

By Representatives Crady and Fasano

1 A bill to be entitled
2 An act relating to retirement; amending s.
3 121.011, F.S.; providing for purchase of
4 retirement credit under the Florida Retirement
5 System following reinstatement after suspension
6 or dismissal under certain circumstances;
7 amending s. 121.021, F.S.; defining the term
8 "phased retirement program"; amending s.
9 121.052, F.S.; authorizing certain elected
10 officers to opt for membership in the Senior
11 Management Class under certain circumstances;
12 clarifying provisions relating to the purchase
13 of retirement credit for upgraded service by
14 certain elected officers and former elected
15 officers; amending s. 121.053, F.S.; allowing
16 Senior Management Service Class renewed
17 membership service to be used by members with
18 renewed membership in the Elected State and
19 County Officers' Class; amending s. 121.055,
20 F.S.; allowing certain elected officers to
21 participate in the Senior Management Service
22 Optional Annuity Program under certain
23 conditions; providing for payment only as a
24 lifetime annuity; providing exceptions;
25 providing for State Board of Administration
26 review of investment products; providing for
27 payment of certain creditable service;
28 providing for future repeal; amending s.
29 121.091, F.S.; providing for forfeiture of
30 benefits for a beneficiary who intentionally
31 killed or procured the death of the member;

1 clarifying the effective date of a joint
2 annuitant change; amending s. 121.1115, F.S.;
3 authorizing the purchase of retirement credit
4 for certain out-of-state service; creating s.
5 121.1120, F.S.; providing for the purchase of
6 retirement credit for certain in-state service;
7 amending s. 121.122, F.S.; providing for the
8 enrollment of certain members in the Senior
9 Management Service Class; amending s. 121.123,
10 F.S.; providing for reasonable attorney's fees
11 for disability retirement orders issued by the
12 State Retirement Commission under certain
13 circumstances; amending s. 121.35, F.S.;
14 providing that certain employees who are
15 eligible to participate in the Optional
16 Retirement Program shall become members of the
17 Regular Class of the Florida Retirement System
18 under certain circumstances; providing that
19 contributions accumulated in the Florida
20 Retirement Trust Fund for certain members be
21 applied towards retroactive membership in the
22 Regular Class; limiting employee contributions
23 in the Optional Retirement Program; providing
24 that benefits in the Optional Retirement
25 Program shall be paid only as a lifetime
26 annuity; providing exceptions; providing for
27 State Board of Administration review of
28 investment products; repealing chapter 123,
29 F.S., relating to the retirement system for
30 Supreme Court justices, District Courts of
31 Appeals judges, and Circuit judges; providing

1 for rules; providing an appropriation;
2 providing a legislative finding of important
3 state interest; providing effective dates.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Paragraph (e) of subsection (3) of section
8 121.011, Florida Statutes, is amended, and paragraph (g) is
9 added to said subsection, to read:

10 121.011 Florida Retirement System.--

11 (3) PRESERVATION OF RIGHTS.--

12 (e) Any member of the Florida Retirement System or any
13 member of an existing system under this chapter on July 1,
14 1975, who is not retired and who is, has been, or shall be,
15 suspended and reinstated without compensation shall receive
16 retirement service credit for the period of time from the date
17 of suspension to the date of reinstatement, provided:

18 1. The creditable service claimed for the period of
19 suspension does not exceed 24 months.

20 2. The member returns to active employment and remains
21 on the employer's payroll for at least 30 calendar days.

22 3. ~~upon~~ The member pays ~~paying~~ into the Retirement
23 System Trust Fund the total required ~~cost of providing said~~
24 ~~retirement credit. The cost to the member shall be the total~~
25 employer contributions plus the total employee contributions,
26 if applicable, ~~paid to the Retirement Trust Fund~~ for the pay
27 period immediately preceding the period of suspension,
28 prorated for the said period of suspension, plus interest
29 thereon at a rate of 4 percent per annum compounded annually
30 until July 1, 1975, and 6.5 percent interest thereafter until
31 paid.

1
2 If permitted by federal law, the member may pay into the
3 Social Security Trust Fund the total cost, if any, of
4 providing social security coverage for the period of
5 suspension if any social security payments have been made by
6 the employer for the benefit of the member during such period.
7 Should there be any conflict as to payment for social security
8 coverage, the payment for retirement service credit shall be
9 made and retirement service credit granted regardless of such
10 conflict.

11 (g) Any member of the Florida Retirement System or any
12 member of an existing system under this chapter who is not
13 retired and who is, has been, or shall be, dismissed from
14 employment shall be considered terminated from active
15 membership in such system.

16 1. In the event such dismissal is rescinded by proper
17 authority or through legal proceedings, the member shall be
18 eligible to receive retirement service credit for such period
19 of dismissal provided:

20 a. The dismissal action taken against the member is
21 determined to be incorrect and is negated, the employee is
22 made whole for the period of the dismissal or any portion
23 thereof, employment is reinstated.

24 b. The employer pays into the Retirement System Trust
25 Fund the total required employer contributions for the period
26 for which the employee is made whole, plus interest at 6.5
27 percent compounded annually until full payment is made. The
28 employee shall pay the total employee contributions, plus
29 interest, if applicable.

