

By the Committee on Governmental Reform and Oversight

4-1668-98

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System (RAB); clarifying provisions throughout
4 ch. 121, F.S., relating to vesting and the
5 normal retirement date for a member; amending
6 s. 121.021, F.S., relating to definitions;
7 revising and adding definitions; amending s.
8 121.051, F.S., relating to participation in the
9 Florida Retirement System; providing that
10 consultants and independent contractors are
11 ineligible to participate; establishing
12 procedures and requirements for municipalities
13 or special districts that choose to participate
14 in the Florida Retirement System; providing
15 requirements for employers that transfer,
16 merge, or consolidate governmental services or
17 functions; limiting a member's rights following
18 a conviction for causing a shortage in a public
19 account; providing requirements and limitations
20 for a member who is dually employed; amending
21 s. 121.0515, F.S., relating to Special Risk
22 Class membership; providing for retroactive
23 membership in certain cases; requiring certain
24 members who are moved or reassigned to
25 participate in the Special Risk Administrative
26 Support Class; amending s. 121.052, F.S.,
27 relating to the Elected State and County
28 Officers' Class; providing for calculating
29 average final compensation; amending s.
30 121.053, F.S., relating to retired member
31 participation in the Elected State and County

1 Officers' Class; clarifying requirements for
2 creditable service; amending s. 121.055, F.S.,
3 relating to the Senior Management Service
4 Optional Annuity Program; clarifying
5 participation requirements; providing for the
6 Optional Annuity Program Trust Fund; providing
7 eligibility requirements for receiving
8 benefits; providing for administering the
9 program; providing requirements and limitations
10 for a member who is dually employed; amending
11 s. 121.071, F.S., relating to system
12 contributions; providing requirements for
13 contributions for other creditable service;
14 amending s. 121.081, F.S., relating to
15 contributions for past service or prior
16 service; clarifying provisions with respect to
17 required contributions; providing requirements
18 for receiving service credit and prior service
19 credit; amending s. 121.091, F.S., relating to
20 benefits payable under the Florida Retirement
21 System; providing for cancellation of
22 application for retirement benefits; clarifying
23 and consolidating benefit provisions; providing
24 procedures for determining average final
25 compensation; providing for determining
26 disability retirement benefits; providing for
27 optional forms of retirement benefits and
28 disability retirement benefits; providing
29 requirements for determining death benefits;
30 providing for designating beneficiaries;
31 providing for the payment of benefits;

1 authorizing certain deductions from the monthly
2 benefit payment; amending s. 121.111, F.S.,
3 relating to credit for military service;
4 providing requirements for determining
5 creditable service; amending s. 121.121, F.S.;
6 providing requirements for purchasing
7 creditable service for authorized leaves of
8 absence; amending s. 121.122, F.S., relating to
9 renewed membership; clarifying requirements for
10 a member who does not claim credit for all
11 postretirement service; creating s. 121.193,
12 F.S., relating to external compliance audits;
13 providing responsibilities of the Division of
14 Retirement of the Department of Management
15 Services with respect to such audits;
16 specifying requirements of participating
17 agencies; amending s. 121.35, F.S., relating to
18 the Optional Retirement Program for the State
19 University System; providing for the
20 application of certain federal requirements;
21 providing for the administration of the
22 Optional Retirement Program Trust Fund;
23 clarifying benefit requirements; providing for
24 responsibilities of the Board of Regents and
25 institutions in the State University System;
26 amending s. 121.40, F.S., relating to the
27 supplemental retirement benefits provided for
28 certain personnel at the Institute of Food and
29 Agricultural Sciences at the University of
30 Florida; providing for the deduction of certain
31 payments from the monthly benefit payment;

1 providing legislative intent with respect to
2 the amendments made by the act; providing an
3 effective date.

4
5 Be It Enacted by the Legislature of the State of Florida:

6
7 Section 1. Subsections (22), (24), (29), and (30) of
8 section 121.021, Florida Statutes, as amended by chapters
9 97-154 and 97-180, Laws of Florida, are amended, and
10 subsections (45), (46), (47), (48), (49), (50), (51), (52),
11 and (53) are added to that section, to read:

12 121.021 Definitions.--The following words and phrases
13 as used in this chapter have the respective meanings set forth
14 unless a different meaning is plainly required by the context:

15 (22) "Compensation" means the monthly salary paid a
16 member by his or her employer for work performed arising from
17 that employment, ~~including~~

18 (a) Compensation shall include:

19 1. Overtime payments paid from a salary fund, ~~except~~
20 that:

21 2. Accumulated annual leave payments.

22 3. Payments in addition to the employee's base rate of
23 pay if all the following apply:

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

26 b. The policy provides that payments shall commence
27 not later than the 11th year of employment;

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

30 d. The payments are paid at least annually.
31

1 4. Amounts withheld for tax sheltered annuities or
2 deferred compensation programs, or any other type of salary
3 reduction plan authorized under the Internal Revenue Code.

4 5. Payments made in lieu of a permanent increase in
5 the base rate of pay, whether made annually or in 12 or 26
6 equal payments within a 12-month period, when the member's
7 base pay is at the maximum of his pay range. When a portion of
8 a member's annual increase raises his base pay to the maximum
9 of his pay range and the excess is paid as a lump-sum payment,
10 such lump-sum payment shall be compensation for retirement
11 purposes.

12 ~~(b)(a)~~ Under no circumstances shall compensation
13 include:

14 1. Fees paid professional persons for special or
15 particular services or ~~include~~ salary payments made from a
16 faculty practice plan operated by rule of the Board of Regents
17 for eligible clinical faculty at the University of Florida and
18 the University of South Florida; ~~or-~~

19 2. Any bonuses or other payments prohibited from
20 inclusion in the member's average final compensation and
21 defined in subsection (46).

22 ~~(c)(b)~~ For all purposes under this chapter, the
23 member's compensation or gross compensation contributed as
24 employee-elective salary reductions or deferrals to any salary
25 reduction, deferred compensation, or tax-sheltered annuity
26 program authorized under the Internal Revenue Code shall be
27 deemed to be the compensation or gross compensation which the
28 member would receive if he or she were not participating in
29 such program and shall be treated as compensation for
30 retirement purposes under this chapter. Any public funds
31 otherwise paid by an employer into an employee's salary

1 reduction, deferred compensation, or tax-sheltered annuity
2 program on or after July 1, 1990 (the date as of which all
3 employers were notified in writing by the division to cease
4 making contributions to the System Trust Fund based on such
5 amounts), shall be considered a fringe benefit and shall not
6 be treated as compensation for retirement purposes under this
7 chapter. However, if an employer was notified in writing by
8 the division to cease making such contributions as of a
9 different date, that employer shall be subject to the
10 requirements of said written notice.

11 (d)~~(c)~~ For any person who first becomes a member on or
12 after July 1, 1996, compensation for any plan year shall not
13 include any amounts in excess of the s. 401(a)(17), Internal
14 Revenue Code limitation (as amended by the Omnibus Budget
15 Reconciliation Act of 1993), which limitation of \$150,000
16 effective July 1, 1996, shall be adjusted as required by
17 federal law for qualified government plans and shall be
18 further adjusted for changes in the cost of living in the
19 manner provided by s. 401(a)(17)(B), Internal Revenue Code.
20 For any person who first became a member prior to July 1,
21 1996, compensation for all plan years beginning on or after
22 July 1, 1990, shall not include any amounts in excess of the
23 compensation limitation (originally \$200,000) established by
24 s. 401(a)(17), Internal Revenue Code prior to the Omnibus
25 Budget Reconciliation Act of 1993, which limitation shall be
26 adjusted for changes in the cost of living since 1989, in the
27 manner provided by s. 401(a)(17) of the Internal Revenue Code
28 of 1991. This limitation, which has been part of the Florida
29 Retirement System since plan years beginning on or after July
30 1, 1990, shall be adjusted as required by federal law for
31 qualified government plans.

1 (24) "Average final compensation" means the average of
2 the 5 highest fiscal years of compensation for creditable
3 service prior to retirement, termination, or death. For
4 in-line-of-duty disability benefits, if less than 5 years of
5 creditable service have been completed, the term "average
6 final compensation" means the average annual compensation of
7 the total number of years of creditable service. Each year
8 used in the calculation of average final compensation shall
9 commence on July 1.

10 (a) The average final compensation shall include:

11 1. Accumulated annual leave payments, not to exceed
12 500 hours; and

13 2. All payments defined as compensation in subsection
14 (22).

15 (b) The average final compensation may not include:

16 1. Compensation paid to professional persons for
17 special or particular services;

18 2. Payments for accumulated sick leave made due to
19 retirement or termination;

20 3. Payments for accumulated annual leave in excess of
21 500 hours;

22 4. Bonuses as defined in subsection (46);

23 5. Third-party payments made on and after July 1,
24 1990; or

25 6. Fringe benefits, such as automobile allowances or
26 housing allowances. ~~The payment for accumulated sick leave,~~
27 ~~accumulated annual leave in excess of 500 hours, and bonuses,~~
28 ~~whether paid as salary or otherwise, shall not be used in the~~
29 ~~calculation of the average final compensation.~~

1 (29) "Normal retirement date" means the first day of
2 any month following the date a member attains one of the
3 following statuses:

4 (a) If a Regular Class member, the member:

5 1. Completes 10 or more years of creditable service
6 and attains age 62; or

7 2. ~~(b)~~ Completes 30 years of creditable service,
8 regardless of age, which may include a maximum of 4 years of
9 military service credit as, so long as such credit is not
10 claimed under any other system., regardless of age;

11 **(b)(c)** If a Special Risk Class member, the member:

12 1. Completes 10 or more years of creditable service in
13 the Special Risk Class and attains age 55;

14 2. Completes 25 years of creditable service in the
15 Special Risk Class, regardless of age; or

16 3. Completes 25 years of creditable service and
17 attains age 52, which service may include a maximum of 4 years
18 of military service credit as long as such credit is not
19 claimed under any other system and the remaining years are in
20 the Special Risk Class., and attains age 52; or

21 **(c)(d)** If a Senior Management Service Class member:

22 1. Completes 7 years of creditable service in the
23 Senior Management Service Class and attains age 62; or

24 2. Completes 30 years of any creditable service,
25 regardless of age, which may include a maximum of 4 years of
26 military service credit, regardless of age as long as such
27 credit is not claimed under any other system.

28 **(d)** If an Elected State and County Officers' Class
29 member, the member:

30
31

1 1. Completes 8 years of creditable service in the
2 Elected State and County Officers' Class and attains age 62;
3 or

4 2. Completes 30 years of any creditable service,
5 regardless of age, which may include a maximum of 4 years of
6 military service credit as long as such credit is not claimed
7 under any other system.

8
9 "Normal retirement age" is attained on the "normal retirement
10 date."

11 (30) "Early retirement date" means the first day of
12 the month following the date a member becomes vested ~~completes~~
13 ~~10 years of creditable service~~ and elects to receive
14 retirement benefits in accordance with this chapter. Such
15 benefits shall be based on average monthly compensation and
16 creditable service as of the member's early retirement date,
17 and the benefit so computed shall be reduced by five-twelfths
18 of 1 percent for each complete month by which the early
19 retirement date precedes his or her normal retirement date as
20 provided in s. 121.091(3).

21 (45) "Vested" or "vesting" means the guarantee that a
22 member is eligible to receive a future retirement benefit upon
23 completion of the required years of creditable service for the
24 employee's class of membership, even though the member may
25 have terminated covered employment before reaching normal or
26 early retirement age. Being vested does not entitle a member
27 to a disability benefit based on a disability caused by an
28 injury or disease that occurs after termination of covered
29 employment.

30 (46) "Bonus" means a payment made in addition to an
31 employee's regular or overtime salary. A bonus is usually

1 nonrecurring, does not increase the employee's base rate of
2 pay, and does not include a commitment for payment in a
3 subsequent year. Such payments are not considered
4 compensation. Effective July 1, 1989, employers may not report
5 such payments to the division as salary and may not make
6 retirement contributions on such payments.

7 (a) A payment is a bonus if any of the following
8 circumstances apply:

9 1. The payment is not made according to a formal
10 written policy that applies to all eligible employees equally.

11 2. The payment commences later than the 11th year of
12 employment.

13 3. The payment is not based on permanent eligibility.

14 4. The payment is made less frequently than annually.

15 (b) Bonuses shall include, but not be limited to:

16 1. Exit bonus or severance pay.

17 2. Longevity payments in conformance with paragraph

18 (a).

19 3. Salary increases granted pursuant to an employee's
20 agreement to retire, including increases paid over several
21 months or years prior to retirement.

22 4. Payments for accumulated overtime or compensatory
23 time, reserve time, or holiday time worked, if not made within
24 11 months after the month in which the work was performed.

25 5. Payments under the Quality Instruction Incentives
26 Program (QUIIP).

27 6. Lump sum payments in recognition of an employees'
28 accomplishments.

29 (47) "Accumulated annual leave payment" means any
30 payment, made either during an employee's employment or at
31 termination or retirement, for leave accrued during such

1 employee's career, which leave was intended for, but never
2 used by the employee for, his or her personal use. General
3 leave, which may be used for both sickness and vacation, is
4 considered accumulated annual leave. When leave is initially
5 accrued separately as annual leave or sick leave and is later
6 combined into a consolidated leave account, only the payment
7 for that portion of the account which represents annual leave
8 shall be considered as compensation. If any single lump-sum
9 annual leave payment, made at any time during a member's
10 employment, exceeds 500 hours, only a maximum of 500 hours of
11 such annual leave payment shall be considered as compensation.

12 (48) "Accumulated sick leave payment" means leave
13 accrued during an employee's career which was intended for use
14 in the event of sickness, injury, or other health problems of
15 a member or his or her family. General leave, which may be
16 used for both sickness and vacation, is not considered sick
17 leave. When leave is initially accrued separately as annual
18 leave or sick leave and is later combined into a consolidated
19 leave account, the payment for that portion of the account
20 which represents sick leave may not be considered
21 compensation.

22 (49) "Independent contractor" means an individual who
23 is not subject to the control and direction of the employer
24 for whom work is being performed, with respect not only to
25 what shall be done but to how it shall be done. If the
26 employer has the right to exert such control, an
27 employee-employer relationship exists, and, for purposes of
28 this chapter, the person is an employee and not an independent
29 contractor. The division shall adopt rules providing criteria
30 for determining whether an individual is an employee or an
31 independent contractor.

1 (50) "Previous service" means the number of years,
2 complete months, and any fractional part of a month, as
3 recognized and credited by an employer and approved by the
4 administrator, of service under one of the retirement systems
5 established by chapter 121, chapter 122, chapter 123, chapter
6 238, or chapter 321, on which the required contributions were
7 paid at the member's termination of employment, and for which
8 the member has not received a refund of contributions.

9 (51) "Regularly established position" is defined as
10 follows:

11 (a) In a state agency, the term means a position that
12 is authorized and established pursuant to law and is
13 compensated from a salaries appropriation pursuant to s.
14 216.011(1)(x)1. and 2., or an established position that is
15 authorized pursuant to s. 16.262(1)(a) and (b) and is
16 compensated from a salaries account in accordance with rule
17 3A-10.031, Florida Administrative Code.

18 (b) In a local agency, such as a district school
19 board, county agency, community college, municipality, or
20 special district, the term means a regularly established
21 position in an employment position that will be in existence
22 for a period beyond 6 consecutive months, except as provided
23 in rule 60S-1.004(5)(d), Florida Administrative Code.

