner as provided for members of the defined benefit~~
 3643 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
 3644 ~~For such purpose,~~ Creditable service under both the defined
 3645 benefit program and the investment plan ~~Public Employee Optional~~
 3646 ~~Retirement Program of the Florida Retirement System~~ shall be
 3647 applicable as provided under paragraph (b).

3648 (h) *Reapplication.*—A participant whose initial application
 3649 for disability retirement is ~~has been~~ denied may reapply for
 3650 disability benefits ~~in the same manner, and under the same~~
 3651 ~~conditions,~~ as provided ~~for members of the defined benefit~~
 3652 ~~program of the Florida Retirement System~~ under s. 121.091(4)(g).

3653 (i) *Membership.*—Upon approval of a participant's ~~an~~
 3654 application for disability benefits ~~under this subsection,~~ the

32-01276C-11

20111130__

3655 applicant shall be transferred to the defined benefit program ~~of~~
3656 ~~the Florida Retirement System~~, effective upon his or her
3657 disability retirement effective date.

3658 (j) *Option to cancel.*—~~A~~ Any participant whose application
3659 for disability benefits is approved may cancel the ~~his or her~~
3660 application if ~~for disability benefits~~, provided that the
3661 cancellation request is received by the division before a
3662 disability retirement warrant has been deposited, cashed, or
3663 received by direct deposit. Upon ~~such~~ cancellation:

3664 1. The participant's transfer to the defined benefit
3665 program under paragraph (i) shall be nullified;

3666 2. The participant shall be retroactively reinstated in the
3667 investment plan ~~Public Employee Optional Retirement program~~
3668 without hiatus;

3669 3. All funds transferred to the Florida Retirement System
3670 Trust Fund under paragraph (a) must ~~shall~~ be returned to the
3671 participant accounts from which the ~~such~~ funds were drawn; and

3672 4. The participant may elect to receive the benefit payable
3673 under ~~the provisions of~~ subsection (1) in lieu of disability
3674 benefits ~~as provided under this subsection~~.

3675 (k) *Recovery from disability.*—

3676 1. The division may require periodic reexaminations at the
3677 expense of the disability program account of the Florida
3678 Retirement System Trust Fund. Except as ~~otherwise~~ provided in
3679 subparagraph 2., ~~the requirements, procedures, and restrictions~~
3680 ~~relating to the conduct and review of such reexaminations,~~
3681 ~~discontinuation or termination of benefits, reentry into~~
3682 ~~employment, disability retirement after reentry into covered~~
3683 ~~employment, and all other matters relating to recovery from~~

32-01276C-11

20111130

3684 disability shall be ~~the same~~ as provided ~~are set forth~~ under s.
3685 121.091(4)(h).

3686 2. Upon recovery from disability, the ~~any~~ recipient of
3687 disability retirement benefits under this subsection shall be
3688 transferred back to the investment plan ~~a compulsory member of~~
3689 ~~the Public Employee Optional Retirement Program of the Florida~~
3690 ~~Retirement System~~. The net difference between the recipient's
3691 original account balance transferred to the Florida Retirement
3692 System Trust Fund, including earnings, ~~under paragraph (a)~~ and
3693 total disability benefits paid to such recipient, if any, shall
3694 be determined as provided in sub-subparagraph a.

3695 a. An amount equal to the total benefits paid shall be
3696 subtracted from that portion of the transferred account balance
3697 consisting of vested accumulations as described under s.
3698 121.4501(6), if any, and an amount equal to the remainder of
3699 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
3700 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
3701 ~~described under s. 121.4501(6)~~.

3702 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
3703 be retained within the disability account of the Florida
3704 Retirement System Trust Fund. Any remaining account balance
3705 shall be transferred to the third-party administrator for
3706 disposition as provided under sub-subparagraph c. or sub-
3707 subparagraph d., as appropriate.

3708 c. If the recipient returns to covered employment,
3709 transferred amounts must ~~shall~~ be deposited in individual
3710 accounts under the investment plan ~~Public Employee Optional~~
3711 ~~Retirement program~~, as directed by the participant. Vested and
3712 nonvested amounts shall be separately accounted for as provided

32-01276C-11

20111130__

3713 in s. 121.4501(6).

3714 d. If the recipient fails to return to covered employment
3715 upon recovery from disability:

3716 (I) Any remaining vested amount must ~~shall~~ be deposited in
3717 individual accounts under the investment plan ~~Public Employee~~
3718 ~~Optional Retirement program~~, as directed by the participant, and
3719 is ~~shall be~~ payable as provided in subsection (1).

3720 (II) Any remaining nonvested amount must ~~shall~~ be held in a
3721 suspense account and is ~~shall be~~ forfeitable after 5 years as
3722 provided in s. 121.4501(6).

3723 3. If present value was reassigned from the defined benefit
3724 program to the disability program ~~of the Florida Retirement~~
3725 ~~System~~ as provided under subparagraph (a)2., the full present
3726 value amount must ~~shall~~ be returned to the defined benefit
3727 account within the Florida Retirement System Trust Fund and the
3728 recipient's ~~affected individual's~~ associated retirement credit
3729 under the defined benefit program must ~~shall~~ be reinstated in
3730 full. Any benefit based upon such credit must ~~shall~~ be
3731 calculated as provided in s. 121.091(4)(h)1.

3732 (1) *Nonadmissible causes of disability.*—A participant is
3733 ~~shall~~ not be entitled to ~~receive~~ a disability retirement benefit
3734 if the disability results from any injury or disease ~~sustained~~
3735 ~~or inflicted~~ as described in s. 121.091(4)(i).