30 2. In the event the dismissal action is subsequently
31 changed to a suspension by proper authority or through legal

1 proceedings, the member shall be eligible to receive
2 retirement service credit provided the member's employment is
3 reinstated, restoring the employee-employer relationship, and
4 the employee pays the total required employer and employee
5 contributions and complies with all requirements in paragraph
6 (e).

7 Section 2. Subsection (43) is added to section
8 121.021, Florida Statutes, 1996 Supplement, to read:

9 121.021 Definitions.--The following words and phrases
10 as used in this chapter have the respective meanings set forth
11 unless a different meaning is plainly required by the context:

12 (43) "Phased retirement program" means a program
13 contracted by the governing board of a university or community
14 college participating under this chapter in which retirees may
15 be reemployed in faculty positions provided:

16 (a) The member retired and met the definition of
17 termination under this section.

18 (b) The retired member is reemployed for not more than
19 780 hours during the first 12 months of his retirement.

20 (c) The retired member is reemployed with the
21 university or community college from which he or she retired.

22
23 Renewed membership for a retiree participating in a phased
24 retirement program shall be determined in accordance with s.
25 121.122 or 121.053, F.S.

26 Section 3. Subsections (3) and (5) of section 121.052,
27 Florida Statutes, 1996 Supplement, are amended to read:

28 121.052 Membership class of elected state and county
29 officers.--

30 (3) PARTICIPATION AND WITHDRAWAL,
31 GENERALLY.--Effective July 1, 1990, participation in the

1 Elected State and County Officers' Class shall be compulsory
2 for elected officers listed in paragraphs (2)(a)-(d) assuming
3 office on or after said date, unless the elected officer
4 elects membership in another class or withdraws from the
5 Florida Retirement System as follows:

6 (a) Any elected officer who is or becomes dually
7 employed and a member of the Florida Retirement System or one
8 of the existing systems may elect membership in any system or
9 class for which he or she is eligible. Upon becoming dually
10 employed, the elected officer shall have a period of 6 months
11 to notify the administrator of his or her decision, as
12 provided in subsection (6).

13 (b) Upon assuming office, any sheriff shall have a
14 period of 6 months to notify the administrator of his or her
15 decision to remain or elect membership in the Special Risk
16 Class in lieu of membership in the Elected State and County
17 Officers' Class.

18 (c) Any elected officer may, within 6 months of
19 assuming office, or within 6 months of this act becoming law
20 for serving elected officers, elect membership in the Senior
21 Management Service Class as provided in s. 121.055 in lieu of
22 membership in the Elected State and County Officers' Class.
23 Any such election made by a county elected officer shall have
24 no effect upon the statutory limit on the number of
25 nonelective full-time positions which may be designated by a
26 local agency employer for inclusion in the Senior Management
27 Service Class under s. 121.055(1)(b)1.

28 (d)~~(e)~~1. Any elected officer may elect to withdraw
29 from participating in the Florida Retirement System in any
30 manner whatsoever. Upon assuming office, the member shall have
31 a period of 6 months to notify the administrator of his or her

1 decision to withdraw from the Florida Retirement System
2 altogether. Such election shall be made in writing and a copy
3 shall be filed with the employer.

4 2. Upon receipt of a request from an elected officer
5 to withdraw from the Florida Retirement System pursuant to
6 subparagraph 1., the administrator shall refund all moneys
7 contributed by the elected officer to the system during the
8 period of participation in the system, unless the elected
9 officer has a vested right under the Florida Retirement
10 System, in which case he or she shall not receive a refund of
11 contributions.

12 3. Any elected officer who has withdrawn from the
13 Florida Retirement System pursuant to this paragraph shall be
14 permitted to rejoin the Elected State and County Officers'
15 Class upon written request to the administrator.

16 a. Credit for prior service based on the period for
17 which refunds were received pursuant to subparagraph 2. shall
18 be received by an elected officer who rejoins the system upon
19 payment to the System Trust Fund of an amount equal to the
20 contributions refunded to the elected officer pursuant to
21 subparagraph 2., plus 4 percent interest compounded annually
22 from the date of refund until July 1, 1975, and 6.5 percent
23 interest, compounded annually thereafter until the date of
24 payment.

25 b. Credit for prior service based on the period during
26 which the elected officer had withdrawn from the system, and
27 for which no contributions were made, shall be received by the
28 elected officer upon payment to the System Trust Fund of an
29 amount equal to the contributions required, under the
30 contribution rate in effect during the period of withdrawal
31 for which credit is being purchased, plus 6.5 percent

1 interest, compounded annually until the date of payment. The
2 payment of the total of such amount shall be made by the
3 employer and the elected officer in the relative proportions
4 provided by law for contributions during the period of
5 withdrawal.

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7 Failure to timely withdraw from the Elected State and County
8 Officers' Class shall constitute an election to maintain
9 membership in the Elected State and County Officers' Class.