24 (52) "Temporary position" is defined as follows:

25 (a) In a state agency, the term means an employment
26 position that is compensated from an other personal services
27 (OPS) account, as provided for in s. 216.011(1)(x).

28 (b) In a local agency, the term means an employment
29 position that will exist for less than 6 consecutive months,
30 or an employment position that is listed in rule
31

1 60S-1.004(5)(d), Florida Administrative Code, regardless of
2 whether it will exist for 6 consecutive months or longer.

3 (53) "Work year" means the period of time an employee
4 is required to work to receive a full year of retirement
5 credit, as provided in rule 60S-2.002(4), Florida
6 Administrative Code.

7 Section 2. Paragraphs (a) and (d) of subsection (1),
8 paragraph (b) of subsection (2), and paragraph (b) of
9 subsection (5) of section 121.051, Florida Statutes, are
10 amended, paragraph (f) is added to subsection (2) of that
11 section, and subsection (9) is added to that section, to read:

12 121.051 Participation in the system.--

13 (1) COMPULSORY PARTICIPATION.--

14 (a) The provisions of this law shall be compulsory as
15 to all officers and employees, except elected officers who
16 meet the requirements of s. 121.052(3), who are employed on or
17 after December 1, 1970, of an employer other than those
18 referred to in paragraph (2)(b), and each officer or employee,
19 as a condition of employment, shall become a member of the
20 system as of his or her date of employment, except that a
21 person who is retired from any state retirement system and is
22 reemployed on or after December 1, 1970, shall not be
23 permitted to renew his or her membership in any state
24 retirement system except as provided in s. 121.091(4)(f)~~s.~~
25 ~~121.091(4)(e)~~ for a person who recovers from disability, and
26 as provided in s. 121.091(9)(b)8. for a person who is elected
27 to public office, and, effective July 1, 1991, as provided in
28 s. 121.122 for all other retirees. Officers and employees of
29 the University Athletic Association, Inc., a nonprofit
30 association connected with the University of Florida, employed
31 on and after July 1, 1979, shall not participate in any

1 state-supported retirement system. Any person appointed on or
2 after July 1, 1989, to a faculty position in a college at the
3 J. Hillis Miller Health Center at the University of Florida or
4 the Medical Center at the University of South Florida which
5 has a faculty practice plan provided by rule adopted by the
6 Board of Regents shall not participate in the Florida
7 Retirement System. A faculty member so appointed shall
8 participate in the optional retirement program on the basis of
9 his or her state-funded compensation, notwithstanding the
10 provisions of s. 121.35(2)(a).

11 (d) The following persons are not eligible to
12 participate in the Florida Retirement System:

13 1. Employees of a not-for-profit corporation or
14 association created by the Board of County Commissioners of
15 Palm Beach County for the purpose of owning, operating, or
16 managing a public bus transit system formerly operated or
17 managed by a private corporation subject to 49 U.S.C. s.
18 5333(b), shall not be eligible to participate in the Florida
19 Retirement System.

20 2. Persons who perform services as a consultant or an
21 independent contractor. The determination of the employment
22 classification of a person as an employee or an independent
23 contractor is solely within the jurisdiction of the division.
24 To establish whether a person is an independent contractor or
25 an employee, a determination may be requested from the
26 division. Retroactive adjustments of retirement contributions
27 will be required of any agency that improperly excludes or
28 enrolls a person. The division shall adopt rules establishing
29 procedures for determining employment classifications.

30 (2) OPTIONAL PARTICIPATION.--

31

1 (b)1. The governing body of any municipality ~~city~~ or
2 special district in the state may elect to participate in the
3 system upon proper application to the administrator and may
4 cover all or any of its units as approved by the Secretary of
5 Health and Human Services and the administrator. Prior to
6 being approved for participation in the Florida Retirement
7 System, the governing body of any such municipality or special
8 district that has a local retirement system shall submit to
9 the administrator a certified financial statement showing the
10 condition of the local retirement system as of a date within 3
11 months prior to the proposed effective date of membership in
12 the Florida Retirement System. The statement must be certified
13 by a recognized accounting firm that is independent of the
14 local retirement system. All required documents necessary for
15 extending Florida Retirement System coverage must be received
16 by the division for consideration at least 15 days prior to
17 the proposed effective date of coverage. If the municipality
18 or special district does not comply with this requirement, the
19 division may require that the effective date of coverage be
20 changed.

21 2. Any municipality ~~city~~ or special district that has
22 an existing retirement system covering the employees in the
23 units that are to be brought under the Florida Retirement
24 System may participate only after holding a referendum in
25 which all employees in the affected units have the right to
26 participate. Only those employees electing coverage under the
27 Florida Retirement System by affirmative vote in said
28 referendum shall be eligible for coverage under this chapter,
29 and those not participating or electing not to be covered by
30 the Florida Retirement System shall remain in their present
31 systems and shall not be eligible for coverage under this

1 chapter. After the referendum is held, all future employees
2 shall be compulsory members of the Florida Retirement System.

3 3. The governing body of any municipality ~~city~~ or
4 special district complying with subparagraph 1. may elect to
5 provide, or not provide, benefits based on past service of
6 officers and employees as described in s. 121.081(1). However,
7 if such employer elects to provide past service benefits, such
8 benefits must be provided for all officers and employees of
9 its covered group.

10 4. Once this election is made and approved it may not
11 be revoked, except pursuant to subparagraphs 5. and 6., and
12 all present officers and employees electing coverage under
13 this chapter and all future officers and employees shall be
14 compulsory members of the Florida Retirement System.

15 5. Subject to the conditions set forth in subparagraph
16 6., the governing body of any hospital licensed under chapter
17 395 which is governed by the board of a special district as
18 defined in s. 189.403(1) or by the board of trustees of a
19 public health trust created under s. 154.07, hereinafter
20 referred to as "hospital district," and which participates in
21 the system, may elect to cease participation in the system
22 with regard to future employees in accordance with the
23 following procedure:

24 a. No more than 30 days and at least 7 days before
25 adopting a resolution to partially withdraw from the Florida
26 Retirement System and establish an alternative retirement plan
27 for future employees, a public hearing must be held on the
28 proposed withdrawal and proposed alternative plan.

29 b. From 7 to 15 days before such hearing, notice of
30 intent to withdraw, specifying the time and place of the
31 hearing, must be provided in writing to employees of the

1 hospital district proposing partial withdrawal and must be
2 published in a newspaper of general circulation in the area
3 affected, as provided by ss. 50.011-50.031. Proof of
4 publication of such notice shall be submitted to the Division
5 of Retirement.

6 c. The governing body of any hospital district seeking
7 to partially withdraw from the system must, before such
8 hearing, have an actuarial report prepared and certified by an
9 enrolled actuary, as defined in s. 112.625(3), illustrating
10 the cost to the hospital district of providing, through the
11 retirement plan that the hospital district is to adopt,
12 benefits for new employees comparable to those provided under
13 the Florida Retirement System.

14 d. Upon meeting all applicable requirements of this
15 subparagraph, and subject to the conditions set forth in
16 subparagraph 6., partial withdrawal from the system and
17 adoption of the alternative retirement plan may be
18 accomplished by resolution duly adopted by the hospital
19 district board. The hospital district board must provide
20 written notice of such withdrawal to the division by mailing a
21 copy of the resolution to the division, postmarked no later
22 than December 15, 1995. The withdrawal shall take effect
23 January 1, 1996.

24 6. Following the adoption of a resolution under
25 sub-subparagraph 5.d., all employees of the withdrawing
26 hospital district who were participants in the Florida
27 Retirement System prior to January 1, 1996, shall remain as
28 participants in the system for as long as they are employees
29 of the hospital district, and all rights, duties, and
30 obligations between the hospital district, the system, and the
31 employees shall remain in full force and effect. Any employee

1 who is hired or appointed on or after January 1, 1996, may not
2 participate in the Florida Retirement System, and the
3 withdrawing hospital district shall have no obligation to the
4 system with respect to such employees.

5 (f) Whenever an employer that participates in the
6 Florida Retirement System undertakes the transfer, merger, or
7 consolidation of governmental services or functions, the
8 employer must notify the division at least 60 days prior to
9 such action.

10 (5) RIGHTS LIMITED.--

11 (b) A ~~No~~ member who is convicted by a court of
12 competent jurisdiction of causing ~~has caused~~ a shortage in a
13 public account, when such shortage is certified by the Auditor
14 General or a certified public accountant, may not retire or
15 receive any benefits under this chapter so long as such
16 shortage exists.

17 (9) DUAL EMPLOYMENT.--A member may not participate in
18 more than one state-administered retirement system, plan, or
19 class of membership simultaneously. Pursuant thereto:

20 (a) With respect to any member who is not eligible to
21 participate in the Elected State and County Officers' Class,
22 but who is simultaneously employed in two or more positions
23 covered by different Florida Retirement System classes:

24 1. The member must participate in the membership class
25 for the position in which he or she is employed the majority
26 of the time: the Regular Class, Senior Management Service
27 Class, Special Risk Class, or Special Risk Administrative
28 Support Class; or

29 2. If the employment is split equally between or among
30 positions, the member may choose any single class of
31 membership for which he or she is eligible, whether or not the

1 positions are full-time positions. The member's choice must be
2 made in writing and remains in effect as long as the member is
3 employed equally in two or more positions.

4 (b) Contributions shall be made and creditable service
5 shall be determined as follows:

6 1. If the member is participating in the Regular
7 Class, retirement contributions shall be made on the total
8 salary the member has received for all covered employment, and
9 at retirement the member's average final compensation shall be
10 calculated on the total salary received from all covered
11 employment.

12 2. If the member is participating in the Senior
13 Management Service Class, Special Risk Class, or Special Risk
14 Administrative Support Class, retirement contributions shall
15 be made only on the salary received in the designated class of
16 membership. At retirement, the member's average final
17 compensation shall be based only on the salary received in the
18 designated class of membership for any period, including any
19 period of dual employment.

20 Section 3. Paragraph (a) of subsection (3) and
21 subsection (7) of section 121.0515, Florida Statutes, are
22 amended to read:

23 121.0515 Special risk membership; criteria;
24 designation and removal of classification; credits for past
25 service and prior service; retention of special risk normal
26 retirement date.--

27 (3) PROCEDURE FOR DESIGNATING.--

28 (a) Any member of the Florida Retirement System
29 employed by a county, city, or special district who feels that
30 he or she meets the criteria set forth in this section for
31 membership in the Special Risk Class may request that his or

1 her employer submit an application to the division requesting
2 that the division designate him or her as a special risk
3 member. If the employer agrees that the member meets the
4 requirements for special risk membership, the employer shall
5 submit an application to the division in behalf of the
6 employee containing a certification that the member meets the
7 criteria for special risk membership set forth in this section
8 and such other supporting documentation as may be required by
9 administrative rule. The division shall, within 90 days,
10 either designate or refuse to designate the member as a
11 special risk member. If the employer declines to submit the
12 member's application to the division or if the division does
13 not designate the member as a special risk member, the member
14 or the employer may appeal to the State Retirement Commission,
15 as provided in s. 121.23, for designation as a special risk
16 member. A member who receives a final affirmative ruling
17 pursuant to such appeal for special risk membership shall have
18 special risk membership retroactive to the date such member
19 would have had special risk membership had such membership
20 been approved by the employer and the division, as determined
21 by the division, and the employer contributions shall be paid
22 in full within 1 year after such final ruling.

23 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT
24 DATE.--

25 (a) A special risk member who is moved or reassigned
26 to a nonspecial risk law enforcement, firefighting, or
27 correctional administrative support position with the same
28 agency, or who is subsequently employed in such a position
29 with any law enforcement, firefighting, or correctional agency
30 under the Florida Retirement System, shall participate in the
31 Special Risk Administrative Support Class and shall earn

1 credit for such service at the same percentage rate as that
2 earned by a regular member. Notwithstanding the provisions of
3 subsection (4), service in such an administrative support
4 position shall, for purposes of s. 121.091, apply toward
5 satisfaction of the special risk normal retirement date, as
6 defined in s. 121.021(29)(b)~~s. 121.021(29)(c)~~, provided that,
7 while in such position, the member remains certified as a law
8 enforcement officer, firefighter, or correctional officer;
9 remains subject to reassignment at any time to a position
10 qualifying for special risk membership; and completes an
11 aggregate of 10 or more years of service as a designated
12 special risk member prior to retirement.

13 (b) Upon application by a member, the provisions of
14 this subsection shall apply, with respect to such member,
15 retroactively to October 1, 1978.

16 (c) The division shall adopt such rules as are
17 required to administer this subsection.

18 Section 4. Subsection (9) and paragraph (c) of
19 subsection (12) of section 121.052, Florida Statutes, are
20 amended to read:

21 121.052 Membership class of elected state and county
22 officers.--

23 (9) AVERAGE FINAL COMPENSATION.--The average final
24 compensation of a member of the Elected State and County
25 Officers' Class shall be as defined in s. 121.021(24). If a
26 member has received credit for upgraded previous Elected State
27 and County Officers' Class service as provided in subsection
28 (5), and the upgraded service salary is greater than his or
29 her actual salary, the upgraded service salary shall be used
30 to calculate the member's average final compensation.

31 (12) BENEFITS.--

1 (c) The benefit provisions of s. 121.091(7), relating
2 to death benefits, shall apply to members of the Elected State
3 and County Officers' Class and shall be construed in such
4 manner as to make them compatible with the provisions of this
5 section; however, only 8 years of creditable service in this
6 class are needed to obtain such benefits, except that:

7 1. If ~~in the event~~ any elected official dies in office
8 who would have been vested under ~~had 8 years of creditable~~
9 ~~service in the Elected State and County Officers' Class, or 10~~
10 ~~years of creditable service in~~ any other class of the Florida
11 Retirement System, or any other state-administered retirement
12 system, if the official had lived to complete his or her term
13 of office, the official's spouse may elect to leave the
14 official's retirement contributions in the retirement trust
15 fund and pay into said fund any required contributions which
16 would have been paid by the officer or the employer had the
17 officer lived to complete the term of office.

18 2. If a deceased member's surviving spouse as
19 described in subparagraph 1. previously received a refund of
20 the member's contributions made to the retirement trust fund,
21 the surviving spouse may pay into the retirement trust fund an
22 amount equal to the deceased member's contributions previously
23 refunded, together with interest at 4 percent compounded
24 annually on the amount of such refunded contributions from the
25 date of refund until July 1, 1975, and at 6.5 percent
26 compounded annually thereafter to the date of payment, plus
27 such additional contributions as may be required under
28 subparagraph 1., in order to become vested ~~qualify for 8 or 10~~
29 ~~years of creditable service~~, as applicable.

1 Upon conclusion of the term of office to which the deceased
2 officer was elected, a spouse who pays into the retirement
3 trust fund such additional or refunded contributions, plus
4 interest, shall be eligible to receive a monthly benefit in
5 the same manner as the surviving spouse of a member who dies
6 after accumulating the required number of years of creditable
7 service as described herein.