3736 (m) *Disability retirement of justice or judge by order of*
3737 *Supreme Court.*—

3738 1. If a participant is a justice of the Supreme Court,
3739 judge of a district court of appeal, circuit judge, or judge of
3740 a county court who has served for 6 years or more as an elected
3741 constitutional judicial officer, including service as a judicial

32-01276C-11

20111130__

3742 officer in any court abolished pursuant to Art. V of the State
3743 Constitution, and who is retired for disability ~~by order of the~~
3744 ~~Supreme Court upon recommendation of the Judicial Qualifications~~
3745 ~~Commission~~ pursuant to s. 12, ~~the provisions of~~ Art. V of the
3746 State Constitution, the participant's Option 1 monthly
3747 disability benefit amount as provided in s. 121.091(6)(a)1.
3748 shall be two-thirds of his or her monthly compensation as of the
3749 participant's disability retirement date. The ~~Such~~ a participant
3750 may alternatively elect to receive an actuarially adjusted
3751 disability retirement benefit under any other option as provided
3752 in s. 121.091(6)(a), or ~~to~~ receive the normal benefit payable
3753 under ~~the Public Employee Optional Retirement Program as set~~
3754 ~~forth in~~ subsection (1).

3755 2. If any justice or judge who is a participant of the
3756 investment plan ~~Public Employee Optional Retirement program of~~
3757 ~~the Florida Retirement System~~ is retired for disability ~~by order~~
3758 ~~of the Supreme Court upon recommendation of the Judicial~~
3759 ~~Qualifications Commission~~ pursuant to s. 12, ~~the provisions of~~
3760 Art. V of the State Constitution and elects to receive a monthly
3761 disability benefit under the provisions of this paragraph:

3762 a. Any present value amount that was transferred to his or
3763 her plan program account and all employer contributions made to
3764 such account on his or her behalf, plus interest and earnings
3765 thereon, must ~~shall~~ be transferred to and deposited in the
3766 disability account of the Florida Retirement System Trust Fund;
3767 and

3768 b. The monthly disability benefits payable under this
3769 paragraph ~~for any affected justice or judge retired from the~~
3770 ~~Florida Retirement System pursuant to Art. V of the State~~

32-01276C-11

20111130__

3771 ~~Constitution~~ shall be paid from the disability account of the
 3772 Florida Retirement System Trust Fund.

3773 (n) *Death of retiree or beneficiary.*—Upon the death of a
 3774 disabled retiree or beneficiary of the retiree ~~thereof~~ who is
 3775 receiving monthly disability benefits under this subsection, the
 3776 monthly benefits shall be paid through the last day of the month
 3777 of death and shall terminate, or be adjusted, if applicable, as
 3778 of that date in accordance with the optional form of benefit
 3779 selected at the time of retirement. The department ~~of Management~~
 3780 ~~Services~~ may adopt rules necessary to administer this paragraph.

3781 (3) DEATH BENEFITS.—Under the Florida ~~Public Employee~~
 3782 ~~Optional Retirement System Investment Plan Program~~:

3783 (a) Survivor benefits are ~~shall be~~ payable in accordance
 3784 with the following terms and conditions:

3785 1. ~~To the extent vested,~~ Benefits are ~~shall be~~ payable only
 3786 to a participant's beneficiary or beneficiaries as designated by
 3787 the participant as provided in s. 121.4501(20).

3788 2. Benefits shall be paid by the third-party administrator
 3789 or designated approved providers in accordance with the law, the
 3790 contracts, and any applicable state board rule or policy.

3791 3. To receive benefits ~~under this subsection~~, the
 3792 participant must be deceased.

3793 (b) Except as provided in paragraph (d), if the employment
 3794 of a participant is terminated by reason of his or her ~~In the~~
 3795 ~~event of a participant's death:~~

3796 1. Before being vested, the participant's accumulated
 3797 contributions are payable to his or her designated beneficiary.

3798 2. After being vested, all vested accumulations as
 3799 described in s. 121.4501(6), less withholding taxes remitted to

32-01276C-11

20111130

3800 the Internal Revenue Service, shall be distributed, as provided
3801 in paragraph (c) or as described in s. 121.4501(20), as if the
3802 participant retired on the date of death. No other death
3803 benefits are ~~shall be~~ available for survivors of participants
3804 under the investment plan ~~Public Employee Optional Retirement~~
3805 ~~Program~~, except for ~~such~~ benefits, or coverage for ~~such~~
3806 benefits, as are otherwise provided by law or ~~are~~ separately
3807 provided ~~afforded~~ by the employer, at the employer's discretion.

3808 (c) Upon receipt by the third-party administrator of a
3809 properly executed application for distribution of benefits under
3810 paragraph (b), the total accumulated benefit is ~~shall be~~ payable
3811 by the third-party administrator to the participant's surviving
3812 beneficiary or beneficiaries, as:

3813 1. A lump-sum distribution payable to the beneficiary or
3814 beneficiaries, or to the deceased participant's estate;

3815 2. An eligible rollover distribution on behalf of the
3816 surviving spouse of a deceased participant, whereby all accrued
3817 benefits, plus interest and investment earnings, are paid from
3818 the deceased participant's account directly to the custodian of
3819 an eligible retirement plan, as described in s. 402(c)(8)(B) of
3820 the Internal Revenue Code, on behalf of the surviving spouse; or

3821 3. A partial lump-sum payment whereby a portion of the
3822 accrued benefit is paid to the deceased participant's surviving
3823 spouse or other designated beneficiaries, less withholding taxes
3824 remitted to the Internal Revenue Service, and the remaining
3825 amount is transferred directly to the custodian of an eligible
3826 retirement plan, as described in s. 402(c)(8)(B) of the Internal
3827 Revenue Code, on behalf of the surviving spouse. The proportions
3828 must be specified by the participant or the surviving

32-01276C-11

20111130

3829 beneficiary.

3830 (d) Notwithstanding paragraphs (b) and (c), if a
3831 participant is killed in the line of duty, benefits are payable
3832 from employer contributions made pursuant to s. 121.571,
3833 transferred participant funds accumulated pursuant to sub-
3834 paragraph 1.a., and interest and earnings thereon.