10 (5) UPGRADED SERVICE; PURCHASE OF ADDITIONAL CREDIT.--

11 (a) As provided in paragraph (b), and subject to the
12 provisions of subsection (6), if applicable, a current or
13 former member of the Elected State and County Officers' Class
14 ~~an elected officer~~, or former elected officer who held office
15 after his subclass of the Elected State and County Officers'
16 Class was established, and who opted for membership in a
17 membership class of the Florida Retirement System other than
18 the Elected State and County Officers' Class as described in
19 ~~subparagraph (b)2-~~, may purchase at his or her own expense
20 additional retirement credit in the Elected State and County
21 Officers' Class for all creditable service as an officer
22 within the purview of this class, and such other creditable
23 service as authorized hereunder for which he or she has
24 accumulated credit in the retirement system or class within
25 the Florida Retirement System from which he or she transfers.
26 Any member of the Elected State and County Officers' Class may
27 purchase additional retirement credit for service prior to
28 January 1, 1973, as a county solicitor, elected county
29 prosecuting attorney, county judge, judge of a court of
30 record, judge of a criminal or civil court of record, judge of
31 any metropolitan court established pursuant to s. 6, Art. VIII

1 of the State Constitution, judge of a small claims court, or
2 justice of the peace, or for service as a county court judge
3 from January 1, 1973, to October 1, 1974.

4 (b) To receive additional retirement credit for
5 service within the purview of the Elected State and County
6 Officers' Class as provided ~~authorized~~ in paragraph (a), such
7 member;

8 ~~1. A serving elected officer~~ shall pay a sum equal to
9 the difference between the amounts derived under subparagraphs
10 1. and 2. ~~sub-subparagraphs a. and b.:~~

11 ~~1.a.~~ The total employee and employer contributions
12 actually paid, based on the actual gross salary received and
13 the contribution rates in effect for the period of his or her
14 tenure in office; and

15 ~~2.b.~~ The total contributions which would have been
16 required at the time the service was rendered for the subclass
17 of elected state officers' service being purchased, based on
18 the actual gross salary received or on a gross salary of
19 \$1,000 per month, whichever is greater, multiplied by the
20 contribution rates required, as follows:

21 ~~a.(I)~~ The contribution rates in effect at the time the
22 service was rendered for the subclass of elected state
23 officers' service being purchased; or

24 ~~b.(II)~~ The contribution rates in effect on July 1,
25 1972, for such service rendered before July 1, 1972, by an
26 elected officer who held an elective office included within
27 the Elected State Officers' Class upon its creation; or

28 ~~c.(III)~~ The contribution rates in effect for the
29 appropriate subclass on the date of inclusion of the elective
30 office within the Elected State and County Officers' Class, as
31 set forth in subsection (2); or

1 d.(IV) For service as an elected county officer before
2 July 1, 1981, the contribution rate applicable for the
3 legislative subclass of the Elected State Officers' Class,
4
5 plus interest thereon at the rate of 4 percent per year
6 compounded annually each June 30 from the date of such service
7 until July 1, 1975, and at the rate of 6.5 percent per year
8 thereafter until the date of payment.

9 ~~2. A former elected officer who held office after his~~
10 ~~or her subclass of the Elected State and County Officers'~~
11 ~~Class was established, and who opted for membership in another~~
12 ~~membership class of the Florida Retirement System rather than~~
13 ~~the Elected State and County Officers' Class, shall pay a sum~~
14 ~~equal to the difference between the amounts derived under~~
15 ~~sub-subparagraphs a. and b.:~~

16 ~~a. The total employee and employer contributions~~
17 ~~actually paid, based on the actual gross salary received and~~
18 ~~the contribution rates in effect for the period of his or her~~
19 ~~tenure in office within the purview of the class; and~~

20 ~~b. The total contributions which would have been~~
21 ~~required at the time the service was rendered for the subclass~~
22 ~~of elected state officers' service being purchased, based on~~
23 ~~the actual gross salary received or on a gross salary of~~
24 ~~\$1,000 per month, whichever is greater, multiplied by the~~
25 ~~contribution rates required, as follows:~~

26 ~~(I) The contribution rates in effect at the time the~~
27 ~~service was rendered for the subclass of elected state or~~
28 ~~county officers' service being purchased; or~~

29 ~~(II) The contribution rates in effect on July 1, 1972,~~
30 ~~for such service rendered before July 1, 1972, by an elected~~

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1 ~~officer who held an elective office included within the~~
2 ~~Elected State Officers' Class upon its creation; or~~
3 ~~(III) The contribution rates in effect for the~~
4 ~~appropriate subclass on the date of inclusion of the elective~~
5 ~~office within the Elected State and County Officers' Class, as~~
6 ~~set forth in subsection (2); or~~
7 ~~(IV) For service as an elected county officer before~~
8 ~~July 1, 1981, the contribution rate applicable for the~~
9 ~~legislative subclass of the Elected State Officers' Class,~~
10
11 ~~plus interest thereon at the rate of 4 percent per year~~
12 ~~compounded annually each June 30 from the date of such service~~
13 ~~until July 1, 1975, and at the rate of 6.5 percent per year~~
14 ~~thereafter until the date of payment.~~
15 (c) Notwithstanding any provision of this subsection
16 to the contrary, a current or former member of the Elected
17 State and County Officers' Class, or a former an elected state
18 officer as described in paragraph (a), may elect to claim who
19 purchases additional retirement credit in the Elected State
20 and County Officers' Class pursuant to paragraph (a) upon
21 payment of the required during the period from January 1,
22 1991, to June 30, 1991, shall be required to pay one-half the
23 contributions and interest due the Florida Retirement System
24 Trust Fund, and an equal amount shall be paid by the employer.
25 The current or former employer of such officer may elect to
26 pay any portion of the total required employee and employer
27 contributions and interest due on behalf of such member,
28 provided such payment is made prior to January 1, 1998. No
29 contributions shall be paid by the employer on behalf of any
30 elected state officer who purchases such retirement credit
31 after June 30, 1991.