8 Section 5. Paragraph (b) of subsection (1) of section
9 121.053, Florida Statutes, is amended to read:

10 121.053 Participation in the Elected State and County
11 Officers' Class for retired members.--

12 (1)

13 (b) Any retired member of the Florida Retirement
14 System, or any existing system as defined in s. 121.021(2),
15 who, on or after July 1, 1990, is serving in, or is elected or
16 appointed to, an elective office covered by the Elected State
17 and County Officers' Class shall be enrolled in the
18 appropriate subclass of the Elected State and County Officers'
19 Class of the Florida Retirement System, and applicable
20 contributions shall be paid into the Florida Retirement System
21 Trust Fund as provided in s. 121.052(7). Pursuant thereto:

22 1. Any such retired member shall be eligible to
23 continue to receive retirement benefits as well as
24 compensation for the elected officer service for as long as he
25 or she remains in an elective office covered by the Elected
26 State and County Officers' Class.

27 2. If any such member serves in an elective office
28 covered by the Elected State and County Officers' Class and
29 becomes vested under that class for a period of at least 8
30 years, he or she shall be entitled to receive an additional
31 retirement benefit for such elected officer service.

1 3. Such member shall be entitled to purchase
2 additional retirement credit in the Elected State and County
3 Officers' Class for any postretirement service performed in an
4 elected position eligible for the Elected State and County
5 Officers' Class prior to July 1, 1990, or in the Regular Class
6 for any postretirement service performed in any other
7 regularly established position prior to July 1, 1991, by
8 paying the applicable Elected State and County Officers' Class
9 or Regular Class employee and employer contributions for the
10 period being claimed, plus 4 percent interest compounded
11 annually from the first year of service claimed until July 1,
12 1975, and 6.5 percent interest compounded thereafter, until
13 full payment is made to the Florida Retirement System Trust
14 Fund. The contribution for postretirement Regular Class
15 service between July 1, 1985, and July 1, 1991, for which the
16 reemployed retiree contribution was paid, shall be the
17 difference between such contribution and the total applicable
18 contribution for the period being claimed, plus interest. The
19 employer of such member may pay the applicable employer
20 contribution in lieu of the member. If a member does not wish
21 to claim credit for all of the postretirement service for
22 which he or she is eligible, the service the member claims
23 must be the most recent service.

24 4. ~~No~~ Creditable service for which credit was
25 received, or which remained unclaimed, at retirement may not
26 be claimed or applied toward service credit earned following
27 renewed membership. However, service earned in accordance with
28 the renewed membership provisions in s. 121.122 may be used in
29 conjunction with creditable service earned under this
30 paragraph, provided applicable vesting requirements and other
31

1 existing statutory conditions required by this chapter are
2 met.

3 Section 6. Subsection (6) of section 121.055, Florida
4 Statutes, is amended to read:

5 121.055 Senior Management Service Class.--There is
6 hereby established a separate class of membership within the
7 Florida Retirement System to be known as the "Senior
8 Management Service Class," which shall become effective
9 February 1, 1987.

10 (6)(a) Senior Management Service Optional Annuity
11 Program.--The Department of Management Services shall
12 establish a Senior Management Service Optional Annuity Program
13 under which contracts providing retirement, death, and
14 disability benefits may be purchased for those employees who
15 elect to participate in the optional annuity program. The
16 benefits to be provided for or on behalf of participants in
17 such optional annuity program shall be provided through
18 individual contracts or individual certificates issued for
19 group annuity contracts, which may be fixed, variable, or a
20 combination thereof, in accordance with s. 401(a) of the
21 Internal Revenue Code. Any such individual contract or
22 certificate shall state the annuity plan on its face page, and
23 shall include, but not be limited to, a statement of
24 ownership, the contract benefits, annuity income options,
25 limitations, expense charges, and surrender charges, if any.
26 The employing agency shall contribute, as provided in this
27 section, toward the purchase of such optional benefits which
28 shall be fully and immediately vested in the participants.

29 (b) Retirement service credit.--An eligible employee
30 who is a member of the Florida Retirement System or an
31 existing retirement system at the time of his or her election

1 to participate in the Senior Management Service Optional
2 Annuity Program shall retain all retirement service credit
3 earned under the retirement system from which he or she
4 transferred; however, no additional service credit in the
5 Florida Retirement System or existing retirement system shall
6 be earned while the employee participates in the optional
7 annuity program, nor shall the employee be eligible for
8 disability retirement under the Florida Retirement System or
9 existing retirement system.

10 (c) Participation.--

11 1. Any eligible employee who is employed on or before
12 February 1, 1987, may elect to participate in the optional
13 annuity program in lieu of participation in the Senior
14 Management Service Class. Such election shall be made in
15 writing and filed with the department and the personnel
16 officer of the employer on or before May 1, 1987. Any
17 eligible employee who is employed on or before February 1,
18 1987, and who fails to make an election to participate in the
19 optional annuity program by May 1, 1987, shall be deemed to
20 have elected membership in the Senior Management Service
21 Class.

22 2. Any employee who becomes eligible to participate in
23 the optional annuity program by reason of initial employment
24 commencing after February 1, 1987, may, within 90 days after
25 the date of commencement of employment, elect to participate
26 in the optional annuity program. Such election shall be made
27 in writing and filed with the personnel officer of the
28 employer. Any eligible employee who does not within 90 days
29 after commencement of such employment elect to participate in
30 the optional annuity program shall be deemed to have elected
31 membership in the Senior Management Service Class.

1 3. A person who is appointed to a position in the
2 Senior Management Service Class and who is a member of an
3 existing retirement system or the Special Risk or Special Risk
4 Administrative Support Classes of the Florida Retirement
5 System may elect to remain in such system or class in lieu of
6 participation in the Senior Management Service Class or
7 optional annuity program. Such election shall be made in
8 writing and filed with the department and the personnel
9 officer of the employer within 90 days of such appointment.
10 Any eligible employee who fails to make an election to
11 participate in the existing system, the Special Risk Class of
12 the Florida Retirement System, the Special Risk Administrative
13 Support Class of the Florida Retirement System, or the
14 optional annuity program shall be deemed to have elected
15 membership in the Senior Management Service Class.

16 4. An employee's election to participate in the
17 optional annuity program is irrevocable as long as such
18 employee continues to be employed in an eligible position and
19 continues to meet the eligibility requirements set forth in
20 this paragraph.

21 (d) Contributions.--

22 1. Each employer shall contribute on behalf of each
23 participant in the Senior Management Service Optional Annuity
24 Program an amount equal to the normal cost portion of the
25 employer retirement contribution which would be required if
26 the participant were a Senior Management Service Class member
27 of the Florida Retirement System, plus the portion of the
28 contribution rate required in s. 112.363(8) that would
29 otherwise be assigned to the Retiree Health Insurance Subsidy
30 Trust Fund, less an amount approved by the Legislature which
31 shall be deducted by the division to provide for the

1 administration of this program. The payment of the
2 contributions to the optional program which is required by
3 this subparagraph for each participant shall be made by the
4 employer to the division which shall forward the contributions
5 to the designated company or companies contracting for payment
6 of benefits for the participant under the program.

7 2. Each employer shall contribute on behalf of each
8 participant in the Senior Management Service Optional Annuity
9 Program an amount equal to the unfunded actuarial accrued
10 liability portion of the employer contribution which would be
11 required for members of the Senior Management Service Class in
12 the Florida Retirement System. This contribution shall be
13 paid to the division for transfer to the Florida Retirement
14 System Trust Fund.

15 3. An Optional Annuity Program Trust Fund shall be
16 established in the State Treasury and administered by the
17 division to make payments to provider companies on behalf of
18 the optional annuity program participants, and to transfer the
19 unfunded liability portion of the state optional annuity
20 program contributions to the Florida Retirement System Trust
21 Fund.

22 ~~4.3.~~ Contributions required for social security by
23 each employer and each participant, in the amount required for
24 social security coverage as now or hereafter may be provided
25 by the federal Social Security Act shall be maintained for
26 each participant in the Senior Management Service retirement
27 program and shall be in addition to the retirement
28 contributions specified in this paragraph.

29 ~~5.4.~~ Each participant in the Senior Management Service
30 Optional Annuity Program may contribute by way of salary
31 reduction or deduction a percentage amount of the

1 participant's gross compensation not to exceed the percentage
2 amount contributed by the employer to the optional annuity
3 program. Payment of the participant's contributions shall be
4 made by the employer to the division which shall forward the
5 contributions to the designated company or companies
6 contracting for payment of benefits for the participant under
7 the program.

8 (e) Benefits.--

9 1. Benefits shall be payable under the Senior
10 Management Service Optional Annuity Program only to
11 participants in the program, or their beneficiaries as
12 designated by the participant in the contract with a provider
13 company, and such benefits shall be paid by the designated
14 company in accordance with the terms of the annuity contract
15 or contracts applicable to the participant. A participant must
16 be terminated from all employment with all Florida Retirement
17 System employers as provided in s. 121.021(39) to begin
18 receiving the employer-funded benefit. Benefits funded by
19 employer contributions shall be payable only as a lifetime
20 annuity to the participant, his beneficiary, or his estate,
21 except for:

22 a. A lump-sum payment to the beneficiary upon the
23 death of the participant; or

24 b. A cash-out of a de minimis account upon the request
25 of a former participant who has been terminated for a minimum
26 of 6 months from the employment that entitled him to Optional
27 Retirement Program participation. A de minimis account is an
28 account with a provider company containing employer
29 contributions and accumulated earnings of not more than \$3,500
30 made under the provisions of this chapter. Such cash-out must
31 be a complete liquidation of the account balance with that

1 company and is subject to the provisions of the Internal
2 Revenue Code.

3 2. The benefits payable to any person under the Senior
4 Management Service Optional Annuity Program, and any
5 contribution accumulated under such program, shall not be
6 subject to assignment, execution, or attachment or to any
7 legal process whatsoever.

8 3. A participant who receives optional annuity program
9 benefits funded by employer contributions shall be deemed to
10 be retired from a state-administered retirement system in the
11 event of subsequent employment with any employer that
12 participates in the Florida Retirement System.

13 (f) Administration.--

14 1. The Senior Management Service Optional Annuity
15 Program authorized by this section shall be administered by
16 the Division of Retirement. The division shall designate one
17 or more provider companies from which annuity contracts may be
18 purchased under the program and shall approve the form and
19 content of the contracts. The division shall sign a contract
20 with each of the provider companies and shall evaluate the
21 performance of the provider companies on a continuing basis.
22 The division may terminate the services of a provider company
23 for reasons stated in the contract. The division shall adopt
24 rules establishing its responsibilities and the
25 responsibilities of employers in administering the optional
26 annuity program.

27 2. Effective July 1, 1997, the State Board of
28 Administration shall review and make recommendations to the
29 division on the acceptability of all investment products
30 proposed by provider companies of the optional annuity program
31 before such products are offered through annuity contracts to

1 the participants and may advise the division of any changes
2 deemed necessary to ensure that the optional annuity program
3 offers an acceptable mix of investment products. The division
4 shall make the final determination as to whether an investment
5 product will be approved for the program.

6 3. The provisions of each contract applicable to a
7 participant in the Senior Management Service Optional Annuity
8 Program shall be contained in a written program description
9 which shall include a report of pertinent financial and
10 actuarial information on the solvency and actuarial soundness
11 of the program and the benefits applicable to the participant.
12 Such description shall be furnished by the company or
13 companies to each participant in the program and to the
14 division upon commencement of participation in the program and
15 annually thereafter.

16 4. The division shall ensure that each participant in
17 the Senior Management Service Optional Annuity Program is
18 provided an accounting of the total contribution and the
19 annual contribution made by and on behalf of such
20 participants.

21 (g) A participant in the optional annuity program may
22 not participate in more than one state-administered retirement
23 system, plan, or class simultaneously. The following shall
24 apply to a participant who is or becomes dually employed:

25 1. A participant who is or becomes dually employed in
26 two or more positions covered by the Florida Retirement
27 System, one of which is eligible for the optional annuity
28 program and one of which is not, shall make one of the
29 following choices:

30 a. Remain a member of the optional annuity program, in
31 which case contributions shall be paid as required only on the

1 salary earned in the position eligible for the optional
2 annuity program during the period of dual employment;

3 b. Elect, within 90 days after becoming dually
4 employed, membership in the Regular Class of the Florida
5 Retirement System in lieu of the optional annuity program, in
6 which case contributions shall be paid as required on the
7 total salary received for all employment, and, at retirement,
8 the member's average final compensation used to calculate any
9 benefits for which he or she becomes eligible under the
10 Florida Retirement System shall be based on all salary
11 reported for all covered positions during the period of dual
12 employment; or

13 c. If dually employed in an elected office eligible
14 for the Elected State and County Officers' Class, select,
15 within 6 months after assuming office, membership in the
16 Elected State and County Officers' Class, in which case,
17 participation in the optional annuity program shall cease for
18 the period of dual employment, retirement contributions shall
19 be paid as required only on the salary earned as an elected
20 officer, and, at retirement, the member's benefit under the
21 Florida Retirement System shall be based only on the salary
22 received as an elected officer for the period of dual
23 employment.

24 2. When such member ceases to be dually employed, he
25 or she shall make one of the following choices:

26 a. If the position in which he or she remains is a
27 position that is eligible for the optional annuity program, he
28 or she may, within 90 days after ceasing dual employment,
29 elect to remain in the Florida Retirement System class for
30 which he or she is eligible or to again become a participant
31 in the optional annuity program. Failure to elect membership

1 in the optional annuity program within 90 days shall result in
2 compulsory membership in the Florida Retirement System; or

3 b. If the position in which he or she remains is not a
4 position that is eligible for the optional annuity program, he
5 or she shall participate in the Florida Retirement System
6 class for which he or she is eligible.

7 Section 7. Subsection (6) is added to section 121.071,
8 Florida Statutes, to read:

9 121.071 Contributions.--Contributions to the system
10 shall be made as follows:

11 (6)(a) Required employee contributions for all service
12 other than current service, including, but not limited to,
13 prior service, past service, military service,
14 leave-of-absence service, out-of-state service, and certain
15 non-Florida Retirement System in-state service, shall be paid
16 by cash, personal check, cashier's check, or money order only;
17 shall be accompanied by a statement identifying the service
18 for which payment is made; and shall be made in a lump sum for
19 the total amount due or in annual payments of not less than
20 \$100, except for the final payment if less than \$100, unless
21 another method of payment is authorized in this chapter.

22 (b) On and after July 1, 1972, all remittances made by
23 a member for the purchase of optional creditable service shall
24 be credited to the member's account. A refund of a member's
25 retirement contributions at termination, as provided in
26 paragraph (2)(b), shall include all such remittances made by
27 the member and credited to his or her account. If requested, a
28 member may, at the time of retirement, receive a refund of any
29 contributions he or she made for the purchase of any optional
30 creditable service. A member is not entitled to a refund of
31 contributions paid by an employer, except for employee

1 contributions made by an employer for an employee's past
2 service earned prior to October 1, 1975.

3 (c) By obtaining a refund of contributions, a member
4 waives all rights under the Florida Retirement System to the
5 service credit represented by the refunded contributions,
6 except the right to purchase his or her prior service credit
7 in accordance with s. 121.081(2).

8 (d) The contributions required of a member of the
9 Teachers' Retirement System who transfers to the Florida
10 Retirement System must be adjusted, based on the rate of 6.25
11 percent of salary earned while a member of the Teachers'
12 Retirement System. Any overpayment that results from this
13 adjustment will be refunded to the member, while any amount
14 due, plus interest compounded annually, must be paid by the
15 member prior to retirement. Effective upon the date of
16 transfer to the Florida Retirement System, contributions shall
17 be paid as required under this chapter.