3835 1. Transfer of funds.-

3836 a. All moneys accumulated in the deceased participant's
3837 investment plan accounts, including vested and nonvested
3838 accumulations described in s. 121.4501(6), shall be transferred
3839 from such individual accounts to the Division of Retirement for
3840 deposit in the death benefits program of the Florida Retirement
3841 System Trust Fund. Such moneys must be separately accounted for.
3842 Earnings shall be credited on an annual basis for amounts held
3843 in the death benefits accounts of the trust fund based on actual
3844 earnings of the trust fund.

3845 b. If the deceased participant retained retirement credit
3846 he or she earned under the defined benefit program of the
3847 Florida Retirement System as provided in s. 121.4501(3)(b), a
3848 sum representing the actuarial present value of such credit
3849 within the Florida Retirement System Trust Fund shall be
3850 reassigned by the Division of Retirement from the defined
3851 benefit program to the death benefits program as implemented
3852 under this paragraph and deposited in the death benefits account
3853 of the trust fund. Such moneys shall be separately accounted
3854 for.

3855 2. Death benefit entitlement and payments.-

3856 a. The surviving spouse of a participant killed in the line
3857 of duty may receive a monthly pension equal to one-half of the

32-01276C-11

20111130

3858 monthly salary being received by the participant at the time of
3859 death for the rest of the surviving spouse's lifetime.

3860 b. If the surviving spouse of a participant killed in the
3861 line of duty dies, the monthly payments that would have been
3862 payable to the surviving spouse had such surviving spouse lived
3863 shall be paid for the use and benefit of such participant's
3864 children under 18 years of age and unmarried until the 18th
3865 birthday of the participant's youngest child.

3866 c. If a participant killed in the line of duty leaves no
3867 surviving spouse but is survived by children under 18 years of
3868 age, the benefits provided by sub-subparagraph a., normally
3869 payable to a surviving spouse, shall be paid for the use and
3870 benefit of the participant's child or children under 18 years of
3871 age and unmarried until the 18th birthday of the participant's
3872 youngest child.

3873
3874 This paragraph does not abrogate other applicable provisions of
3875 state or federal law providing for payment of death benefits.

3876 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
3877 any person under the Florida Public Employee Optional Retirement
3878 System Investment Plan Program, and any contributions
3879 accumulated under such plan program, are not subject to
3880 assignment, execution, attachment, or any legal process, except
3881 for qualified domestic relations orders by a court of competent
3882 jurisdiction, income deduction orders as provided in s. 61.1301,
3883 and federal income tax levies.

3884 Section 24. Section 121.5911, Florida Statutes, is amended
3885 to read:

3886 121.5911 Disability retirement program; qualified status;

32-01276C-11

20111130

3887 rulemaking authority.—It is the intent of the Legislature that
 3888 the disability retirement program for participants of the
 3889 Florida Public Employee Optional Retirement System Investment
 3890 Plan Program ~~as created in this act must~~ meet all applicable
 3891 requirements of federal law for a qualified plan. The department
 3892 ~~of Management Services~~ shall seek a private letter ruling from
 3893 the Internal Revenue Service on the disability retirement
 3894 program ~~for participants of the Public Employee Optional~~
 3895 ~~Retirement Program~~. Consistent with the private letter ruling,
 3896 the department ~~of Management Services~~ shall adopt ~~any necessary~~
 3897 rules necessary ~~required~~ to maintain the qualified status of the
 3898 disability retirement program and the Florida Retirement System
 3899 defined benefit program plan.

3900 Section 25. Subsection (1) of section 121.70, Florida
 3901 Statutes, is amended to read:

3902 121.70 Legislative purpose and intent.—

3903 (1) This part provides for a uniform system for funding
 3904 benefits provided under the Florida Retirement System defined
 3905 benefit program established under part I of this chapter
 3906 (referred to in this part as the defined benefit program) and
 3907 under the Florida Public Employee Optional Retirement System
 3908 Investment Plan Program established under part II of this
 3909 chapter (referred to in this part as the defined contribution
 3910 ~~optional retirement~~ program). The Legislature recognizes and
 3911 declares that the Florida Retirement System is a single
 3912 retirement system, consisting of two retirement plans and other
 3913 nonintegrated programs. Employers participating in the Florida
 3914 Retirement System collectively shall be responsible for making
 3915 contributions to support the benefits provided ~~afforded~~ under

32-01276C-11

20111130__

3916 both programs ~~plans~~. ~~The As provided in this part,~~ employers
3917 ~~participating in the Florida Retirement System~~ shall make
3918 contributions based upon uniform contribution rates determined
3919 as a percentage of the total payroll for each class or subclass
3920 of Florida Retirement System membership, irrespective of which
3921 retirement program the plan individual employee is enrolled in
3922 ~~employees may elect~~. This shall be known as a uniform or blended
3923 contribution rate system.

3924 Section 26. Subsections (1) and (2) of section 121.71,
3925 Florida Statutes, are amended, present subsections (3) and (4)
3926 of that section are renumbered as subsections (4) and (7),
3927 respectively, and new subsections (3), (5), and (6) are added to
3928 that section, to read:

3929 121.71 Uniform rates; process; calculations; levy.—

3930 (1) In conducting the system actuarial study required under
3931 s. 121.031, the actuary shall follow all requirements specified
3932 ~~thereunder~~ to determine, by Florida Retirement System employee
3933 membership class, the dollar contribution amounts necessary for
3934 the next forthcoming fiscal year for the defined benefit
3935 program. In addition, the actuary shall determine, by Florida
3936 Retirement System membership class, based on an estimate for the
3937 forthcoming fiscal year of the gross compensation of employees
3938 participating in the defined contribution ~~optional retirement~~
3939 program, the dollar contribution amounts necessary to make the
3940 allocations required under ss. 121.72 and 121.73. For each
3941 employee membership class and subclass, the actuarial study must
3942 ~~shall~~ establish a uniform rate necessary to fund the benefit
3943 obligations under both Florida Retirement System retirement
3944 plans by dividing the sum of total dollars required by the

32-01276C-11

20111130__

3945 estimated gross compensation of members in both plans.