1 Section 4. Paragraph (b) of subsection (1) of section
2 121.053, Florida Statutes, is amended to read:

3 121.053 Participation in the Elected State and County
4 Officers' Class for retired members.--

5 (1)

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

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

20 2. If any such member serves in an elective office
21 covered by the Elected State and County Officers' Class for a
22 period of at least 8 years, he or she shall be entitled to
23 receive an additional retirement benefit for such elected
24 officer service.

25 3. Such member shall be entitled to purchase
26 additional retirement credit in the Elected State and County
27 Officers' Class for any postretirement service performed in an
28 elected position eligible for the Elected State and County
29 Officers' Class prior to July 1, 1990, or in the Regular Class
30 for any postretirement service performed in any other
31 regularly established position prior to July 1, 1991, by

1 paying the applicable Elected State and County Officers' Class
2 or Regular Class employee and employer contributions for the
3 period being claimed, plus 4 percent interest compounded
4 annually from the first year of service claimed until July 1,
5 1975, and 6.5 percent interest compounded thereafter, until
6 full payment is made to the Florida Retirement System Trust
7 Fund. The contribution for postretirement Regular Class
8 service between July 1, 1985, and July 1, 1991, for which the
9 reemployed retiree contribution was paid, shall be the
10 difference between such contribution and the total applicable
11 contribution for the period being claimed, plus interest. The
12 employer of such member may pay the applicable employer
13 contribution in lieu of the member.

14 4. No creditable service for which credit was
15 received, or which remained unclaimed, at retirement may be
16 claimed or applied toward service credit earned following
17 renewed membership. However, service earned in accordance with
18 the renewed membership provisions ~~for the Regular Class~~ in s.
19 121.122 may be used in conjunction with creditable service
20 earned under this paragraph, provided applicable vesting
21 requirements and other existing statutory conditions required
22 by this chapter are met.

23 Section 5. Paragraphs (f), (g), and (h) of subsection
24 (1) of section 121.055, Florida Statutes, 1996 Supplement, are
25 redesignated as paragraphs (g), (h), and (i), respectively,
26 and a new paragraph (f) is added to said subsection, and
27 paragraphs (e) and (f) of subsection (6), are amended to read:

28 121.055 Senior Management Service Class.--There is
29 hereby established a separate class of membership within the
30 Florida Retirement System to be known as the "Senior
31

1 Management Service Class," which shall become effective
2 February 1, 1987.

3 (1)

4 (f) Effective July 1, 1997:

5 1. Any elected state officer eligible for membership
6 in the Elected State and County Officers' Class under s.
7 121.052(2)(a), (b), or (c) who elects membership in the Senior
8 Management Service Class under s. 121.052(3)(c) may, within 6
9 months of assuming office or within 6 months of this act
10 becoming law for serving elected state officers, elect to
11 participate in the Senior Management Service Optional Annuity
12 Program, as provided in subsection (6), in lieu of membership
13 in the Senior Management Service Class.

14 2. Any elected county officer eligible for membership
15 in the Elected State and County Officers' Class under s.
16 121.052(2)(d) who elects membership in the Senior Management
17 Service Class under s. 121.052(3)(c) may, within 6 months of
18 assuming office, or within 6 months of this act becoming law
19 for serving elected county officers, elect to participate in a
20 lifetime monthly annuity program, as provided in subparagraph
21 (1)(b)2., in lieu of membership in the Senior Management
22 Service Class.

23 (6)

24 (e)1. Benefits shall be payable under the Senior
25 Management Service Optional Annuity Program only to
26 participants in the program or their beneficiaries, and such
27 benefits shall be paid by the designated company in accordance
28 with the terms of the annuity contract or contracts applicable
29 to the participant. Benefits funded by employer contributions
30 shall be payable only as a lifetime annuity to the
31 participant, his beneficiary, or estate, except for:

1 a. A lump sum payment to the beneficiary upon the
2 death of the participant; or

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

13 2. The benefits payable to any person under the Senior
14 Management Service Optional Annuity Program, and any
15 contribution accumulated under such program, shall not be
16 subject to assignment, execution, or attachment or to any
17 legal process whatsoever.

18 (f)1. The Senior Management Service Optional Annuity
19 Program authorized by this section shall be administered by
20 the Division of Retirement. The division shall designate one
21 or more provider companies from which annuity contracts may be
22 purchased under the program and shall approve the form and
23 content of the contracts.

24 2. Effective July 1, 1997, the State Board of
25 Administration shall review and make recommendations to the
26 division on the acceptability of all investment products
27 proposed by provider companies of the optional annuity program
28 before such products are offered through annuity contracts to
29 the participants, and may advise the division of any changes
30 deemed necessary to ensure that the optional annuity program
31 offers an acceptable mix of investment products. The division

1 shall make the final determination as to whether an investment
2 product will be approved for the program.