18 Section 8. Paragraphs (f) and (h) of subsection (1)
19 and paragraph (a) of subsection (2) of section 121.081,
20 Florida Statutes, are amended, and paragraphs (e) and (f) are
21 added to subsection (2) of that section, to read:

22 121.081 Past service; prior service;
23 contributions.--Conditions under which past service or prior
24 service may be claimed and credited are:

25 (1)

26 (f) When any person, either prior to this act or
27 hereafter, becomes entitled to and does participate in one of
28 the retirement systems consolidated within or created by this
29 chapter through the consolidation or merger of governments or
30 the transfer of functions between units of government, either
31 at the state or local level or between state and local units,

1 or through the assumption of functions or activities by a
2 state or local unit from an employing entity which was not an
3 employer under the system, and such person becomes a member of
4 the Florida Retirement System, such person shall be entitled
5 to receive past-service credit as defined in s. 121.021(18)
6 for the time such person performed services for, and was an
7 employee of, such state or local unit or other employing
8 entity prior to the transfer, merger, consolidation, or
9 assumption of functions and activities. Past-service credit
10 allowed by this paragraph shall also be available to any
11 person ~~those persons~~ who becomes a member ~~became members~~ of an
12 existing system, as defined in s. 121.021(2), prior to
13 December 1, 1970, through the transfer, merger, consolidation,
14 or assumption of functions and activities set forth in this
15 paragraph and who subsequently becomes a member ~~become members~~
16 of the Florida Retirement System. However, ~~in no event will~~
17 credit for the past service may not be granted until
18 contributions are made in the manner provided in this
19 subsection. If a person rejected Florida Retirement System
20 membership at the time of the transfer, merger, or
21 consolidation, the required contributions shall be at total
22 actuarial cost as specified in paragraph (e). Such
23 contributions or ~~and~~ accrued interest may ~~shall~~ not be paid
24 from any state funds.

25 (h) The following provisions apply to the purchase of
26 past service:

27 1. Notwithstanding any of the provisions of this
28 subsection, ~~no~~ past-service credit may not be purchased under
29 this chapter for any service that ~~which~~ is used to obtain a
30 benefit from any local retirement system.

31

1 2. A member may not receive past service credit under
2 paragraphs (a), (b), (e), or (f) for any leaves of absence
3 without pay, except that credit for active military service
4 leaves of absence may be claimed under paragraphs (a), (b),
5 and (f), in accordance with s. 121.111(1).

6 3. If a member does not desire to receive credit for
7 all of his or her past service, the period the member claims
8 must be the most recent past service prior to his or her
9 participation in the Florida Retirement System.

10 4. The cost of past service purchased by an employing
11 agency for its employees may be amortized over such period of
12 time as is provided in the agreement, but not to exceed 15
13 years, calculated in accordance with rule 60S-1.007(5)(f),
14 Florida Administrative Code.

15 5. The retirement account of each member for whom past
16 service is being provided by his or her employer shall be
17 credited with all past service the employer agrees to purchase
18 as soon as the agreement between the employer and the division
19 is executed. Pursuant thereto:

20 a. Each such member's account shall also be posted
21 with the total contribution his or her employer agrees to make
22 in the member's behalf for past service earned prior to
23 October 1, 1975, excluding those contributions representing
24 the employer's matching share and the compound interest
25 calculation on the total contribution. However, a portion of
26 any contributions paid by an employer for past service credit
27 earned on and after October 1, 1975, may not be posted to a
28 member's account.

29 b. A refund of contributions payable after an employer
30 has made a written agreement to purchase past service for
31 employees of the covered group shall include contributions for

1 past service which are posted to a member's account. However,
2 contributions for past service earned on and after October 1,
3 1975, are not refundable.

4 (2) Prior service, as defined in s. 121.021(19), may
5 be claimed as creditable service under the Florida Retirement
6 System after a member has been reemployed for 12 continuous
7 months, except as provided in paragraph (c). Service performed
8 as a participant of the optional retirement program for the
9 State University System under s. 121.35 or the Senior
10 Management Service Optional Annuity Program under s. 121.055
11 may be used to satisfy the 12-continuous-month requirement.
12 The member shall not be permitted to make any contributions
13 for prior service until after the 12-month period. The
14 required contributions for claiming the various types of prior
15 service are:

16 (a) For prior service performed prior to the date the
17 system becomes noncontributory for the member and for which
18 the member had credit under one of the existing retirement
19 systems and received a refund of contributions upon
20 termination of employment, the member shall contribute 4
21 percent of all salary received during the period being
22 claimed, plus 4 percent interest compounded annually from date
23 of refund until July 1, 1975, and 6.5 percent interest
24 compounded annually thereafter, until full payment is made to
25 the Retirement Trust Fund. A member who elected to transfer to
26 the Florida Retirement System from an existing system may
27 receive credit for prior service under the existing system if
28 he or she was eligible under the existing system to claim the
29 prior service at the time of the transfer. Contributions for
30 such prior service shall be determined by the applicable
31 provisions of the system under which the prior service is

1 claimed and shall be paid by the member, with matching
2 contributions paid by the employer at the time the service was
3 performed. Effective July 1, 1978, the account of a person who
4 terminated under s. 238.05(3) may not be charged interest for
5 contributions that remained on deposit in the Annuity Savings
6 Trust Fund established under chapter 238, upon retirement
7 under chapter 121 or chapter 238.

8 (e) For service performed under the Florida Retirement
9 System after December 1, 1970, that was never reported to the
10 division due to error, retirement credit may be claimed by a
11 member of the Florida Retirement System, if:

12 1. Such service was performed by an employee filling a
13 regularly established position as provided in s. 121.021(19);

14 2. The employer substantiates the reporting error;

15 3. Service of all other employees in similar positions
16 was reported to the division or is reported retroactively; and

17 4. The required contributions and interest are paid by
18 the employee and employer for the applicable period or periods
19 of time.

20
21 The division shall adopt rules establishing procedures for
22 claiming such credit and detailing the documentation required
23 to substantiate the error.

24 (f) The employer may not be required to make
25 contributions for prior service credit for any member, except
26 that the employer shall pay the employer portion of
27 contributions for any legislator who elects to withdraw from
28 the Florida Retirement System and later rejoins the system and
29 pays any employee contributions required in accordance with s.
30 121.052(3)(d).

31

1 Section 9. Section 121.091, Florida Statutes, as
2 amended by chapters 97-154 and 97-180, Laws of Florida, is
3 amended to read:

4 121.091 Benefits payable under the system.--~~No~~
5 Benefits may not ~~shall~~ be paid under this section unless the
6 member has terminated employment as provided in s.
7 121.021(39)(a) or begun participation in the Deferred
8 Retirement Option Program as provided in subsection (13), and
9 a proper application has been filed in the manner prescribed
10 by the division. The division may cancel an application for
11 retirement benefits when the member or beneficiary fails to
12 timely provide the information and documents required by this
13 chapter and the division's rules. The division shall adopt
14 rules establishing procedures for application for retirement
15 benefits and for the cancellation of such application when the
16 required information or documents are not received.

17 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or
18 her normal retirement date, the member, upon application to
19 the administrator, shall receive a monthly benefit which shall
20 begin to accrue on the first day of the month of retirement
21 and be payable on the last day of that month and each month
22 thereafter during his or her lifetime. The normal retirement
23 benefit, including any past or additional retirement credit,
24 may not exceed 100 percent of the average final compensation.
25 The amount of monthly benefit shall be calculated ~~determined~~
26 as the product of A and B, subject to the adjustment of C, if
27 applicable, as set forth below ~~when~~:

28 (a) 1. For creditable years of Regular Class service,
29 A is 1.60 percent of the member's average final monthly
30 compensation, up to the member's normal retirement date ~~age~~.
31 Upon completion of the first year after the normal retirement

1 date ~~age~~, A is 1.63 percent of the member's average final
2 monthly compensation. Following the second year after the
3 normal retirement date ~~age~~, A is 1.65 percent of the member's
4 average final ~~monthly~~ compensation. Following the third year
5 after the normal retirement date ~~age~~, and for subsequent
6 years, A is 1.68 percent of the member's average final ~~monthly~~
7 compensation. ~~A shall not exceed 1.68 percent of the member's~~
8 ~~average monthly compensation, except that,~~

9 2. For ~~all~~ creditable years of special risk service, A
10 is:

11 a.1. Two percent of the member's average final ~~monthly~~
12 compensation for all creditable years prior to October 1,
13 1974;

14 b.2. Three percent of the member's average final
15 ~~monthly~~ compensation for all creditable years after September
16 30, 1974, and before October 1, 1978;

17 c.3. Two percent of the member's average final ~~monthly~~
18 compensation for all creditable years after September 30,
19 1978, and before January 1, 1989;

20 d.4. Two and two-tenths percent of the member's final
21 ~~average~~ monthly compensation for all creditable years after
22 December 31, 1988, and before January 1, 1990;

23 e.5. Two and four-tenths percent of the member's
24 average final ~~monthly~~ compensation for all creditable years
25 after December 31, 1989, and before January 1, 1991;

26 f.6. Two and six-tenths percent of the member's
27 average final ~~monthly~~ compensation for all creditable years
28 after December 31, 1990, and before January 1, 1992;

29 g.7. Two and eight-tenths percent of the member's
30 average final ~~monthly~~ compensation for all creditable years
31 after December 31, 1991, and before January 1, 1993; and

1 ~~h.8.~~ Three percent of the member's average final
2 ~~monthly~~ compensation for all creditable years after December
3 31, 1992;

4 3. For creditable years of Senior Management Service
5 Class service after January 31, 1987, A is 2 percent;

6 4. For creditable years of Elected State and County
7 Officers' Class service as a Supreme Court Justice, district
8 court of appeal judge, circuit judge, or county court judge, A
9 is 3 1/3 percent of the member's average final compensation,
10 and for all other creditable service in such class, A is 3
11 percent of average final compensation;

12
13 ~~however, the normal retirement benefit, including any past or~~
14 ~~additional retirement credit, may not exceed 100 percent of~~
15 ~~the average final compensation;~~

16 (b) B is the number of the member's years and any
17 fractional part of a year of creditable service earned
18 subsequent to November 30, 1970; and

19 (c) C is the normal retirement benefit credit brought
20 forward as of November 30, 1970, by a former member of an
21 existing system. Such normal retirement benefit credit shall
22 be determined as the product of X ~~A~~ and Y ~~B~~ when X ~~A~~ is the
23 percentage of average final compensation which the member
24 would have been eligible to receive if the member had attained
25 his or her normal retirement date as of November 30, 1970, all
26 in accordance with the existing system under which the member
27 is covered on November 30, 1970, and Y ~~B~~ is average final
28 ~~monthly~~ compensation as defined in s. 121.021(25). However,
29 any member of an existing retirement system who is eligible to
30 retire and who does retire, become disabled, or die prior to
31 April 15, 1971, may have his or her retirement benefits

1 calculated on the basis of the best 5 of the last 10 years of
2 service.

3 (d) A member's average final compensation shall be
4 determined in the following manner:

5 1. Identify the total salary paid for each July 1
6 through June 30 fiscal year of creditable service. For ranking
7 purposes only, to determine the annual salary during a year in
8 which a member receives less than a full year of creditable
9 service, divide the actual salary received by the percentage
10 of a year of creditable service earned for that year.

11 2. Rank the fiscal years of salary in order from the
12 highest annual salary received to the lowest annual salary
13 received.

14 3. Total the actual salary received for the 5 fiscal
15 years during which the highest salaries were paid. If the
16 highest 5 years do not constitute 5 complete years of
17 creditable service, add the necessary percentage of the next
18 highest fiscal years' salaries to complete 5 years of
19 creditable service.

20 4. Divide the total obtained under subparagraph 3. by
21 5.

22 (2) BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT
23 AGES.--~~If in the event~~ a member accumulates retirement
24 benefits to commence at different normal retirement ages by
25 virtue of having performed duties for an employer which would
26 entitle him or her to benefits as both a ~~regular member and~~
27 ~~special risk~~ member of the Special Risk Class and a member of
28 the Regular Class, Senior Management Service Class, or Elected
29 State and County Officers' Class, the amount of benefits
30 payable shall be computed separately with respect to each such
31

1 age and the sum of such computed amounts shall be paid as
2 provided in this section.

3 (3) EARLY RETIREMENT BENEFIT.--Upon retirement on his
4 or her early retirement date, the member shall receive an
5 immediate monthly benefit that ~~which~~ shall begin to accrue on
6 the first day of the month of the retirement date and be
7 payable on the last day of that month and each month
8 thereafter during his or her lifetime. Such benefit shall be
9 calculated as follows:

10 (a) The amount of each monthly payment shall be
11 computed in the same manner as for a normal retirement
12 benefit, in accordance with subsection (1), but shall be based
13 on the member's average monthly compensation and creditable
14 service as of the member's early retirement date. The benefit
15 so computed shall be reduced by five-twelfths of 1 percent for
16 each complete month by which the early retirement date
17 precedes the normal retirement date of age 62 for a ~~regular~~
18 member of the Regular Class, Senior Management Service Class,
19 ~~or a member of the Elected State and County Officers' Class,~~
20 and age 55 for a member of the Special Risk Class, ~~member~~
21 age 52 if a Special Risk member has completed 25 years of
22 creditable service in accordance with s. 121.021(29)(b)3. ~~s.~~
23 ~~121.021(29)(c)3.~~

24 (b) ~~However,~~ If the employment of a member is
25 terminated by reason of death subsequent to the completion of
26 20 years of creditable service, the monthly benefit payable to
27 the member's beneficiary shall be calculated in accordance
28 with subsection (1), but shall be based on average monthly
29 compensation and creditable service as of the date of death.
30 The benefit so computed shall be reduced by five-twelfths of 1
31 percent for each complete month by which death precedes the

1 normal retirement date specified above or the date on which
2 the member would have attained 30 years of creditable service
3 had he or she survived and continued his or her employment,
4 whichever provides a higher benefit.

5 (4) DISABILITY RETIREMENT BENEFIT.--

6 (a) Disability retirement; entitlement and effective
7 date.--

8 1. A member who becomes totally and permanently
9 disabled, as defined in paragraph (b), after completing 5
10 years of creditable service, or a member who becomes totally
11 and permanently disabled in the line of duty regardless of
12 service, shall be entitled to a monthly disability benefit;
13 except that any member with less than 5 years of creditable
14 service on July 1, 1980, or any person who becomes a member of
15 the Florida Retirement System on or after such date must have
16 completed 10 years of creditable service prior to becoming
17 totally and permanently disabled in order to receive
18 disability retirement benefits for any disability which occurs
19 other than in the line of duty. However, if a ~~But in the~~
20 ~~event that any~~ member employed on July 1, 1980, with less than
21 5 years of creditable service as of that date, becomes totally
22 and permanently disabled after completing 5 years of
23 creditable service and is found not to have attained fully
24 insured status for benefits under the federal Social Security
25 Act, such member shall be entitled to a monthly disability
26 benefit. ~~The disability retirement date shall be the first~~
27 ~~day of the month which coincides with or next follows the date~~
28 ~~the administrator approves payment of disability retirement~~
29 ~~benefits to the member.~~

30 2. If the division has received from the employer the
31 required documentation of the member's termination of

1 employment, the effective retirement date for a member who
2 applies and is approved for disability retirement shall be:

3 a. The first day of the month following the division's
4 receipt of Form FR-13, when receipt is before the documented
5 termination date, if salary or workers' compensation payments
6 are not reported and if creditable service is not granted past
7 the month in which the Form FR-13 is received.