3946 (2) Based on the uniform rates set forth in subsections
3947 ~~subsection~~ (3), (4), and (5), employers and employees shall make
3948 monthly contributions to the Division of Retirement as required
3949 under s. 121.061(1), which shall initially deposit the funds
3950 into the Florida Retirement System Contributions Clearing Trust
3951 Fund. A change in a contribution rate is effective on the first
3952 day of the month for which a full month's ~~employer~~ contribution
3953 may be made on or after the beginning date of the change.
3954 Beginning July 1, 2011, each employee shall contribute the
3955 contributions required in subsection (3) to the plan. The
3956 employer shall deduct the contribution from the employee's
3957 monthly salary and submit it to the division. The contributions
3958 shall be reported as employer-paid employee contributions, and
3959 shall be credited to the account of the employee. The
3960 contributions shall be deducted from the employee's salary
3961 before the computation of applicable federal taxes and treated
3962 as employer contributions under 26 U.S.C. 414(b)(2). Although
3963 designated as employee contributions, the employer specifies
3964 that the contributions are being paid by the employer in lieu of
3965 contributions by the employee. The employee does not have the
3966 option of choosing to receive the contributed amounts directly
3967 instead of having them paid to the plan. Such contributions are
3968 mandatory and each employee is deemed to have consented to the
3969 payroll deductions. Payment of an employee's salary or wages,
3970 less the contribution, is a full and complete discharge and
3971 satisfaction of all claims and demands for the service rendered
3972 by employees during the period covered by the payment, except
3973 for claims to benefits to which they may be entitled under this

32-01276C-11

20111130__

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3985

chapter.

(3) Required employee retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>
<u>Regular Class</u>	_____ %
<u>Special Risk Class</u>	_____ %
<u>Special Risk Administrative Support Class</u>	_____ %
<u>Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	_____ %
<u>Elected Officers' Class - Justices, Judges</u>	_____ %
<u>Elected Officers' Class - County Elected Officers</u>	_____ %

32-01276C-11

20111130__

Senior Management Class _____%

DROP _____%

(4) ~~(3)~~ Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	Percentage of Gross Compensation, Effective <u>July 1, 2012</u> July 1, 2010
--	--	---

Membership Class

Regular Class

9.76% ~~8.69%~~

9.54% ~~9.63%~~

Special Risk Class

22.20 ~~19.76%~~

21.92% ~~22.11%~~

Special Risk
Administrative
Support Class

11.41% ~~11.39%~~

11.02% ~~12.10%~~

Elected Officers'
Class—
Legislators, Governor,
Lt. Governor,

14.48% ~~13.32%~~

14.15% 15.20%

32-01276C-11 20111130__

Cabinet Officers,
State Attorneys,
Public Defenders

3995

Elected Officers'
Class—
Justices, Judges

19.43% ~~18.40%~~ 19.15% ~~20.65%~~

3996

Elected Officers'
Class—
County Elected
Officers

16.73% ~~15.37%~~ 16.39% ~~17.50%~~

3997

Senior Management Class

11.70% ~~11.96%~~ 16.39% ~~13.43%~~

3998

DROP

13.79% ~~9.80%~~ 14.21% ~~11.14%~~

3999

4000

(5) In order to address unfunded actuarial liabilities of

4001

the system, the required employer retirement contribution rates

4002

for each membership class and subclass of the Florida Retirement

4003

System for both retirement plans are as follows:

	<u>Percentage of</u> <u>Gross</u> <u>Compensation,</u> <u>Effective July 1,</u> <u>2012</u>
<u>Membership Class</u>	

	32-01276C-11	20111130__
4004	<u>Regular Class</u>	<u>1.58%</u>
4005	<u>Special Risk Class</u>	<u>5.97%</u>
4006	<u>Special Risk</u> <u>Administrative</u> <u>Support Class</u>	<u>15.97%</u>
4007	<u>Elected Officers' Class -</u> <u>Legislators, Governor,</u> <u>Lt. Governor,</u> <u>Cabinet Officers,</u> <u>State Attorneys,</u> <u>Public Defenders</u>	<u>17.05%</u>
4008	<u>Elected Officers' Class -</u> <u>Justices, Judges</u>	<u>11.00%</u>
4009	<u>Elected Officers' Class -</u> <u>County Elected Officers</u>	<u>19.75%</u>
4010	<u>Senior Management Class</u>	<u>9.26%</u>
4011	<u>DROP</u>	<u>4.97%</u>
4012		
4013	<u>(6) If a member is reported under an incorrect membership</u>	
4014	<u>class and the amount of contributions reported and remitted are</u>	
4015	<u>less than the amount required, the employer shall owe the</u>	

32-01276C-11

20111130__

4016 difference, plus the delinquent fee, of 1 percent for each
 4017 calendar month or part thereof that the contributions should
 4018 have been paid. This delinquent assessment may not be waived. If
 4019 the contributions reported and remitted are more than the amount
 4020 required, the employer shall receive a credit to be applied
 4021 against future contributions owed.

4022 (7)(4) The state actuary shall recognize and use an
 4023 appropriate level of available excess assets of the Florida
 4024 Retirement System Trust Fund to offset the difference between
 4025 the normal costs of the Florida Retirement System and the
 4026 statutorily prescribed contribution rates.

4027 Section 27. Section 121.72, Florida Statutes, is amended to
 4028 read:

4029 121.72 Allocations to defined contribution ~~optional~~
 4030 ~~retirement~~ program participant accounts; percentage amounts.—

4031 (1) The allocations established in subsection (4) shall
 4032 fund retirement benefits under the defined contribution ~~optional~~
 4033 ~~retirement~~ program and shall be transferred monthly by the
 4034 Division of Retirement from the Florida Retirement System
 4035 Contributions Clearing Trust Fund to the third-party
 4036 administrator for deposit in each participating employee's
 4037 individual account based on the membership class of the
 4038 participant.