3 ~~3.2.~~ The provisions of each contract applicable to a
4 participant in the Senior Management Service Optional Annuity
5 Program shall be contained in a written program description
6 which shall include a report of pertinent financial and
7 actuarial information on the solvency and actuarial soundness
8 of the program and the benefits applicable to the participant.
9 Such description shall be furnished by the company or
10 companies to each participant in the program and to the
11 division upon commencement of participation in the program and
12 annually thereafter.

13 ~~4.3.~~ The division shall ensure that each participant
14 in the Senior Management Service Optional Annuity Program is
15 provided an accounting of the total contribution and the
16 annual contribution made by and on behalf of such
17 participants.

18 Section 6. The current or former employer of the
19 member claiming service credit as provided in s.
20 121.052(5)(c), may elect to pay any portion of the required
21 contributions provided such payment is made prior to January
22 1, 1998. This section is repealed effective January 1, 1998.

23 Section 7. Paragraph (i) is added to subsection (5) of
24 section 121.091, Florida Statutes, 1996 Supplement, and
25 paragraph (d) of subsection (6) is amended, to read:

26 121.091 Benefits payable under the system.--No
27 benefits shall be paid under this section unless the member
28 has terminated employment as provided in s. 121.021(39) and a
29 proper application has been filed in the manner prescribed by
30 the division.

31 (5) TERMINATION BENEFITS.--

1 (i) Any beneficiary who is found guilty by a verdict
2 of a jury, or by the court trying the case without a jury, or
3 who has entered a plea of guilty or of nolo contendere, of
4 unlawfully and intentionally killing or procuring the death of
5 the member, shall forfeit all rights to the deceased member's
6 benefits under this chapter and the benefits will be paid as
7 if such beneficiary had predeceased the decedent. No benefits
8 shall be paid by the division pending final resolution of such
9 charges against the beneficiary.

10 (6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND
11 DISABILITY RETIREMENT BENEFITS.--

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

23 Effective the first day of the next month following ~~upon~~
24 receipt ~~by the division~~ of a completed change of joint
25 annuitant form, the division shall adjust the member's monthly
26 benefit by the application of actuarial tables and
27 calculations developed to ensure that the benefit paid is the
28 actuarial equivalent of the present value of the member's
29 current benefit. The consent of a retired member's first
30 designated joint annuitant to any such change shall not be
31 required. ~~However, if the member dies prior to the effective~~

1 date of the request for change of joint annuitant, the
2 requested change shall be void and survivor benefits, if any,
3 shall be paid as if no request had been made.

4 Section 8. Section 121.1115, Florida Statutes, 1996
5 Supplement, is amended to read:

6 121.1115 Purchase of retirement credit for
7 out-of-state and federal service.--Effective January 1, 1995,
8 a member of the Florida Retirement System may purchase
9 creditable service for periods of public employment in another
10 state and receive creditable service for such periods of
11 employment. Service with the Federal Government, including
12 any military service, may be claimed. Upon completion of each
13 year of service earned under the Florida Retirement System, a
14 member may purchase up to 1 year of retirement credit for his
15 or her out-of-state service, subject to the following
16 provisions:

17 (1) LIMITATIONS AND CONDITIONS.--To receive credit for
18 the out-of-state service:

19 (a) The out-of-state service being claimed must have
20 been:

21 1. Performed in a position of employment with the
22 state or a political subdivision thereof, or with the Federal
23 Government;

24 2. Covered by a retirement or pension plan provided by
25 the state or political subdivision or by the Federal
26 Government, as appropriate; and

27 3. Performed prior to a period of membership in the
28 Florida Retirement System.

29 (b) The member must have completed a minimum of 10
30 years of creditable service under the Florida Retirement
31

1 System, excluding out-of-state service and in-state service
2 claimed and purchased under s. 121.1120.

3 (c) Not more than 5 years of creditable service may be
4 claimed for creditable service aggregated under the provisions
5 of this section.

6 (d) The out-of-state service credit claimed under this
7 section shall be credited only as service in the Regular Class
8 of membership, and any benefit or pension based thereon shall
9 be subject to the limitations and restrictions of s. 112.65.

10 (e) A member shall be eligible to receive service
11 credit for out-of-state service performed after leaving the
12 Florida Retirement System only upon return to membership and
13 completion of at least 1 year of creditable service in the
14 Florida Retirement System following the out-of-state service.
15 ~~Military service may not be claimed under this section as~~
16 ~~out-of-state service.~~

17 (2) COST.--For each year claimed, the member must pay
18 into the System Trust Fund an amount equal to 20 percent of
19 the member's annual compensation for the first full work year
20 of creditable service earned under the Florida Retirement
21 System, but not less than \$12,000, plus interest at 6.5
22 percent compounded annually from the date of first annual
23 salary earned until full payment is made. The employer may pay
24 all or a portion of the cost of this service credit.

25 Section 9. Section 121.1120, Florida Statutes, is
26 created to read:

27 121.1120 Purchase of retirement credit for in-state
28 public service and in-state service in accredited nonpublic
29 schools and colleges, including charter schools.--Effective
30 January 1, 1998, a member of the Florida Retirement System may
31

1 purchase creditable service for periods of certain public or
2 nonpublic employment performed in Florida, as provided herein.