8 b. The first day of the month following the documented
9 termination date, if the division received Form FR-13 within
10 30 calendar days after the termination date.

11 c. The first day of the month following the division's
12 receipt of the Form FR-13, if receipt is more than 30 calendar
13 days after the documented termination date.

14 d. The first day of the month following the last month
15 for which salary is reported or creditable service is granted,
16 if the division receives the Form FR-13 before such day and
17 the documented termination date occurs after such day.

18 3. For a member who is receiving Workers' Compensation
19 payments, the effective disability retirement date may not
20 precede the date the member reaches Maximum Medical
21 Improvement (MMI), unless the member terminates employment
22 prior to reaching MMI.

23 (b) Total and permanent disability.--A member shall be
24 considered totally and permanently disabled if, in the opinion
25 of the administrator, he or she is prevented, by reason of a
26 medically determinable physical or mental impairment, from
27 rendering useful and efficient service as an officer or
28 employee.

29 (c) Proof of disability.--The administrator, before
30 approving payment of any disability retirement benefit, shall
31 require proof that the member is totally and permanently

1 disabled as provided herein, which proof shall include the
2 certification of the member's total and permanent disability
3 by two licensed physicians of the state and such other
4 evidence of disability as the administrator may require,
5 including reports from vocational rehabilitation, evaluation,
6 or testing specialists who have evaluated the applicant for
7 employment. The unavailability of an employment position that
8 the member is physically and mentally capable of performing
9 may not be considered as proof of total and permanent
10 disability.

11 (d) Election on appeal.--A member whose application
12 for regular disability retirement has been denied and who has
13 filed an appeal to the State Retirement Commission may, if
14 eligible, elect to receive normal or early service retirement
15 benefits while he or she is awaiting the decision on the
16 appeal. However:

17 1. If the member elects to receive service retirement
18 benefits and disability benefits are later approved as a
19 result of the appeal, the payment option chosen by the member
20 may not be changed.

21 2. If the member elects to receive early service
22 retirement and the appeal is later denied, the member may not
23 change his or her election of early retirement.

24
25 Before such regular or early retirement benefits may be paid
26 by the division, the member must provide to the division a
27 written statement indicating that the member understands that
28 such changes are not permitted after he or she begins
29 receiving the benefits.

30 (e)(d) Disability retirement benefit.--Upon the
31 retirement of a member on his or her disability retirement

1 date, the member shall receive a monthly benefit that ~~which~~
2 shall begin to accrue on the first day of the month of
3 disability retirement and shall be payable on the last day of
4 that month and each month thereafter during his or her
5 lifetime and continued disability.

6 (f) Computation of disability retirement benefit.--The
7 amount of each monthly payment shall be computed in the same
8 manner as for a normal retirement benefit, in accordance with
9 subsection (1), but shall be based on disability option
10 actuarial equivalency tables and the average monthly
11 compensation and creditable service of the member as of the
12 disability retirement date, subject to the following
13 conditions:

14 1. If the member's disability occurred in the line of
15 duty, the monthly Option 1 benefit shall not be less than 42
16 percent of average monthly compensation as of the disability
17 retirement date; or

18 2. If the member's disability occurred other than in
19 the line of duty, the monthly Option 1 benefit shall not be
20 less than 25 percent of average monthly compensation as of the
21 disability retirement date.

22 (g) Reapplication.--A member, whose initial
23 application for disability retirement has been denied, may
24 reapply for disability benefits. However, such member's
25 reapplication will be considered only if the member presents
26 new medical evidence of a medical condition that existed prior
27 to the member's termination of employment.

28 1. To reapply, the member shall submit to the
29 division:

30 a. A new application for disability retirement (Form
31 FR-13). The member's effective retirement date shall be

1 established as provided in paragraph (a), based on the date of
2 receipt of the new application;

3 b. A new statement of disability by employer (Form
4 FR-13a), only if an employee-employer relationship has existed
5 since the date of the initial disapproval; and

6 c. Two new physician's reports (Form FR-13b) completed
7 by two physicians licensed in this state. The application
8 shall be considered only if each physician certifies the
9 following:

10 (I) The member's medical condition occurred or became
11 symptomatic during the time the member was employed in an
12 employee-employer relationship with his or her employer;

13 (II) The member was totally and permanently disabled
14 at the time he or she terminated covered employment, and he or
15 she has not been employed with any other employer after such
16 termination; and

17 (III) If the application is for in-line-of-duty
18 disability, the disability was caused or aggravated by a
19 job-related illness or accident that occurred while the member
20 was in an employee-employer relationship with his or her
21 employer.

22 2. The reapplication for disability retirement shall
23 be reviewed to determine if the information provided by the
24 member is additional information that was not available in any
25 prior application for disability retirement, or if new
26 information from the previous physicians has been submitted,
27 and approved or disapproved, as follows:

28 a. If no new medical information is received, the
29 reapplication for disability retirement shall be disapproved,
30 and the member shall be advised of his or her right to an
31 administrative hearing under chapter 120.

1 b. If new medical information is received, the
2 application shall be reviewed and approved or disapproved in
3 the same manner as provided for the initial application. If
4 the reapplication is disapproved, and regardless of whether
5 the member appealed the initial disapproval decision to the
6 State Retirement Commission, the member may request a hearing
7 before the State Retirement Commission under s. 120.57(1).

8 (h)(e) Recovery from disability.--The administrator
9 may require periodic reexaminations at the expense of the
10 retirement fund, and the division shall adopt rules
11 establishing procedures for such reexaminations.†

12 1. If the administrator finds that a member who is
13 receiving disability benefits is, at any time prior to his or
14 her normal retirement date, no longer disabled, the
15 administrator shall direct that the benefits be discontinued.
16 The decision of the administrator on this question shall be
17 final and binding. If such member:

18 a.2. If the member, described in subparagraph 1., who
19 recovers from such disability prior to the normal retirement
20 date Does not reenter the employ of an employer and was not
21 vested had not completed 10 years of creditable service as of
22 the disability retirement date, he or she shall be entitled to
23 the excess, if any, of his or her accumulated contributions
24 over the total disability benefits received up to the date of
25 recovery.

26 b.3. If the member, described in subparagraph 1., who
27 recovers from such disability prior to the normal retirement
28 date Does not reenter the employ of an employer, but was
29 vested had completed 10 or more years of creditable service as
30 of the disability retirement date, he or she may elect to
31 receive:

1 (I)a. The excess, if any, of his or her accumulated
2 contributions over the total disability benefits received up
3 to the date of recovery;or

4 (II)b. A deferred benefit commencing on the last day
5 of the month of the normal retirement date which shall be
6 payable on the last day of the month thereafter during his or
7 her lifetime. The amount of such monthly benefit shall be
8 computed in the same manner as for a normal retirement
9 benefit, in accordance with subsection (1), but shall be based
10 on average monthly compensation and creditable service as of
11 the member's disability retirement date.

12 ~~c.4. If the member recovers from disability and~~
13 Reenters employment of an employer within 6 months after
14 recovery, the member's service will be deemed to have been
15 continuous, but the period beginning with the first month for
16 which he or she received a disability benefit payment and
17 ending with the date he or she reentered employment will not
18 be considered as creditable service for the purpose of
19 computing benefits except as provided in sub-subparagraph d.
20 As used in this section,~~subparagraph 5.~~the term "accumulated
21 contributions" for such member ~~wherever used in this section~~
22 ~~after such recovery~~ means the excess of the ~~a~~ member's
23 accumulated contributions as of the disability retirement date
24 over the total disability benefits received under paragraph
25 ~~(e)(d).~~

26 d.5. Terminates ~~if the member recovers from~~
27 ~~disability,~~ has his or her disability benefit ~~terminated,~~
28 reenters covered employment, and is continuously employed for
29 a minimum of 1 year of creditable service, he or she may claim
30 as creditable service the months during which he or she was
31 receiving a disability benefit, upon payment of the required

1 contributions. Contributions shall equal the total required
2 employee and employer contribution rate applicable during the
3 period the retiree received retirement benefits, multiplied
4 times his or her rate of monthly compensation prior to the
5 commencement of disability retirement for each month of the
6 period claimed, plus 4 percent interest until July 1, 1975,
7 and 6.5 percent interest thereafter ~~on such contributions~~,
8 compounded annually each June 30 to the date of payment. If
9 the member does not claim credit for all of the months he or
10 she received disability benefits, the months claimed must be
11 the most recent months of retirement. Such credit for periods
12 of disability, when purchased under the Florida Retirement
13 System, shall apply toward vesting requirements for
14 eligibility to purchase additional credit for other service.

15 2. Both the member receiving disability benefits who
16 reenters employment and the employer employing such disability
17 retiree shall notify the division immediately upon
18 reemployment, and the division shall terminate such member's
19 disability benefits, effective the first day of the month
20 following the month in which notification of recovery is
21 received. If the member is reemployed with a Florida
22 Retirement System employer at the time of benefit termination,
23 and he or she has received disability retirement benefit and
24 salary payments concurrently prior to notifying the division,
25 he or she may elect within 30 days to:

26 a. Retain the retirement benefits received prior to
27 termination of disability benefits and begin receiving
28 retirement service credit effective upon the date of
29 termination of benefits; or

30 b. Repay, within 12 months after his or her decision
31 to receive service credit, the retirement benefits received

1 for each month of reemployment prior to termination of
2 disability benefits and begin receiving retirement service
3 credit effective upon the date of reemployment. Any such
4 unpaid benefits shall have compound interest of 6.5 percent
5 added June 30.

6
7 A member may not receive both retirement service credit for
8 employment and retirement benefits for the same month.

9 3.6. If, after recovery of disability and reentry into
10 covered employment, the member again becomes disabled and is
11 again approved for disability retirement, the Option 1 monthly
12 retirement benefit shall not be less than the Option 1 monthly
13 benefit calculated at the time of the previous disability,
14 plus any cost of living increases up to the time the
15 disability benefit was terminated upon his or her reentry into
16 covered employment.

17 (i)~~(f)~~ Nonadmissible causes of disability.--A member
18 shall not be entitled to receive any disability retirement
19 benefit if the disability is a result of any of the following:

20 1. Injury or disease sustained by the member while
21 willfully participating in a riot, civil insurrection, or
22 other act of violence or while committing a felony;

23 2. Injury or disease sustained by the member after his
24 or her employment has terminated; or

25 3. Intentional, self-inflicted injury.

26 (j)~~(g)~~ Disability retirement of justice or judge by
27 order of Supreme Court.--

28 1. If a member is a justice of the Supreme Court,
29 judge of a district court of appeal, circuit judge, or judge
30 of a county court who has served for 10 years or more as an
31 elected constitutional judicial officer, including service as

1 a judicial officer in any court abolished pursuant to Art. V
2 of the State Constitution, and who is retired for disability
3 by order of the Supreme Court upon recommendation of the
4 Judicial Qualifications Commission pursuant to the provisions
5 of Art. V of the State Constitution, the member's Option 1
6 monthly benefit as provided in subparagraph (6)(a)1. shall not
7 be less than two-thirds of his or her monthly compensation as
8 of the member's disability retirement date. Such a member may
9 alternatively elect to receive a disability retirement benefit
10 under any other option as provided in paragraph (6)(a).

11 2. Should any justice or judge who is a member of the
12 Florida Retirement System be retired for disability by order
13 of the Supreme Court upon recommendation of the Judicial
14 Qualifications Commission pursuant to the provisions of Art. V
15 of the State Constitution, then all contributions to his or
16 her account and all contributions made on his or her behalf by
17 the employer shall be transferred to and deposited in the
18 General Revenue Fund of the state, and there is hereby
19 appropriated annually out of the General Revenue Fund, to be
20 paid into the Florida Retirement System Fund, an amount
21 necessary to pay the benefits of all justices and judges
22 retired from the Florida Retirement System pursuant to Art. V
23 of the State Constitution.

24 (5) TERMINATION BENEFITS.--

25 (a) A member whose employment is terminated for any
26 reason other than death or retirement prior to becoming vested
27 ~~is the completion of 10 years of creditable service shall be~~
28 entitled to the return of his or her accumulated contributions
29 as of the date of termination.

30 (b) A member whose employment is terminated for any
31 reason other than death or retirement after becoming vested

1 ~~the completion of 10 years of creditable service~~ may elect to
2 receive a deferred monthly benefit which shall begin to accrue
3 on the first day of the month of normal or early retirement
4 and shall be payable on the last day of that month and each
5 month thereafter during his or her lifetime. The amount of
6 monthly benefit shall be computed in the same manner as for a
7 normal retirement benefit in accordance with subsection (1) or
8 early retirement benefit in accordance with s. 121.021(30),
9 but based on average monthly compensation and creditable
10 service as of the date of termination.

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

15 (d) If any retired member dies without having received
16 in benefit payments an amount equal to his or her accumulated
17 contributions, there shall be payable to his or her designated
18 beneficiary an amount equal to the excess, if any, of the
19 member's accumulated contributions over the total monthly
20 payments made to the member prior to the date of death.

21 (e) A member shall be deemed a terminated member when
22 termination of employment has occurred as provided in s.
23 121.021(39).

24 (f) Any member who has been found guilty by a verdict
25 of a jury, or by the court trying the case without a jury, of
26 committing, aiding, or abetting any embezzlement or theft from
27 his or her employer, bribery in connection with the
28 employment, or other felony specified in chapter 838, except
29 ss. 838.15 and 838.16, committed prior to retirement, or who
30 has entered a plea of guilty or of nolo contendere to such
31 crime, or any member whose employment is terminated by reason

1 of the member's admitted commitment, aiding, or abetting of an
2 embezzlement or theft from his or her employer, bribery, or
3 other felony specified in chapter 838, except ss. 838.15 and
4 838.16, shall forfeit all rights and benefits under this
5 chapter, except the return of his or her accumulated
6 contributions as of the date of termination.

7 (g) Any elected official who is convicted by the
8 Senate of an impeachable offense shall forfeit all rights and
9 benefits under this chapter, except the return of his or her
10 accumulated contributions as of the date of the conviction.

11 (h) Any member who, prior to retirement, is adjudged
12 by a court of competent jurisdiction to have violated any
13 state law against strikes by public employees, or who has been
14 found guilty by such court of violating any state law
15 prohibiting strikes by public employees, shall forfeit all
16 rights and benefits under this chapter, except the return of
17 his or her accumulated contributions as of the date of the
18 conviction.

19 (i) Any beneficiary who by a verdict of a jury or by
20 the court trying the case without a jury is found guilty, or
21 who has entered a plea of guilty or nolo contendere, of
22 unlawfully and intentionally killing or procuring the death of
23 the member forfeits all rights to the deceased member's
24 benefits under this chapter, and the benefits will be paid as
25 if such beneficiary had predeceased the decedent. Benefits may
26 not be paid by the division pending final resolution of such
27 charges against the beneficiary.

28 (6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND
29 DISABILITY RETIREMENT BENEFITS.--

30 (a) Prior to the receipt of the first monthly
31 retirement payment, a member shall elect to receive the

1 retirement benefits to which he or she is entitled under
2 subsection (1), subsection (2), subsection (3), or subsection
3 (4) in accordance with one of the following options:

4 1. The maximum retirement benefit payable to the
5 member during his or her lifetime.

6 2. A decreased retirement benefit payable to the
7 member during his or her lifetime and, in the event of his or
8 her death within a period of 10 years after retirement, the
9 same monthly amount payable for the balance of such 10-year
10 period to his or her beneficiary or, in case the beneficiary
11 is deceased, in accordance with subsection (8) as though no
12 beneficiary had been named.