4039 (2) The allocations are stated as a percentage of each
 4040 defined contribution ~~optional retirement~~ program participant's
 4041 gross compensation for the calendar month. A change in a
 4042 contribution percentage is effective the first day of the month
 4043 for which retirement contributions ~~a full month's employer~~
 4044 ~~contribution~~ may be made on or after the beginning date of the

32-01276C-11

20111130__

4045 change. Contribution percentages may be modified by general law.

4046 (3) Employer and participant contributions to participant
 4047 accounts shall be accounted for separately. ~~Participant~~
 4048 ~~contributions may be made only if expressly authorized by law.~~
 4049 Interest and investment earnings on contributions shall accrue
 4050 on a tax-deferred basis until proceeds are distributed.

4051 (4) Effective July 1, 2011 ~~July 1, 2002~~, allocations from
 4052 the Florida Retirement System Contributions Clearing Trust Fund
 4053 to defined contribution ~~optional retirement~~ program participant
 4054 accounts, including employee contributions required under s.
 4055 121.71(3), are ~~shall be~~ as follows:

Membership Class	Percentage of Gross Compensation
------------------	-------------------------------------

4056

4057

Regular Class	9.00%
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4058

Special Risk Class	20.00%
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4059

Special Risk Administrative Support Class	11.35%
--	--------

4060

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
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4061

Elected Officers' Class—	18.90%
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32-01276C-11

20111130__

Justices, Judges

4062

Elected Officers' Class-

County Elected Officers 16.20%

4063

Senior Management Service Class 10.95%

4064

4065

4066 Section 28. Section 121.73, Florida Statutes, is amended to
4067 read:

4068 121.73 Allocations for ~~optional retirement program~~
4069 participant disability coverage; percentage amounts.-

4070 (1) The allocations established in subsection (3) shall be
4071 used to provide disability coverage for participants in the
4072 defined contribution ~~optional retirement~~ program and shall be
4073 transferred monthly by the Division of Retirement from the
4074 Florida Retirement System Contributions Clearing Trust Fund to
4075 the disability account of the Florida Retirement System Trust
4076 Fund.

4077 (2) The allocations are stated as a percentage of each
4078 defined contribution ~~optional retirement~~ program participant's
4079 gross compensation for the calendar month. A change in a
4080 contribution percentage is effective the first day of the month
4081 for which retirement contributions ~~a full month's employer~~
4082 ~~contribution~~ may be made on or after the beginning date of the
4083 change. Contribution percentages may be modified by general law.

4084 (3) Effective July 1, 2002, allocations from the Florida
4085 Retirement System ~~FRS~~ Contribution Clearing Fund to provide

32-01276C-11

20111130__

4086 disability coverage for participants in the defined contribution
 4087 ~~optional retirement~~ program, and to offset the costs of
 4088 administering said coverage, shall be as follows:

Membership Class	Percentage of Gross Compensation
------------------	-------------------------------------

4089

4090

Regular Class	0.25%
---------------	-------

4091

Special Risk Class	1.33%
--------------------	-------

4092

Special Risk Administrative Support Class	0.45%
--	-------

4093

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
--	-------

4094

Elected Officers' Class— Justices, Judges	0.73%
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4095

Elected Officers' Class— County Elected Officers	0.41%
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4096

Senior Management Service Class	0.26%
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4097

32-01276C-11

20111130

4098
4099 (4) Effective July 1, 2011, allocations from the Florida
4100 Retirement System Contribution Clearing Fund to provide
4101 disability coverage for participants in the investment plan and
4102 to offset the costs of administering such coverage shall be the
4103 actuarially indicated amount necessary to fund the statutorily
4104 authorized benefit for the plan year as determined by the
4105 department's actuary.

4106 Section 29. Section 121.74, Florida Statutes, is amended to
4107 read:

4108 121.74 Administrative and educational expenses.—In addition
4109 to contributions required under ss. ~~ss.~~ 121.71 and 121.73,
4110 effective July 1, 2010, through June 30, 2014, employers
4111 participating in the Florida Retirement System shall contribute
4112 an amount equal to 0.03 percent of the payroll reported for each
4113 class or subclass of Florida Retirement System membership;
4114 effective July 1, 2014, the contribution rate shall be 0.04
4115 percent of the payroll reported for each class or subclass of
4116 membership. The amount contributed shall be transferred by the
4117 Division of Retirement from the Florida Retirement System
4118 Contributions Clearing Trust Fund to the state board's ~~Board of~~
4119 ~~Administration's~~ administrative trust fund to offset the costs
4120 of administering the defined contribution ~~optional retirement~~
4121 program and the costs of providing educational services to
4122 participants in the defined benefit program and the defined
4123 contribution ~~optional retirement~~ program. Approval of the
4124 trustees is required before the expenditure of these funds.
4125 Payments for third-party administrative or educational expenses
4126 shall be made only pursuant to the terms of the approved

32-01276C-11

20111130__

4127 contracts for such services.

4128 Section 30. Section 121.77, Florida Statutes, is amended to
4129 read:

4130 121.77 Deductions from participant accounts.— The State
4131 Board of Administration may authorize the third-party
4132 administrator to deduct reasonable fees and apply appropriate
4133 charges to defined contribution ~~optional retirement~~ program
4134 participant accounts. In no event may ~~shall~~ administrative and
4135 educational expenses exceed the portion of employer
4136 contributions earmarked for such expenses under this part,
4137 except for reasonable administrative charges assessed against
4138 participant accounts of persons for whom no employer
4139 contributions are made during the calendar quarter. Investment
4140 management fees shall be deducted from participant accounts,
4141 pursuant to the terms of the contract between the provider and
4142 the board.