3 (1) PURCHASE OF RETIREMENT CREDIT AUTHORIZED.--Subject
4 to the provisions of subsections (2) and (3), a member of the
5 Florida Retirement System may purchase up to 5 years of
6 retirement credit for:

7 (a) Periods of public employment in Florida; or

8 (b) Periods of employment in charter schools or in any
9 nonpublic school or college in Florida that is accredited by
10 the Southern Association of Colleges and Schools.

11
12 Credit for 1 year of such service may be purchased for each
13 year of creditable service a member completes under the
14 Florida Retirement System.

15 (2) LIMITATIONS AND CONDITIONS.--

16 (a) No member shall be eligible to receive credit for
17 in-state service under this section until he or she has
18 completed 10 years of creditable service under the Florida
19 Retirement System, excluding service purchased under this
20 section and out-of-state service claimed and purchased under
21 s. 121.1115.

22 (b) No member shall be permitted to purchase and
23 receive credit for more than 5 years of creditable service
24 aggregated under the provisions of this section and s.
25 121.1115.

26 (c) Service credit claimed under this section shall be
27 credited only as service in the Regular Class of membership
28 and shall be subject to the provisions of s. 112.65.

29 (d) A member shall be eligible to receive service
30 credit for in-state service performed after leaving the
31 Florida Retirement System only upon returning to membership

1 and completing at least 1 year of creditable service in the
2 Florida Retirement System following the in-state service.

3 (3) COST.--The cost to purchase retirement credit
4 under this section shall be calculated in the same manner as
5 set forth in s. 121.1115(2), for purchase of credit for
6 out-of-state service.

7 Section 10. Section 121.122, Florida Statutes, is
8 amended to read:

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

22 (1)(a) Such member shall resatisfy the age and service
23 requirements as provided in this chapter for initial
24 membership under the system, unless such member elects to
25 participate in the Senior Management Service Optional Annuity
26 Program in lieu of the Senior Management Service Class as
27 provided in s. 121.055(6).

28 (b) Such member shall not be entitled to disability
29 benefits as provided in s. 121.091(4).

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1 (c) Such member must meet the reemployment after
2 retirement limitations as provided in s. 121.091(9), as
3 applicable.

4 (2) Upon renewed membership, the employer of such
5 member shall pay the applicable employer contributions as
6 required by s. 121.055(3) and s.121.071(1)(a) and (4).

7 (3) Such member shall be entitled to purchase
8 additional retirement credit in the Regular Class for any
9 postretirement service performed in a regularly established
10 position prior to July 1, 1991, by paying the Regular Class
11 applicable employee and employer contributions for the period
12 being claimed, plus 4 percent interest compounded annually
13 from first year of service claimed until July 1, 1975, and 6.5
14 percent interest compounded thereafter, until full payment is
15 made to the Florida Retirement System Trust Fund. The
16 contribution for postretirement service between July 1, 1985,
17 and July 1, 1991, for which the reemployed retiree
18 contribution was paid, shall be the difference between such
19 contribution and the total applicable contribution for the
20 period being claimed, plus interest. The employer of such
21 member may pay the applicable employer contribution in lieu of
22 the member.

23 (4) No creditable service for which credit was
24 received, or which remained unclaimed, at retirement may be
25 claimed or applied toward service credit earned following
26 renewed membership. However, service earned as an elected
27 officer with renewed membership in the Elected State and
28 County Officers' Class may be used in conjunction with
29 creditable service earned under this section, provided the
30 applicable vesting requirements and other existing statutory
31 conditions required by this chapter are met.

1 (5) Notwithstanding any other limitations provided in
2 this section, a participant of the State University System
3 Optional Retirement Program or the Senior Management Service
4 Optional Annuity Program who terminated employment and
5 commenced receiving an annuity under the provisions of the
6 optional program, who renews membership in the Regular Class
7 as required by this section upon reemployment after
8 retirement, and who had previously earned creditable Florida
9 Retirement System service that was not included in any
10 retirement benefit may include such previous service toward
11 vesting and service credit in the second career benefit
12 provided under renewed membership.

13 (6) Any renewed member who is not receiving the
14 maximum health insurance subsidy provided in s. 112.363 shall
15 be entitled to earn additional credit toward the maximum
16 health insurance subsidy. Any additional subsidy due because
17 of such additional credit shall be received only at the time
18 of payment of the second career retirement benefit. In no
19 case shall the total health insurance subsidy received by a
20 retiree receiving benefits from initial and renewed membership
21 exceed the maximum allowed in s. 112.363.

22 Section 11. Paragraph (a) of subsection (2) of section
23 121.23, Florida Statutes, 1996 Supplement, is amended to read:

24 121.23 Disability retirement and special risk
25 membership applications; Retirement Commission; powers and
26 duties; judicial review.--The provisions of this section apply
27 to all proceedings in which the administrator has made a
28 written final decision on the merits respecting applications
29 for disability retirement, reexamination of retired members
30 receiving disability benefits, applications for special risk
31 membership, and reexamination of special risk members in the