13 3. A decreased retirement benefit payable during the
14 joint lifetime of both the member and his or her joint
15 annuitant and which, after the death of either, shall continue
16 during the lifetime of the survivor in the same amount,
17 subject to the provisions of subsection (12).

18 4. A decreased retirement benefit payable during the
19 joint lifetime of the member and his or her joint annuitant
20 and which, after the death of either, shall continue during
21 the lifetime of the survivor in an amount equal to $66 \frac{2}{3}$
22 percent of the amount that was payable during the joint
23 lifetime of the member and his or her joint annuitant, subject
24 to the provisions of subsection (12).

25
26 The spouse of any member who elects to receive the benefit
27 provided under subparagraph 1. or subparagraph 2. shall be
28 notified of and shall acknowledge any such election. For
29 purposes of selecting the appropriate actuarial factor for
30 subparagraphs 3. and 4., the age of the member and the joint
31 annuitant shall be the factor for the age as of the last

1 birthday if the month of retirement is less than 7 months
2 after the birth month, and the actuarial factor selected shall
3 be the factor for the age as of the next birthday if the month
4 of retirement is 7 or more months after the birth month.

5 (b) The benefit payable under any option stated above
6 shall be the actuarial equivalent, based on tables adopted by
7 the administrator for this purpose, of the amount to which the
8 member was otherwise entitled.

9 (c) A member who elects the option in subparagraph
10 (a)2. shall, in accordance with subsection (8), designate one
11 or more persons to receive the benefits payable in the event
12 of his or her death. Such persons shall be the beneficiaries
13 of the member. The member may also designate one or more
14 contingent beneficiaries to receive any benefits remaining
15 upon the death of the primary beneficiary.

16 (d) A member who elects the option in subparagraph
17 (a)3. or subparagraph (a)4. shall, on a form provided for that
18 purpose, designate a joint annuitant to receive the benefits
19 which continue to be payable upon the death of the member.
20 After benefits have commenced under the option in subparagraph
21 (a)3. or subparagraph (a)4., a retired member may change his
22 or her designation of a joint annuitant only twice. If such a
23 retired member desires to change his or her designation of a
24 joint annuitant, he or she shall file with the division a
25 notarized "change of joint annuitant" form and shall notify
26 the former joint annuitant in writing of such change.

27 Effective the first day of the next month following receipt by
28 the division of a completed change of joint annuitant form,
29 the division shall adjust the member's monthly benefit by the
30 application of actuarial tables and calculations developed to
31 ensure that the benefit paid is the actuarial equivalent of

1 the present value of the member's current benefit. The
2 consent of a retired member's first designated joint annuitant
3 to any such change shall not be required. However, if either
4 the member or the joint annuitant dies before the effective
5 date of the request for change of joint annuitant, the
6 requested change shall be void, and survivor benefits, if any,
7 shall be paid as if no request had been made.

8 (e) The election of an option shall be null and void
9 if the member dies before the effective date of retirement.

10 (f) A member who elects to receive benefits under the
11 option in subparagraph (a)3. may designate one or more
12 qualified persons, either a spouse or other dependent, as his
13 or her joint annuitant to receive the benefits after the
14 member's death in whatever proportion he or she so assigns to
15 each person named as joint annuitant. The division shall adopt
16 appropriate actuarial tables and calculations necessary to
17 ensure that the benefit paid is the actuarial equivalent of
18 the benefit to which the member is otherwise entitled under
19 the option in subparagraph (a)1.

20 (g) Upon the death of a retired member or beneficiary
21 receiving monthly benefits under this chapter, the monthly
22 benefits shall be paid through the last day of the month of
23 death and shall terminate, or be adjusted, if applicable, as
24 of that date in accordance with the optional form of benefit
25 selected at the time of retirement.

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

31 (7) DEATH BENEFITS.--

1 (a) If the employment of a member is terminated by
2 reason of his or her death prior to being vested the
3 ~~completion of 10 years of creditable service~~, there shall be
4 payable to his or her designated beneficiary the member's
5 accumulated contributions.

6 (b) If the employment of an active member who may or
7 may not have applied for retirement is terminated by reason of
8 his or her death subsequent to becoming vested the completion
9 ~~of 10 years of creditable service~~ and prior to his or her
10 effective date of retirement, if established, it shall be
11 assumed that the member retired as of the date of death in
12 accordance with subsection (1) if eligible for normal
13 retirement benefits, subsection (2) if eligible for benefits
14 payable for dual normal retirement, or subsection (3) if
15 eligible for early retirement benefits. Benefits payable to
16 the designated beneficiary shall be as follows:

17 1. For a beneficiary who qualifies as a joint
18 annuitant, the optional form of payment provided in accordance
19 with subparagraph (6)(a)3. shall be paid for the joint
20 annuitant's lifetime.

21 2. For a beneficiary who does not qualify as a joint
22 annuitant, no continuing monthly benefit shall be paid and the
23 beneficiary shall be entitled only to the return of the
24 member's personal contributions. If there is no monetary
25 interest in the member's retirement account for which such
26 beneficiary is eligible, the beneficiary shall be the next
27 named beneficiary or, if no other beneficiary is named, the
28 beneficiary shall be the next eligible beneficiary according
29 to subsection (8).

30 (c) If a retiring member dies on or after the
31 effective date of retirement, but prior to a benefit payment

1 being cashed or deposited, or credited to the Deferred
2 Retirement Option Program, benefits shall be paid as follows:

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

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

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

18 1. The surviving spouse of any member killed in the
19 line of duty may receive a monthly pension equal to one-half
20 of the monthly salary being received by the member at the time
21 of death for the rest of the surviving spouse's lifetime or,
22 if the member was vested, such surviving spouse may elect to
23 receive a benefit as provided in paragraph (b). Benefits
24 provided by this paragraph shall supersede any other
25 distribution that may have been provided by the member's
26 designation of beneficiary.

27 2. If the surviving spouse of a member killed in the
28 line of duty dies, the monthly payments which would have been
29 payable to such surviving spouse had such surviving spouse
30 lived shall be paid for the use and benefit of such member's
31

1 child or children under 18 years of age and unmarried until
2 the 18th birthday of the member's youngest child.

3 3. If a member killed in the line of duty leaves no
4 surviving spouse but is survived by a child or children under
5 18 years of age, the benefits provided by subparagraph 1.,
6 normally payable to a surviving spouse, shall be paid for the
7 use and benefit of such member's child or children under 18
8 years of age and unmarried until the 18th birthday of the
9 member's youngest child.

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

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

24 (f) Notwithstanding any other provisions in this
25 chapter to the contrary, if any member who is vested ~~has~~
26 ~~accumulated at least 10 years of creditable service~~ dies and
27 the surviving spouse receives a refund of the accumulated
28 contributions made to the retirement trust fund, such spouse
29 may pay to the Division of Retirement an amount equal to the
30 sum of the amount of the deceased member's accumulated
31 contributions previously refunded plus interest at 4 percent

1 compounded annually each June 30 from the date of refund until
2 July 1, 1975, and 6.5 percent interest compounded annually
3 thereafter, until full payment is made, and receive the
4 monthly retirement benefit as provided in paragraph (b).

5 (g) The designated beneficiary who is the surviving
6 spouse or other dependent of a member whose employment is
7 terminated by death subsequent to becoming vested,~~the~~
8 ~~completion of 10 years of creditable service~~ but prior to
9 actual retirement, may elect to receive a deferred monthly
10 benefit as if the member had lived and had elected a deferred
11 monthly benefit, as provided in paragraph (5)(b), calculated
12 on the basis of the average final compensation and creditable
13 service of the member at his or her death and the age the
14 member would have attained on the commencement date of the
15 deferred benefit elected by the beneficiary, paid in
16 accordance with option 3 of paragraph (6)(a).

17 (8) DESIGNATION OF BENEFICIARIES.--

18 (a) Each member may, on a form provided for that
19 purpose, signed and filed with the division, designate a
20 choice of one or more persons, named sequentially or jointly,
21 as his or her beneficiary who shall receive the benefits, if
22 any, which may be payable in the event of the member's death
23 pursuant to the provisions of this chapter. If no beneficiary
24 is named in the manner provided above, or if no beneficiary
25 designated by the member survives the member, the beneficiary
26 shall be the spouse of the deceased, if living. If the
27 member's spouse is not alive at his or her death, the
28 beneficiary shall be the living children of the member. If no
29 children survive, the beneficiary shall be the member's father
30 or mother, if living; otherwise, the beneficiary shall be the
31 member's estate. The beneficiary most recently designated by

1 a member on a form or letter filed with the division shall be
2 the beneficiary entitled to any benefits payable at the time
3 of the member's death, except that benefits shall be paid as
4 provided in paragraph (7)(d) when death occurs in the line of
5 duty.

6 (b) A designated beneficiary of a retirement account
7 for whom there is a monetary interest may disclaim his or her
8 monetary interest as provided in s. 689.21. Such disclaimer
9 must be filed within 24 months after the event that created
10 the interest, that is, the death of the member or annuitant.

11 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

12 (a) Any person who is retired under this chapter,
13 except under the disability retirement provisions of
14 subsection (4), may be employed by an employer that does not
15 participate in a state-administered retirement system and may
16 receive compensation from that employment without limiting or
17 restricting in any way the retirement benefits payable to that
18 person.

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

1 2. Any person to whom the limitation in subparagraph
2 1. applies who violates such reemployment limitation and who
3 is reemployed with any agency participating in the Florida
4 Retirement System before completion of the 12-month limitation
5 period shall give timely notice of this fact in writing to the
6 employer and to the division and shall have his or her
7 retirement benefits suspended for the balance of the 12-month
8 limitation period. Any person employed in violation of this
9 paragraph and any employing agency which knowingly employs or
10 appoints such person without notifying the Division of
11 Retirement to suspend retirement benefits shall be jointly and
12 severally liable for reimbursement to the retirement trust
13 fund of any benefits paid during the reemployment limitation
14 period. To avoid liability, such employing agency shall have
15 a written statement from the retiree that he or she is not
16 retired from a state-administered retirement system. Any
17 retirement benefits received while reemployed during this
18 reemployment limitation period shall be repaid to the
19 retirement trust fund, and retirement benefits shall remain
20 suspended until such repayment has been made. Benefits
21 suspended beyond the reemployment limitation shall apply
22 toward repayment of benefits received in violation of the
23 reemployment limitation.

24 3. A district school board may reemploy a retired
25 member as a substitute or hourly teacher, teacher aide,
26 transportation assistant, bus driver, or food service worker
27 on a noncontractual basis after he or she has been retired for
28 1 calendar month, in accordance with s. 121.021(39). Any
29 retired member who is reemployed within 1 calendar month after
30 retirement shall void his or her application for retirement
31 benefits. District school boards reemploying such teachers,

1 teacher aides, transportation assistants, bus drivers, or food
2 service workers are subject to the retirement contribution
3 required by subparagraph 7. Reemployment of a retired member
4 as a substitute or hourly teacher, teacher aide,
5 transportation assistant, bus driver, or food service worker
6 is limited to 780 hours during the first 12 months of his or
7 her retirement. Any retired member reemployed for more than
8 780 hours during his or her first 12 months of retirement
9 shall give timely notice in writing to the employer and to the
10 division of the date he or she will exceed the limitation.
11 The division shall suspend his or her retirement benefits for
12 the remainder of the first 12 months of retirement. Any
13 person employed in violation of this subparagraph and any
14 employing agency which knowingly employs or appoints such
15 person without notifying the Division of Retirement to suspend
16 retirement benefits shall be jointly and severally liable for
17 reimbursement to the retirement trust fund of any benefits
18 paid during the reemployment limitation period. To avoid
19 liability, such employing agency shall have a written
20 statement from the retiree that he or she is not retired from
21 a state-administered retirement system. Any retirement
22 benefits received by a retired member while reemployed in
23 excess of 780 hours during the first 12 months of retirement
24 shall be repaid to the Retirement System Trust Fund, and his
25 or her retirement benefits shall remain suspended until
26 repayment is made. Benefits suspended beyond the end of the
27 retired member's first 12 months of retirement shall apply
28 toward repayment of benefits received in violation of the
29 780-hour reemployment limitation.

30 4. A community college board of trustees may reemploy
31 a retired member as an adjunct instructor, that is, an

1 instructor who is noncontractual and part-time, or as a
2 participant in a phased retirement program within the State
3 Community College System, after he or she has been retired for
4 1 calendar month, in accordance with s. 121.021(39). Any
5 retired member who is reemployed within 1 calendar month after
6 retirement shall void his or her application for retirement
7 benefits. Boards of trustees reemploying such instructors are
8 subject to the retirement contribution required in
9 subparagraph 7. A retired member may be reemployed as an
10 adjunct instructor for no more than 780 hours during the first
11 12 months of retirement. Any retired member reemployed for
12 more than 780 hours during the first 12 months of retirement
13 shall give timely notice in writing to the employer and to the
14 division of the date he or she will exceed the limitation.
15 The division shall suspend his or her retirement benefits for
16 the remainder of the first 12 months of retirement. Any
17 person employed in violation of this subparagraph and any
18 employing agency which knowingly employs or appoints such
19 person without notifying the Division of Retirement to suspend
20 retirement benefits shall be jointly and severally liable for
21 reimbursement to the retirement trust fund of any benefits
22 paid during the reemployment limitation period. To avoid
23 liability, such employing agency shall have a written
24 statement from the retiree that he or she is not retired from
25 a state-administered retirement system. Any retirement
26 benefits received by a retired member while reemployed in
27 excess of 780 hours during the first 12 months of retirement
28 shall be repaid to the Retirement System Trust Fund, and
29 retirement benefits shall remain suspended until repayment is
30 made. Benefits suspended beyond the end of the retired
31 member's first 12 months of retirement shall apply toward

1 repayment of benefits received in violation of the 780-hour
2 reemployment limitation.

3 5. The State University System may reemploy a retired
4 member as an adjunct faculty member or as a participant in a
5 phased retirement program within the State University System
6 after the retired member has been retired for 1 calendar
7 month, in accordance with s. 121.021(39). Any retired member
8 who is reemployed within 1 calendar month after retirement
9 shall void his or her application for retirement benefits.
10 The State University System is subject to the retired
11 contribution required in subparagraph 7., as appropriate. A
12 retired member may be reemployed as an adjunct faculty member
13 or a participant in a phased retirement program for no more
14 than 780 hours during the first 12 months of his or her
15 retirement. Any retired member reemployed for more than 780
16 hours during the first 12 months of retirement shall give
17 timely notice in writing to the employer and to the division
18 of the date he or she will exceed the limitation. The
19 division shall suspend his or her retirement benefits for the
20 remainder of the first 12 months of retirement. Any person
21 employed in violation of this subparagraph and any employing
22 agency which knowingly employs or appoints such person without
23 notifying the Division of Retirement to suspend retirement
24 benefits shall be jointly and severally liable for
25 reimbursement to the retirement trust fund of any benefits
26 paid during the reemployment limitation period. To avoid
27 liability, such employing agency shall have a written
28 statement from the retiree that he or she is not retired from
29 a state-administered retirement system. Any retirement
30 benefits received by a retired member while reemployed in
31 excess of 780 hours during the first 12 months of retirement

1 shall be repaid to the Retirement System Trust Fund, and
2 retirement benefits shall remain suspended until repayment is
3 made. Benefits suspended beyond the end of the retired
4 member's first 12 months of retirement shall apply toward
5 repayment of benefits received in violation of the 780-hour
6 reemployment limitation.