4143 Section 31. Subsections (1) and (3) of section 121.78,
4144 Florida Statutes, are amended to read:

4145 121.78 Payment and distribution of contributions.—

4146 (1) Contributions made pursuant to this part, including the
4147 employee contributions, shall be paid by the employer to the
4148 Division of Retirement by electronic funds transfer no later
4149 than the 5th working day of the month immediately following the
4150 month during which the payroll period ended. Accompanying
4151 payroll data must be transmitted to the division concurrent with
4152 the contributions.

4153 (3) (a) Employer and employee contributions and accompanying
4154 payroll data received after the 5th working day of the month are
4155 considered late. The employer shall be assessed by the Division

32-01276C-11

20111130

4156 of Retirement a penalty of 1 percent of the contributions due
4157 for each calendar month or part thereof that the contributions
4158 or accompanying payroll data are late. Proceeds from the 1-
4159 percent assessment against contributions made on behalf of
4160 participants of the defined benefit program shall be deposited
4161 in the Florida Retirement System Trust Fund, and proceeds from
4162 the 1 percent ~~1 percent~~ assessment against contributions made on
4163 behalf of participants of the defined contribution ~~optional~~
4164 ~~retirement~~ program shall be transferred to the third-party
4165 administrator for deposit into participant accounts, as provided
4166 in paragraph (c) ~~(b)~~.

4167 (b) Retirement contributions paid for a prior period shall
4168 be charged a delinquent fee of 1 percent for each calendar month
4169 or part thereof that the contributions should have been paid.
4170 This includes prior period contributions due to incorrect wages,
4171 contributions from an earlier report or wages, and contributions
4172 that should have been reported but were not. The delinquent
4173 assessments may not be waived.

4174 (c) ~~(b)~~ If employee contributions or contributions made by
4175 an employer on behalf of participants of the defined
4176 contribution ~~optional retirement~~ program or accompanying payroll
4177 data are not received within the calendar month they are due,
4178 including, but not limited to, contribution adjustments as a
4179 result of employer errors or corrections, and if that
4180 delinquency results in market losses to participants, the
4181 employer shall reimburse each participant's account for market
4182 losses resulting from the late contributions. If a participant
4183 has terminated employment and taken a distribution, the
4184 participant is responsible for returning any excess

32-01276C-11

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4185 contributions erroneously provided by employers, adjusted for
4186 any investment gain or loss incurred during the period such
4187 excess contributions were in the participant's account. The
4188 state board or its designated agent shall communicate to
4189 terminated participants any obligation to repay such excess
4190 contribution amounts. However, the state board, its designated
4191 agents, the Florida Public Employee Optional Retirement System
4192 Investment Plan Program Trust Fund, the department, or the
4193 Florida Retirement System Trust Fund may not incur any loss or
4194 gain as a result of an employer's correction of such excess
4195 contributions. The third-party administrator, hired by the state
4196 board pursuant to s. 121.4501(8), shall calculate the market
4197 losses for each affected participant. If contributions made on
4198 behalf of participants of the defined contribution optional
4199 ~~retirement~~ program or accompanying payroll data are not received
4200 within the calendar month due, the employer shall also pay the
4201 cost of the third-party administrator's calculation and
4202 reconciliation adjustments resulting from the late
4203 contributions. The third-party administrator shall notify the
4204 employer of the results of the calculations and the total amount
4205 due from the employer for such losses and the costs of
4206 calculation and reconciliation. The employer shall remit to the
4207 Division of Retirement the amount due within 30 working days
4208 after the date of the penalty notice sent by the division. The
4209 division shall transfer that amount to the third-party
4210 administrator, which shall deposit proceeds from the 1 percent
4211 ~~1-percent~~ assessment and from individual market losses into
4212 participant accounts, as appropriate. The state board may adopt
4213 rules to administer the provisions regarding late contributions,

32-01276C-11

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4214 late submission of payroll data, the process for reimbursing
4215 participant accounts for resultant market losses, and the
4216 penalties charged to the employers.

4217 (d) If employee contributions reported by an employer on
4218 behalf of participants are reduced as a result of employer
4219 errors or corrections and the participant has terminated
4220 employment and taken a refund or distribution, the employer
4221 shall be billed and is responsible for recovering from the
4222 participant any excess contributions erroneously provided by the
4223 employer.

4224 (e)~~(e)~~ Delinquency fees specified in paragraph (a) may be
4225 waived by the Division of Retirement, with regard to defined
4226 benefit program contributions, and by the state board, with
4227 regard to defined contribution ~~optional retirement~~ program
4228 contributions, only if, in the opinion of the division or the
4229 board, as appropriate, exceptional circumstances beyond the
4230 employer's control prevented remittance by the prescribed due
4231 date notwithstanding the employer's good faith efforts to effect
4232 delivery. Such a waiver of delinquency may be granted an
4233 employer only once each plan ~~state fiscal~~ year.

4234 (f) If the employer submits excess employer or employee
4235 contributions, the employer shall receive a credit to be applied
4236 against future contributions owed. The employer is responsible
4237 for reimbursing the employee for any excess contributions
4238 submitted if any return of such an erroneous excess pretax
4239 contribution by the program is made within 1 year after making
4240 erroneous contributions or such other period as allowed under
4241 applicable Internal Revenue guidance.

4242 (g)~~(d)~~ If contributions made by an employer on behalf of

32-01276C-11

20111130

4243 participants in the defined contribution ~~optional retirement~~
4244 program are delayed in posting to participant accounts due to
4245 acts of God beyond the control of the Division of Retirement,
4246 the state board, or the third-party administrator, as
4247 applicable, market losses resulting from the late contributions
4248 are not payable to the participants.

4249 Section 32. Paragraph (a) of subsection (4) of section
4250 1012.875, Florida Statutes, is amended to read:

4251 1012.875 State Community College System Optional Retirement
4252 Program.—Each community college may implement an optional
4253 retirement program, if such program is established therefor
4254 pursuant to s. 1001.64(20), under which annuity or other
4255 contracts providing retirement and death benefits may be
4256 purchased by, and on behalf of, eligible employees who
4257 participate in the program, in accordance with s. 403(b) of the
4258 Internal Revenue Code. Except as otherwise provided herein, this
4259 retirement program, which shall be known as the State Community
4260 College System Optional Retirement Program, may be implemented
4261 and administered only by an individual community college or by a
4262 consortium of community colleges.