1 Florida Retirement System. The jurisdiction of the State
2 Retirement Commission under this section shall be limited to
3 written final decisions of the administrator on the merits.
4 (2) A member shall be entitled to a hearing before the
5 State Retirement Commission pursuant to ss. 120.569 and
6 120.57(1) on the merits of any written adverse decision of the
7 administrator, if he or she files with the commission a
8 written request for such hearing within 21 days after receipt
9 of such written decision from the administrator. For the
10 purpose of such hearings, the commission shall be an "agency
11 head" as defined by s. 120.52.
12 (a) The commission shall have the authority to issue
13 orders as a result of a hearing that shall be binding on all
14 parties to the dispute. The commission may order any action
15 that it deems appropriate. Any disability retirement order of
16 the commission issued pursuant to this subsection which
17 sustains the application of the member may include an amount,
18 to be determined by the commission, for reasonable attorney's
19 fees and taxable cost which shall be calculated in accordance
20 with the statewide uniform guidelines for taxation of cost in
21 civil actions. The amount of the attorney's fee shall not
22 exceed 50 percent of the initial yearly benefit awarded under
23 s. 121.091(4).In cases involving disability retirement, the
24 State Retirement Commission shall require the member to
25 present competent medical evidence and may require vocational
26 evidence before awarding disability retirement benefits.
27 Section 12. Paragraph (b) of subsection (3),
28 paragraphs (a) and (d) of subsection (4), and paragraph (a) of
29 subsection (5) of section 121.35, Florida Statutes, are
30 amended, and paragraphs (c) and (d) of subsection (6) are
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1 redesignated as paragraphs (d) and (e), respectively, and a
2 new paragraph (c) is added to said subsection, to read:

3 121.35 Optional retirement program for the State
4 University System.--

5 (3) ELECTION OF OPTIONAL PROGRAM.--

6 (a) Any eligible employee who is employed on or before
7 March 1, 1984, may elect to participate in the optional
8 retirement program in lieu of participation in the Florida
9 Retirement System. Such election shall be made in writing and
10 filed with the division and the personnel officer of the
11 employer on or before June 1, 1984. Upon such election,
12 participation in the optional program will take effect July 1,
13 1984, and election to so participate will terminate the
14 membership of the employee in the Florida Retirement System.
15 Any eligible employee who is employed on or before March 1,
16 1984, and who fails to make an election to participate in the
17 optional program by June 1, 1984, shall be deemed to have
18 elected to retain membership in the Florida Retirement System.

19 (b)1. Any employee who becomes eligible to participate
20 in the optional retirement program by reason of initial
21 employment commencing after March 1, 1984, but before January
22 1, 1993, may, within 90 days after the date of commencement of
23 employment, elect to participate in the optional program. Such
24 election shall be made in writing and filed with the personnel
25 officer of the employer. The eligible employees described in
26 this subparagraph shall be enrolled in the Florida Retirement
27 System at the commencement of employment, with the exception
28 of those employees who file an election with the personnel
29 officer of the employer prior to the submission of the initial
30 payroll for the employee. For such employees, participation
31 will be effective on the first day of employment or on July 1,

1 1984, whichever is later. If an eligible employee, as
2 described in this subparagraph, files an election to
3 participate in the optional program within 90 days after the
4 commencement of employment, but after the submission by the
5 employer of the initial payroll for the employee, the
6 employee's participation in the optional program will not be
7 effective until the first day of the month for which a full
8 month's employer contribution may be made, or until July 1,
9 1984, whichever is later. Any eligible employee who does not
10 within 90 days after commencement of such employment elect to
11 participate in the optional program shall be deemed to have
12 elected to retain membership in the Florida Retirement System.

13 2. Any employee who after March 1, 1984, but before
14 January 1, 1993, becomes eligible to participate in the
15 optional program by reason of a change in status due to the
16 subsequent designation of the employee's position as one of
17 those specified in paragraph (2)(a) or due to the employee's
18 appointment, promotion, transfer, or reclassification to a
19 position specified in paragraph (2)(a) may elect to
20 participate in the optional program. Such employee shall be
21 notified by the employer of the change in his or her
22 eligibility status. Such employee may, within 90 days after
23 the date of such notification, file with the personnel officer
24 of the employer an election in writing to participate in the
25 optional program in lieu of participation in the Florida
26 Retirement System. Upon such election, participation in the
27 optional program will be effective on the first day of the
28 month for which a full month's employer contribution may be
29 made or on July 1, 1984, whichever is later. Election to so
30 participate shall terminate the membership of the employee in
31 the Florida Retirement System. Any eligible employee who does

1 not within 90 days after notification of his or her
2 eligibility to participate in the optional program elect to
3 participate in the program shall be deemed to have elected to
4 retain membership in the Florida Retirement System.

5 3. Notwithstanding the provisions of paragraph (c),
6 effective July 1, 1997, any employee who is eligible to
7 participate in the Optional Retirement Program and who fails
8 to execute an annuity contract with one of the approved
9 companies and to notify the division in writing as provided in
10 subsection (4) within 90 days of the date of eligibility shall
11 be deemed to have elected membership in the Florida Retirement
12 System, except as provided in s. 121.051(1)(a). This
13 provision shall also apply to any employee who terminates
14 employment in an eligible position prior to executing the
15 required annuity contract and notifying the division. Such
16 membership shall be retroactive to the date of eligibility and
17 all appropriate contributions shall be transferred to the
18 Florida Retirement System Trust Fund.