7 6. The Board of Trustees of the Florida School for the
8 Deaf and the Blind may reemploy a retired member as a
9 substitute teacher, substitute residential instructor, or
10 substitute nurse on a noncontractual basis after he or she has
11 been retired for 1 calendar month, in accordance with s.
12 121.021(39). Any retired member who is reemployed within 1
13 calendar month after retirement shall void his or her
14 application for retirement benefits. The Board of Trustees of
15 the Florida School for the Deaf and the Blind reemploying such
16 teachers, residential instructors, or nurses is subject to the
17 retirement contribution required by subparagraph 7.
18 Reemployment of a retired member as a substitute teacher,
19 substitute residential instructor, or substitute nurse is
20 limited to 780 hours during the first 12 months of his or her
21 retirement. Any retired member reemployed for more than 780
22 hours during the first 12 months of retirement shall give
23 timely notice in writing to the employer and to the division
24 of the date he or she will exceed the limitation. The division
25 shall suspend his or her retirement benefits for the remainder
26 of the first 12 months of retirement. Any person employed in
27 violation of this subparagraph and any employing agency which
28 knowingly employs or appoints such person without notifying
29 the Division of Retirement to suspend retirement benefits
30 shall be jointly and severally liable for reimbursement to the
31 retirement trust fund of any benefits paid during the

1 reemployment limitation period. To avoid liability, such
2 employing agency shall have a written statement from the
3 retiree that he or she is not retired from a
4 state-administered retirement system. Any retirement benefits
5 received by a retired member while reemployed in excess of 780
6 hours during the first 12 months of retirement shall be repaid
7 to the Retirement System Trust Fund, and his or her retirement
8 benefits shall remain suspended until payment is made.
9 Benefits suspended beyond the end of the retired member's
10 first 12 months of retirement shall apply toward repayment of
11 benefits received in violation of the 780-hour reemployment
12 limitation.

13 7. The employment by an employer of any retiree or
14 DROP participant of any state-administered retirement system
15 shall have no effect on the average final compensation or
16 years of creditable service of the retiree or DROP
17 participant. Prior to July 1, 1991, upon employment of any
18 person, other than an elected officer as provided in s.
19 121.053, who has been retired under any state-administered
20 retirement program, the employer shall pay retirement
21 contributions in an amount equal to the unfunded actuarial
22 liability portion of the employer contribution which would be
23 required for regular members of the Florida Retirement System.
24 Effective July 1, 1991, contributions shall be made as
25 provided in s. 121.122 for retirees with renewed membership or
26 subsection (13) with respect to DROP participants.

27 8. Any person who has previously retired and who is
28 holding an elective public office or an appointment to an
29 elective public office eligible for the Elected State and
30 County Officers' Class on or after July 1, 1990, shall be
31 enrolled in the Florida Retirement System as provided in s.

1 121.053(1)(b) or, if holding an elective public office that
2 does not qualify for the Elected State and County Officers'
3 Class on or after July 1, 1991, shall be enrolled in the
4 Florida Retirement System as provided in s. 121.122, and shall
5 continue to receive retirement benefits as well as
6 compensation for the elected officer's service for as long as
7 he or she remains in elective office. However, any retired
8 member who served in an elective office prior to July 1, 1990,
9 suspended his or her retirement benefit, and had his or her
10 Florida Retirement System membership reinstated shall, upon
11 retirement from such office, have his or her retirement
12 benefit recalculated to include the additional service and
13 compensation earned.

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

29 10. The limitations of this paragraph apply to
30 reemployment in any capacity with an "employer" as defined in
31

1 s. 121.021(10), irrespective of the category of funds from
2 which the person is compensated.

3 11. From July 1, 1997, through December 31, 1998,
4 notwithstanding the limitations of this subsection, except
5 that any retiree who is reemployed within 1 calendar month
6 after retirement shall void his or her application for
7 retirement benefits, any retiree of the Florida Retirement
8 System may be reemployed by a covered employer during the 2nd
9 through 12th months of the reemployment limitation period
10 without suspending his or her retirement benefits, provided
11 that the reemployment is for the sole purpose of working on
12 the technical aspects of correcting or replacing the computer
13 systems and programs necessary to resolve the year 2000 date
14 problem for computing which confronts all public employers
15 covered by the Florida Retirement System.

16 (10) FUTURE BENEFITS BASED ON ACTUARIAL DATA.--It is
17 the intent of the Legislature that future benefit increases
18 enacted into law in this chapter shall be financed
19 concurrently by increased contributions or other adequate
20 funding, and such funding shall be based on sound actuarial
21 data as developed by the actuary or state retirement actuary,
22 as provided in ss. 121.021(6) and 121.192.

23 (11) A member who becomes eligible to retire and has
24 accumulated the maximum benefit of 100 percent of average
25 final compensation may continue in active service, and, if
26 upon the member's retirement the member elects to receive a
27 retirement compensation pursuant to subsection (2), subsection
28 (6), or subsection (7), the actuarial equivalent percentage
29 factor applicable to the age of such member at the time the
30 member reached the maximum benefit and to the age, at that

31

1 | time, of the member's spouse shall determine the amount of
2 | benefits to be paid.

3 | (12) SPECIAL PROVISIONS FOR PAYMENT OF CERTAIN
4 | SURVIVOR BENEFITS.--Notwithstanding any provision of this
5 | chapter to the contrary, for members with an effective date of
6 | retirement, or date of death if prior to retirement, on or
7 | after January 1, 1996, the named joint annuitant, as defined
8 | in s. 121.021(28)(b), who is eligible to receive benefits
9 | under subparagraph (6)(a)3. or subparagraph (6)(a)4., shall
10 | receive the maximum monthly retirement benefit that would have
11 | been payable to the member under subparagraph (6)(a)1. ;
12 | however, payment of such benefit shall cease the month the
13 | joint annuitant attains age 25 unless such joint annuitant is
14 | disabled and incapable of self-support, in which case,
15 | benefits shall cease when the joint annuitant is no longer
16 | disabled. The administrator may require proof of disability
17 | or continued disability in the same manner as is provided for
18 | a member seeking or receiving a disability retirement benefit
19 | under subsection (4).

20 | (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
21 | and subject to the provisions of this section, the Deferred
22 | Retirement Option Program, hereinafter referred to as the
23 | DROP, is a program under which an eligible member of the
24 | Florida Retirement System may elect to participate, deferring
25 | receipt of retirement benefits while continuing employment
26 | with his or her Florida Retirement System employer. The
27 | deferred monthly benefits shall accrue in the System Trust
28 | Fund on behalf of the participant, plus interest compounded
29 | monthly, for the specified period of the DROP participation,
30 | as provided in paragraph (c). Upon termination of employment,
31 | the participant shall receive the total DROP benefits and

1 begin to receive the previously determined normal retirement
2 benefits. Employment in the DROP does not guarantee employment
3 for the specified period of DROP.

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

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

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

25 3. Employment of a participant by additional Florida
26 Retirement System employers subsequent to the commencement of
27 participation in the DROP shall be permissible provided such
28 employers acknowledge in writing a DROP termination date no
29 later than the participant's existing termination date or the
30 60-month limitation period as provided in subparagraph (b)1.

31 (b) Participation in the DROP.--

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

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

- 11 a. A written election to participate in the DROP;
- 12 b. Selection of the DROP participation and termination
13 dates, which satisfy the limitations stated in paragraph (a)
14 and subparagraph 1. Such termination date shall be in a
15 binding letter of resignation with the employer, establishing
16 a deferred termination date. The member may change the
17 termination date within the limitations of subparagraph 1.,
18 but only with the written approval of his employer;
- 19 c. A properly completed DROP application for service
20 retirement as provided in this section; and
- 21 d. Any other information required by the division.

22 3. The DROP participant shall be a retiree under the
23 Florida Retirement System for all purposes, except for
24 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
25 121.053, and 121.122.

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

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

- 30 a. An elected or a nonelected participant may run for
31 a term of office while participating in DROP and, if elected,

1 extend the DROP termination date accordingly, except, however,
2 if such additional term of office exceeds the 60-month
3 limitation established in subparagraph 1., and the officer
4 does not resign from office within such 60-month limitation,
5 the retirement and the participant's DROP shall be null and
6 void as provided in sub-subparagraph (c)4.d.

7 b. An elected officer who is dually employed and
8 elects to participate in DROP shall be required to satisfy the
9 definition of termination within the 60-month limitation
10 period as provided in subparagraph 1. for the nonelected
11 position and may continue employment as an elected officer as
12 provided in s. 121.053. The elected officer will be enrolled
13 as a renewed member in the Elected State and County Officers'
14 Class or the Regular Class, as provided in ss. 121.053 and
15 121.22, on the first day of the month after termination of
16 employment in the nonelected position and termination of DROP.
17 Distribution of the DROP benefits shall be made as provided in
18 paragraph (c).

19 (c) Benefits payable under the DROP.--

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

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

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

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

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

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

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

27 (II) Direct rollover.--All accrued DROP benefits, plus
28 interest, shall be paid from the DROP directly to the
29 custodian of an eligible retirement plan as defined in s.
30 402(c)(8)(B) of the Internal Revenue Code. However, in the
31 case of an eligible rollover distribution to the surviving

1 spouse of a deceased participant, an eligible retirement plan
2 is an individual retirement account or an individual
3 retirement annuity as described in s. 402(c)(9) of the
4 Internal Revenue Code.

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

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

23 d. For a DROP participant who fails to terminate
24 employment as defined in s. 121.021(39)(b), the member shall
25 be deemed not to be retired and the DROP election shall be
26 null and void. Florida Retirement System membership shall be
27 reestablished retroactively to the date of the commencement of
28 the DROP, and the employer shall be required to pay to the
29 System Trust Fund the difference between the DROP
30 contributions paid in paragraph (i) and the contributions
31 required for the applicable Florida Retirement System class of

1 membership during the period the member participated in the
2 DROP, plus 6.5 percent interest compounded annually.

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

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

12 (d) Death benefits under the DROP.--

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

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

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

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

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

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

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

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

18 (i) Contributions.--

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

31

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

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

16 (j) Forfeiture of retirement benefits.--Nothing in
17 this section shall be construed to remove DROP participants
18 from the scope of s. 8(d), Art. II of the State Constitution,
19 s. 112.3173, and paragraph (5)(f). DROP participants who
20 commit a specified felony offense while employed will be
21 subject to forfeiture of all retirement benefits, including
22 DROP benefits, pursuant to those provisions of law.

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

29 (14) PAYMENT OF BENEFITS.--This subsection applies to
30 the payment of benefits to a payee (retiree or beneficiary)
31 under the Florida Retirement System:

1 (a) Federal income tax shall be withheld in accordance
2 with federal law, unless the payee elects otherwise on Form
3 W-4P. The division shall prepare and distribute to each
4 recipient of monthly retirement benefits an appropriate income
5 tax form that reflects the recipient's income and federal
6 income tax withheld for the calendar year just ended.

7 (b) Subject to approval by the division in accordance
8 with rule 60S-4.015, Florida Administrative Code, a payee
9 receiving retirement benefits under the Florida Retirement
10 System may also have the following payments deducted from his
11 or her monthly benefit:

12 1. Premiums for life and health-related insurance
13 policies from approved companies.

14 2. Life insurance premiums for the State Group Life
15 Insurance Plan, if authorized in writing by the payee and by
16 the Division of State Group Insurance.

17 3. Repayment of overpayments from the Florida
18 Retirement System Trust Fund, the State Employees' Health
19 Insurance Trust Fund, or the State Employees' Life Insurance
20 Trust Fund, upon notification of the payee.

21 4. Payments to an alternate payee for alimony, child
22 support, or division of marital assets pursuant to a qualified
23 domestic relations order under s. 222.21 or an income
24 deduction order under s. 61.1301.

25 5. Payments to the Internal Revenue Service for
26 federal income tax levies, upon notification of the division
27 by the Internal Revenue Service.

28 (c) A payee shall notify the division of any change in
29 his or her address. The division may suspend benefit payments
30 to a payee if correspondence sent to the payee's mailing
31 address is returned due to an incorrect address. Benefit

1 payments shall be resumed upon notification to the division of
2 the payee's new address.

3 Section 10. Section 121.111, Florida Statutes, is
4 amended to read:

5 121.111 Credit for military service.--

6 (1) Creditable service of any member shall also
7 include military service as defined in s. 121.021(20)(a) if:

8 (a) The member is in the active employ of an employer
9 immediately prior to such service and leaves a position, other
10 than a temporary position, for the purpose of induction into
11 the Armed Forces of the United States or entry upon duty in
12 the Armed Forces of the United States. When applied to the
13 Florida Retirement System:

14 1. The term "position other than a temporary position"
15 means a regularly established position with a Florida
16 Retirement System employer; and

17 2. A member shall be construed to have left his or her
18 employment for military purposes if he or she reported for
19 active duty within 60 days after leaving such employment;

20 (b) The member is entitled to reemployment under the
21 provisions of the Veterans' Reemployment Rights Act (38 U.S.C.
22 ss. 2021 et seq.);

23 (c) The member applies for reemployment with the same
24 employer within the time set forth in s. 2021 or s. 2024 of
25 the Veterans' Reemployment Rights Act, whichever is
26 applicable, and is reemployed by such employer;

27 (d) The member makes the required employee
28 contributions, if any, and the employer makes the required
29 employer contributions for the employee's membership class for
30 each month of service credit during such period of military
31 service, based upon the employee's rate of monthly

1 compensation as of the date that the employee left his or her
2 position, plus 4 percent interest on such contributions
3 compounded annually from the due date of the contribution
4 until July 1, 1975, and 6.5 percent interest compounded
5 annually thereafter, until the payment is made to the proper
6 retirement trust fund; and

7 (e) The period of service claimed pursuant to this
8 subsection does not exceed the periods specified by the
9 provisions of ss. 2021 and 2024 of the Veterans' Reemployment
10 Rights Act which are applicable in the member's case.

11 (2) Any member whose initial date of employment is
12 before January 1, 1987, who has military service as defined in
13 s. 121.021(20)(b), and who does not claim such service under
14 subsection (1) may receive creditable service for such
15 military service if:

16 (a) The member is vested ~~has completed a minimum of 10~~
17 ~~years of creditable service;~~

18 (b) Creditable service, not to exceed a total of 4
19 years, is claimed only as service earned in the Regular Class
20 of membership; and

21 (c) The member pays into the proper retirement trust
22 fund 4 percent of gross salary, based upon his or her first
23 year of salary subsequent to July 1, 1945, that he or she has
24 credit for under this system, plus 4 percent interest thereon
25 compounded annually from the date of first creditable service
26 under this chapter until July 1, 1975, and 6.5 percent
27 interest compounded annually thereafter, until payment is made
28 to the proper retirement trust fund.

29 (d) The member may not receive credit for any wartime
30 military service if the member also receives credit for such
31 service under any federal, state, or local retirement or

1 pension system where "length of service" is a factor in
2 determining the amount of compensation received. However,
3 credit for wartime military service may be received where the
4 member also receives credit under a pension system providing
5 retired pay for nonregular service in the Armed Forces of the
6 United States in accordance with 10 U.S.C. ss. 1331 et seq.,
7 as follows:

8 1. Any person whose retirement date under the Florida
9 Retirement System is prior to July 1, 1985, may claim such
10 service at any time, as provided in this subsection, upon
11 payment of contributions and interest as provided in paragraph
12 (c), with interest computed to the retired member's retirement
13 date. The benefit shall be recalculated and increased to
14 include the additional service credit granted for such wartime
15 military service, and a lump-sum payment shall be made to the
16 retiree for the amount owed due to the additional service
17 credit, retroactive to the date of retirement.