4263 (4) (a) Through June 30, 2011, each college must contribute
4264 on behalf of each program participant an amount equal to 10.43
4265 percent of the participant's gross monthly compensation.
4266 Effective July 1, 2011, each program participant shall
4267 contribute an amount equal to the employee contribution required
4268 under s. 121.71(3). Effective July 1, 2011, each employer shall
4269 contribute on behalf of each program participant an amount equal
4270 to the difference between 10.43 percent of the participant's
4271 gross monthly compensation and the employee's required

32-01276C-11

20111130__

4272 contribution based on the employee's gross monthly compensation.
4273 The college shall deduct an amount approved by the district
4274 board of trustees of the college to provide for the
4275 administration of the optional retirement program. Payment of
4276 this contribution must be made ~~either~~ directly by the college or
4277 through the program administrator to the designated company
4278 contracting for payment of benefits to the program participant.

4279 Section 33. As part of the actuarial study required under
4280 s. 121.031(3), Florida Statutes, based on the results of June
4281 30, 2011, the administrator of the Florida Retirement System
4282 shall contract with the state actuary to conduct an actuarial
4283 study of the system which considers the following methods of
4284 funding the Deferred Retirement Option Program:

4285 (1) Through a separate contribution rate regardless of the
4286 participant's membership class, which had been the principal
4287 method through the 2010 valuation.

4288 (2) Treat participants as retirees such that the payroll
4289 associated with the participants is not used to develop the
4290 contribution rates for the respective membership class, and the
4291 employer is not required to make contributions on such payroll
4292 except for unfunded actuarial liability contributions.

4293 (3) Treat participants as active members such that the
4294 payroll associated with the participants is used to develop the
4295 contribution rates for the respective membership class, and the
4296 employer is required to make contributions on the payroll at the
4297 same contribution rate as the employer pays for an active member
4298 of the applicable class.

4299 Section 34. The Legislature finds that a proper and
4300 legitimate state purpose is served when employees and retirees

32-01276C-11

20111130__

4301 of the state and its political subdivisions, and the dependents,
4302 survivors, and beneficiaries of such employees and retirees, are
4303 extended the basic protections afforded by governmental
4304 retirement systems. These persons must be provided benefits that
4305 are fair and adequate and that are managed, administered, and
4306 funded in an actuarially sound manner, as required by s. 14,
4307 Article X of the State Constitution and part VII of chapter 112,
4308 Florida Statutes. Therefore, the Legislature determines and
4309 declares that this act fulfills an important state interest.

4310 Section 35. The Division of Statutory Revision is requested
4311 to rename the title of part II of chapter 121, Florida Statutes,
4312 as "Florida Retirement System Investment Plan."

4313 Section 36. For the 2011-2012 fiscal year, the sums of
4314 \$414,109 of recurring funds and \$31,016 of nonrecurring funds
4315 from the Florida Retirement System Operating Trust Fund are
4316 appropriated to, and eight full-time equivalent positions and
4317 salary rate of 265,621 are authorized for, the Division of
4318 Retirement within the Department of Management Services for the
4319 purpose of implementing this act.

4320 Section 37. (1) Effective upon this act becoming a law, the
4321 State Board of Administration and the Department of Management
4322 Services shall, as soon as practicable, request a determination
4323 letter and private letter ruling from the United States Internal
4324 Revenue Service. If the Internal Revenue Service refuses to act
4325 upon a request for a private letter ruling, the legal opinion
4326 from a qualified tax attorney or firm may be substituted for the
4327 private letter ruling.

4328 (2) If the board or the department receives notification
4329 from the United States Internal Revenue Service that this act or

32-01276C-11

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4330 any portion of this act will cause the Florida Retirement
4331 System, or a portion thereof, to be disqualified for tax
4332 purposes under the Internal Revenue Code, then that portion does
4333 not apply. Upon such notice, the state board and the department
4334 shall notify the presiding officers of the Legislature.

4335 Section 38. Except as otherwise expressly provided in this
4336 act, this act shall take effect June 30, 2011.

Forward to
Gov Oversight

February 7, 2011

RECEIVED

The Honorable Mike Haridopolos
President, Florida Senate
Florida House of Representatives
409 The Capitol
404 South Monroe St.
Tallahassee, FL 32399-1100

2011 FEB -9 A 9:11

OFFICE OF THE
SENATE PRESIDENT

RE: Florida Retirement System

Dear Honorable Mike Haridopolos:

The purpose of this letter is to relate to you my strong disapproval of the proposed cuts to the Florida Retirement System.

This proposal, I feel, is entirely unfair to all of the public servants that risk their lives every day. A vast majority of them are grossly underpaid to begin with. The stress that these jobs put on these individuals that vow to serve and protect the citizens of the State of Florida, as well as their families, the general public is not aware of. Not only should there not be any reductions or increased costs to their retirement, but if anything, their benefits should be increased.

Thank you for your time and consideration of this matter.

Sincerely,



Gilda Proctor
3646 Floramar Terrace
New Port Richey, FL 34652

727-849-8644

email: rproctor13@tampabay.rr.com

Rita L. Judge
40934 Lynbrook Drive
Zephyrhills, FL 33540
February 08, 2011

RECEIVED
2011 FEB 10 A 9:07
OFFICE OF THE
SENATE CLERK

Mike Haridopolos
409 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator:

I am a 50 year resident of the State of Florida and a 24 ½ year State of Florida employee. As the legislation meets and addresses the many issues that our state is facing, I ask you to please consider the plight of the state workers. We at the Public Health department have fought long and hard to serve and protect the health of the residents of our state. We have always faced budget cuts involving the elimination of vital programs, staffing positions and even shortages of supplies as the fiscal year ends. Many of us have found it necessary over the years to supplement our state income by working a second job in addition to our state employment. We have not received a pay increase since 2006 and this is not the first financial drought that we have experienced as state employees. The people who work in the Public health field are truly public servants as we have to be dedicated to the cause to enter the field, to believe in the importance of our work and most importantly to remain in the field. The only financial reward for this commitment has been the Florida Retirement System pension fund. As employees who have not made a lot of money, it has been difficult for many to save towards contributing to our future retirement fund. We were promised and looked forward to this reward at the end of our career service. It has certainly been a factor in many employees' lives to remain with their state jobs. We are now hearing that FRS will be changed, that we will be required to contribute from our already over burdened personal budgets and that the D.R.O.P. Program will be discontinued. Despite our lack of pay increases, gas, groceries and almost every commodity to survive in life has had a dramatic price increase. It has been said "the taxpayers should not have to bear the responsibility of our FRS" however we are taxpayers as well. I sincerely hope that all of these important factors are taken into consideration when an overhaul of FRS is addressed.

Sincerely,



Rita L. Judge

February 8, 2011

RECEIVED

Dear Honorable Senate President Haridopolos A 9:07

HOUSE OF THE
SENATE PRESIDENT

The Florida pension is not a "gift" it is something I earned – the percentage contributed by my employer as part of my salary. When I was hired as a teacher and told informed of my salary (low compared to my education/private sector), it was explained to me that the money in my paycheck was not a true reflection of my salary. I was told that I really made more money because the district contributed to my pension fund. So my real salary was more because of those pension dollars – which is my money. Therefore I am contributing to the fund.

When the district contributes to my pension fund it costs them less over time than it would to pay me that money. It lets them justify their low salaries. To say that state workers, educators, firefighters, and law enforcement don't contribute to the pension plan is wrong. No state or business entity I know "gives" money away. The public relations campaign saying we don't contribute is less than truthful; it is demoralizing and demeaning. The rhetoric of us not contributing to the pension fund incites others. It makes it sound as if we are ungrateful, only interested in the money, which couldn't be further from the truth.

Why not tell the people of Florida the real agenda; the plan calls for making up funding in other budget areas by using money from the pension fund. Teachers, state workers, firefighters, and law enforcement will be making up the cash by contributing five percent of their salaries. If the public was made aware of the facts of this plan would they be as supportive of this scheme?

Respectfully,



February 8, 2011

Dear State Senator Storms,

2011 FEB 10 A 9:07

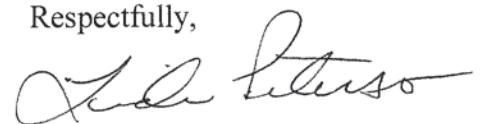
OFFICE OF THE
STATE PRESIDENT

The Florida pension is not a “gift” it is something I earned – the percentage contributed by my employer as part of my salary. When I was hired as a teacher and told informed of my salary (low compared to my education/private sector), it was explained to me that the money in my paycheck was not a true reflection of my salary. I was told that I really made more money because the district contributed to my pension fund. So my real salary was more because of those pension dollars – which is my money. Therefore I am contributing to the fund.

When the district contributes to my pension fund it costs them less over time than it would to pay me that money. It lets them justify their low salaries. To say that state workers, educators, firefighters, and law enforcement don’t contribute to the pension plan is wrong. No state or business entity I know “gives” money away. The public relations campaign saying we don’t contribute is less than truthful; it is demoralizing and demeaning. The rhetoric of us not contributing to the pension fund incites others. It makes it sound as if we are ungrateful, only interested in the money, which couldn’t be further from the truth.

Why not tell the people of Florida the real agenda; the plan calls for making up funding in other budget areas by using money from the pension fund. Teachers, state workers, firefighters, and law enforcement will be making up the cash by contributing five percent of their salaries. If the public was made aware of the facts of this plan would they be as supportive of this scheme?

Respectfully,



February 8, 2011

Dear State Senator Dockery,

2011 FEB 10 A 9:07

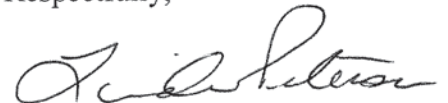
OFFICE OF THE
STATE PRESIDENT

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Why not tell the people of Florida the real agenda; the plan calls for making up funding in other budget areas by using money from the pension fund. Teachers, state workers, firefighters, and law enforcement will be making up the cash by contributing five percent of their salaries. If the public was made aware of the facts of this plan would they be as supportive of this scheme?

Respectfully,



February 8, 2011

RECEIVED

Dear State Senator Alexander,

2011 FEB 10 A 9:06

OFFICE OF THE
SENATE PRESIDENT

The Florida pension is not a “gift” it is something I earned – the percentage contributed by my employer as part of my salary. When I was hired as a teacher and told informed of my salary (low compared to my education/private sector), it was explained to me that the money in my paycheck was not a true reflection of my salary. I was told that I really made more money because the district contributed to my pension fund. So my real salary was more because of those pension dollars – which is my money. Therefore I am contributing to the fund.

When the district contributes to my pension fund it costs them less over time than it would to pay me that money. It lets them justify their low salaries. To say that state workers, educators, firefighters, and law enforcement don’t contribute to the pension plan is wrong. No state or business entity I know “gives” money away. The public relations campaign saying we don’t contribute is less than truthful; it is demoralizing and demeaning. The rhetoric of us not contributing to the pension fund incites others. It makes it sound as if we are ungrateful, only interested in the money, which couldn’t be further from the truth.

Why not tell the people of Florida the real agenda; the plan calls for making up funding in other budget areas by using money from the pension fund. Teachers, state workers, firefighters, and law enforcement will be making up the cash by contributing five percent of their salaries. If the public was made aware of the facts of this plan would they be as supportive of this scheme?

Respectfully,