18 2. Any person whose retirement date is on or after
19 July 1, 1985, must claim such service and pay the required
20 contributions, as provided in paragraph (c), prior to the
21 commencement of his or her retirement benefits, as provided in
22 this subsection.

23 (e) Any member claiming credit under this subsection
24 must certify on the form prescribed by the division that
25 credit for such service has not and will not be claimed for
26 retirement purposes under any other federal, state, or local
27 retirement or pension system where "length of service" is a
28 factor in determining the amount of compensation received,
29 except where credit for such service has been granted in a
30 pension system providing retired pay for nonregular service as
31 provided in paragraph (d). If the member dies prior to

1 retirement, the member's beneficiary must make the required
2 certification before credit may be claimed. If such
3 certification is not made by the member or the member's
4 beneficiary, credit for wartime military service shall not be
5 allowed.

6 (f) Service credit awarded for wartime military
7 service shall be the total number of years, months, and days
8 from and including the date of entry into active duty through
9 the date of discharge from active duty, up to a maximum of 4
10 years. If the military service includes a partial year, it
11 shall be stated as a fraction of a year. Creditable military
12 service shall be calculated in accordance with rule
13 60S-2.005(2)(j), Florida Administrative Code.

14 (3) Except as provided in subsection (1), the employer
15 is not required to make contributions for military service
16 credit for any member.

17 Section 11. Section 121.121, Florida Statutes, is
18 amended to read:

19 121.121 ~~Future service to include~~ Authorized leaves of
20 absence.--A member may purchase creditable services for Future
21 ~~service of any member as defined in s. 121.021(21) shall also~~
22 ~~include up to 2 work years of creditable service for~~
23 authorized leaves of absence if:

24 (1) The member has completed a minimum of 10 years of
25 creditable service, excluding periods for which a ~~of~~ leave of
26 absence was authorized;

27 (2) The leave of absence is authorized in writing by
28 the employer of the member and approved by the administrator;

29 (3) The member returns to active employment performing
30 service with a Florida Retirement System employer in a
31 regularly established position immediately upon termination of

1 the leave of absence and remains on the employer's payroll for
2 1 calendar month, except that a member who retires on
3 disability while on a medical leave of absence shall not be
4 required to return to employment. A member whose work year is
5 less than 12 months and whose leave of absence terminates
6 between school years is eligible to receive credit for the
7 leave of absence as long as he or she returns to the
8 employment of his or her employer at the beginning of the next
9 school year and remains on the employer's payroll for 1
10 calendar month; and

11 (4) The member makes the required contributions for
12 service credit during the leave of absence, which shall be 8
13 percent until January 1, 1975, and 9 percent thereafter of his
14 or her rate of monthly compensation in effect immediately
15 prior to the commencement of such leave for each month of such
16 period, plus 4 percent interest until July 1, 1975, and 6.5
17 percent interest thereafter on such contributions, compounded
18 annually each June 30 from the due date of the contribution to
19 date of payment. Effective July 1, 1980, any leave of absence
20 purchased pursuant to this section shall be at the
21 contribution rates specified in s. 121.071 in effect at the
22 time the leave is granted for the class of membership from
23 which the leave of absence was granted; however, any member
24 who purchased leave-of-absence credit prior to July 1, 1980,
25 for a leave of absence from a position in a class other than
26 the regular membership class, may pay the appropriate
27 additional contributions plus compound interest thereon and
28 receive creditable service for such leave of absence in the
29 membership class from which the member was granted the leave
30 of absence.

31

1 Section 12. Subsection (3) of section 121.122, Florida
2 Statutes, is amended to read:

3 121.122 Renewed membership in system.--Except as
4 provided in s. 121.053, effective July 1, 1991, any retiree of
5 a state-administered retirement system who is employed in a
6 regularly established position with a covered employer shall
7 be enrolled as a compulsory member of the Regular Class of the
8 Florida Retirement System or, effective July 1, 1997, any
9 retiree of a state-administered retirement system who is
10 employed in a position included in the Senior Management
11 Service Class shall be enrolled as a compulsory member of the
12 Senior Management Service Class of the Florida Retirement
13 System as provided in s. 121.055, and shall be entitled to
14 receive an additional retirement benefit, subject to the
15 following conditions:

16 (3) Such member shall be entitled to purchase
17 additional retirement credit in the Regular Class for any
18 postretirement service performed in a regularly established
19 position prior to July 1, 1991, by paying the Regular Class
20 applicable employee and employer contributions for the period
21 being claimed, plus 4 percent interest compounded annually
22 from first year of service claimed until July 1, 1975, and 6.5
23 percent interest compounded thereafter, until full payment is
24 made to the Florida Retirement System Trust Fund. The
25 contribution for postretirement service between July 1, 1985,
26 and July 1, 1991, for which the reemployed retiree
27 contribution was paid, shall be the difference between such
28 contribution and the total applicable contribution for the
29 period being claimed, plus interest. The employer of such
30 member may pay the applicable employer contribution in lieu of
31 the member. If a member does not wish to claim credit for all

1 of the postretirement service for which he or she is eligible,
2 the service the member claims must be the most recent service.

3 Section 13. Section 121.193, Florida Statutes, is
4 created to read:

5 121.193 External compliance audits.--

6 (1) The division shall conduct audits of the payroll
7 and personnel records of participating agencies. These audits
8 shall be made to determine the accuracy of reports submitted
9 to the division and to assess compliance with applicable
10 statutes, rules, and coverage agreements. Audits shall be
11 scheduled on a regular basis, as the result of concerns known
12 to exist at an agency, and as a follow-up to ensure agency
13 action was taken to correct deficiencies found in an earlier
14 audit.

15 (2) Upon request, participating agencies shall furnish
16 the division with information and documents that the division
17 requires to conduct the audit, as provided by rule.

18 (3) The division shall review the agency's operations
19 concerning retirement and social security coverage.
20 Preliminary findings shall be discussed with agency personnel
21 at the close of the audit. An audit report of findings and
22 recommendations shall be submitted to division management and
23 an audit summary letter shall be submitted to the agency
24 noting any concerns and necessary corrective action.

25 Section 14. Subsections (1), (4), and (5), and
26 paragraph (a) of subsection (6) of section 121.35, Florida
27 Statutes, are amended to read:

28 121.35 Optional retirement program for the State
29 University System.--

30 (1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.--The
31 Division of Retirement shall establish an optional retirement

1 program under which contracts providing retirement and death
2 benefits may be purchased for eligible members of the State
3 University System who elect to participate in the program. The
4 benefits to be provided for or on behalf of participants in
5 such optional retirement program shall be provided through
6 individual contracts or individual certificates issued for
7 group annuity contracts, which may be fixed, variable, or a
8 combination thereof, in accordance with s. 403(b) of the
9 Internal Revenue Code. Any individual contract or certificate
10 shall state the annuity plan on its face page, and shall
11 include, but not be limited to, a statement of ownership, the
12 contract benefits, annuity income options, limitations,
13 expense charges, and surrender charges, if any. The state
14 shall contribute, as provided in this section, toward the
15 purchase of such optional benefits.

16 (4) CONTRIBUTIONS.--

17 (a) Each employer shall contribute on behalf of each
18 participant in the optional retirement program an amount equal
19 to the normal cost portion of the employer retirement
20 contribution which would be required if the participant were a
21 regular member of the Florida Retirement System, plus the
22 portion of the contribution rate required in s. 112.363(8)
23 that would otherwise be assigned to the Retiree Health
24 Insurance Subsidy Trust Fund, less an amount approved by the
25 Legislature which shall be deducted by the division to provide
26 for the administration of this program. The payment of the
27 contributions to the optional program which is required by
28 this paragraph for each participant shall be made by the
29 employer to the division, which shall forward the
30 contributions to the designated company or companies
31 contracting for payment of benefits for the participant under

1 the program. However, such contributions paid on behalf of an
2 employee described in paragraph (3)(c) shall not be forwarded
3 to a company and shall not begin to accrue interest until the
4 employee has executed an annuity contract and notified the
5 division.

6 (b) Each employer shall contribute on behalf of each
7 participant in the optional retirement program an amount equal
8 to the unfunded actuarial accrued liability portion of the
9 employer contribution which would be required for members of
10 the Florida Retirement System. This contribution shall be
11 paid to the division for transfer to the Florida Retirement
12 System Trust Fund.

13 (c) An Optional Retirement Program Trust Fund shall be
14 established in the State Treasury and administered by the
15 Division of Retirement to make payments to the provider
16 companies on behalf of the Optional Retirement Program
17 participants, and to transfer the unfunded liability portion
18 of the state Optional Retirement Program contributions to the
19 Florida Retirement System Trust Fund.

20 (d)~~(c)~~ Contributions required for social security by
21 each employer and each participant, in the amount required for
22 social security coverage as now or hereafter may be provided
23 by the federal Social Security Act, shall be maintained for
24 each participant in the optional retirement program and shall
25 be in addition to the retirement contributions specified in
26 this subsection.

27 (e)~~(d)~~ Each participant in the optional retirement
28 program who has executed an annuity contract may contribute by
29 way of salary reduction or deduction a percentage amount of
30 the participant's gross compensation not to exceed the
31 percentage amount contributed by the employer to the optional

1 program, but in no case may such contribution exceed federal
2 limitations. Payment of the participant's contributions shall
3 be made by the financial officer of the employer to the
4 division which shall forward the contributions to the
5 designated company or companies contracting for payment of
6 benefits for the participant under the program. A participant
7 may not make, through salary reduction, any voluntary employee
8 contributions to any other plan under s. 403(b) of the
9 Internal Revenue Code, with the exception of a custodial
10 account under s. 403(b)(7) of the Internal Revenue Code, until
11 he or she has made an employee contribution to his or her
12 optional program equal to the employer contribution. A
13 participant is responsible for monitoring his or her
14 individual tax-deferred income to insure he or she does not
15 exceed the maximum deferral amounts permitted under the
16 Internal Revenue Code.

17 (5) BENEFITS.--

18 (a) Benefits shall be payable under the optional
19 retirement program only to vested participants in the program,
20 or their beneficiaries as designated by the participant in the
21 contract with a provider company, and such benefits shall be
22 paid only by the designated company in accordance with the
23 terms of the annuity contract or contracts applicable to the
24 participant. The participant must be terminated from all
25 employment with all Florida Retirement System employers, as
26 provided in 121.021(39), to begin receiving the
27 employer-funded benefit.Benefits funded by employer

28 contributions shall be payable only as a lifetime annuity to
29 the participant, his beneficiary, or his estate, except for:

30 1. A lump-sum payment to the beneficiary upon the
31 death of the participant; or

1 2. A cash-out of a de minimis account upon the request
2 of a former participant who has been terminated for a minimum
3 of 6 months from the employment that entitled him to Optional
4 Retirement Program participation. A de minimis account is an
5 account with a provider company containing employer
6 contributions and accumulated earnings of not more than \$3,500
7 made under the provisions of this chapter. Such cash-out must
8 be a complete liquidation of the account balance with that
9 company and is subject to the provisions of the Internal
10 Revenue Code.

11 (b) The benefits payable to any person under the
12 optional retirement program, and any contribution accumulated
13 under such program, shall not be subject to assignment,
14 execution, or attachment or to any legal process whatsoever.

15 (c) A participant who chooses to receive his or her
16 benefits upon termination of employment shall notify the
17 provider company of the date on which he or she wishes the
18 annuity funded by employer contributions to begin. Benefits
19 may be deferred until such time as the participant chooses to
20 make such application.

21 (d) Benefits funded by the participant's personal
22 contributions may be paid out at any time and in any form
23 within the limits provided in the contract between the
24 participant and his or her provider company. The participant
25 shall notify the provider company regarding the date and
26 provisions under which he or she wants to receive the
27 employee-funded portion of the plan.

28 (6) ADMINISTRATION OF PROGRAM.--

29 (a) The optional retirement program authorized by this
30 section shall be administered by the division. The division
31 shall adopt rules establishing the responsibilities of the

1 Board of Regents and institutions in the State University
2 System in administering the optional retirement program.The
3 Board of Regents shall, no more than 90 days after July 1,
4 1983, submit to the division its recommendations for the
5 annuity contracts to be offered by the companies chosen by the
6 division. The recommendations of the board shall include the
7 following:

8 1. The nature and extent of the rights and benefits in
9 relation to the required contributions; and

10 2. The suitability of the rights and benefits to the
11 needs of the participants and the interests of the
12 institutions in the recruitment and retention of eligible
13 employees.

14 Section 15. Subsection (6) of section 121.40, Florida
15 Statutes, is amended to read:

16 121.40 Cooperative extension personnel at the
17 Institute of Food and Agricultural Sciences; supplemental
18 retirement benefits.--

19 (6) PAYMENT OF SUPPLEMENT.--Any participant who
20 retires on or after January 1, 1985, from the federal Civil
21 Service Retirement System as a cooperative extension employee
22 of the institute at the University of Florida and who
23 satisfies all of the eligibility criteria specified in
24 subsection (4) shall be entitled to receive a supplemental
25 benefit computed in accordance with subsection (5), to begin
26 July 1, 1985, or the month of retirement, or the month in
27 which the participant becomes age 62, whichever is later.
28 Upon application to the administrator, the participant shall
29 receive a monthly supplemental benefit which shall commence on
30 the last day of the month of retirement and shall be payable
31 on the last day of the month thereafter during his or her

1 lifetime. A participant may have certain payments deducted for
2 his or her monthly supplemental benefit as provided in s.
3 121.091(14)(a) and is subject to the provisions of s.
4 121.091(14)(b).

5 Section 16. It is the intent of the Legislature that
6 the amendments to sections 121.021, 121.051, 121.0515,
7 121.052, 121.053, 121.055, 121.071, 121.081, 121.091, 121.111,
8 121.121, 121.122, 121.35, and 121.40, Florida Statutes, made
9 by this act are intended to be supplemental to other
10 amendments to those sections which are enacted at the 1998
11 regular session of the Legislature, unless a contrary intent
12 is specifically indicated in this act or in such other
13 amendments.

14 Section 17. This act shall take effect July 1, 1998.

15
16 *****

17 SENATE SUMMARY

18 Revises various provisions of ch. 121, F.S., relating to
19 the Florida Retirement System. Provides requirements for
20 municipalities and special districts that participate in
21 the Florida Retirement System. Specifies requirements for
22 members who are employed in more than one class. Provides
23 for calculating the average final compensation for
24 members of the Elected State and County Officers' Class.
25 Provides for calculating creditable service. Provides
26 eligibility requirements for the Senior Management
27 Service Optional Annuity Program. Clarifies requirements
28 for determining past service and prior service and
29 receiving credit for such service. Revises procedures for
30 determining average final compensation. Revises
31 requirements for determining disability retirement
benefits. Provides for optional forms of retirement
benefits and disability benefits. Authorizes certain
payments and deductions from the monthly benefit payment.
Provides requirements for determining creditable service
military service. Provides for a member to purchase
creditable service for authorized leaves of absence.
Requires that the Division of Retirement of the
Department of Management Services perform external
compliance audits. Clarifies requirements for receiving
benefits under the Optional Retirement Program for the
State University System. (See bill for details.)