19 (4) CONTRIBUTIONS.--

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

1 employer to the division, which shall forward the
2 contributions to the designated company or companies
3 contracting for payment of benefits for the participant under
4 the program. However, such contributions paid on behalf of an
5 employee described in paragraph (3)(c) shall not be forwarded
6 to a company and shall not begin to accrue interest until the
7 employee has executed an annuity contract and notified the
8 division. ~~The contributions required by this paragraph and~~
9 ~~paid on behalf of an employee described in paragraph (3)(c)~~
10 ~~who fails to execute an annuity contract prior to termination~~
11 ~~of employment shall be retained by the division for the~~
12 ~~administration of this program.~~

13 (d) Each participant in the optional retirement
14 program who has executed an annuity contract may contribute by
15 way of salary reduction or deduction a percentage amount of
16 the participant's gross compensation not to exceed the
17 percentage amount contributed by the employer to the optional
18 program, but in no case shall such contributions exceed
19 federal limitations. Payment of the participant's
20 contributions shall be made by the financial officer of the
21 employer to the division which shall forward the contributions
22 to the designated company or companies contracting for payment
23 of benefits for the participant under the program.

24 (5) BENEFITS.--

25 (a) Benefits shall be payable under the optional
26 retirement program only to vested participants in the program
27 or their beneficiaries, and such benefits shall be paid only
28 by the designated company in accordance with the terms of the
29 annuity contract or contracts applicable to the participant.
30 Benefits funded by employer contributions shall be payable
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1 only as a lifetime annuity to the participant, his
2 beneficiary, or estate, except for:

3 1. A lump sum payment to the beneficiary upon the
4 death of the participant; or

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

15 (6) ADMINISTRATION OF PROGRAM.--

16 (c) Effective July 1, 1997, the State Board of
17 Administration shall review and make recommendations to the
18 division on the acceptability of all investment products
19 proposed by provider companies of the Optional Retirement
20 Program before they are offered through annuity contracts to
21 the participants, and may advise the division of any changes
22 deemed necessary to ensure that the Optional Retirement
23 Program offers an acceptable mix of investment products. The
24 division shall make the final determination as to whether an
25 investment product will be approved for the program.

26 Section 13. Sections 123.10, 123.12, 123.16, 123.18,
27 123.21, 123.22, 123.23, 123.27, 123.28, 123.30, 123.31,
28 123.32, 123.33, 123.34, 123.35, 123.37, 123.38, 123.39,
29 123.41, 123.42, 123.43, 123.44, and 123.45, all Florida
30 Statutes; sections 123.02, 123.03, 123.04, 123.05, 123.051,
31 123.06, 123.08, 123.13, 123.14, 123.15, 123.17, 123.19,

1 123.26, 123.29, and 123.40, Florida Statutes, as amended by
2 chapter 95-147; sections 123.11, 123.24, 123.25, and 123.36,
3 Florida Statutes, as amended by chapter 95-154, Laws of
4 Florida; section 123.01, Florida Statutes, as amended by
5 chapter 94-249, Laws of Florida; and section 123.07, Florida
6 Statutes, as amended by chapters 95-147 and 95-154, Laws of
7 Florida, are hereby repealed.

8 Section 14. The Division of Retirement shall have
9 rulemaking authority for implementing all the provisions of
10 this act.

11 Section 15. There is hereby appropriated from the
12 Florida Retirement System Trust Fund sufficient funds, not to
13 exceed \$300,000 annually, to pay attorney's fees and taxable
14 costs as directed by the State Retirement Commission in
15 accordance with s. 121.123(2)(a).

16 Section 16. The Legislature finds that a proper and
17 legitimate state purpose is served when employees and retirees
18 of the state and of its political subdivisions, and the
19 dependents, survivors, and beneficiaries of such employees and
20 retirees, are extended the basic protections afforded by
21 governmental retirement systems that provide fair and adequate
22 benefits and that are managed, administered, and funded in an
23 actuarially sound manner, as required by section 14, Article X
24 of the State Constitution and part VII of chapter 112 of the
25 Florida Statutes. Therefore, the Legislature hereby
26 determines and declares that the provisions of this act
27 fulfill an important state interest.

28 Section 17. Except as otherwise provided herein, this
29 act shall take effect upon becoming a law.
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HOUSE SUMMARY

Revises the provisions of the Florida Retirement System to:

1. Provide for the purchase of retirement credit under the system following reinstatement after suspension or dismissal under described circumstances.

2. Define the term "phased retirement program" to mean a program contracted by the governing board of a university or community college in which retirees may be reemployed in faculty positions under described circumstances.

3. Provide that described elected officers may opt for membership in the Senior Management Class and to clarify provisions with respect to the purchase of retirement credit for upgraded service by described elected officers and former elected officers.

4. Permit described elected officers to participate in the Senior Management Service Optional Annuity Program which will allow for payment only as a lifetime annuity with described exceptions.

5. Provide for State Board of Administration review of investment products.

6. Provide for the forfeiture of benefits for a beneficiary who intentionally killed or procured the death of the member.

7. Authorize the purchase of described out-of-state and in-state service.

8. Provide for reasonable attorney's fees for disability retirement orders of the State Retirement Commission under described circumstances.

9. Provide that described employees who are eligible to participate in the Optional Retirement Program, but who fail to execute an annuity contract and to notify the Division of Retirement shall be deemed to have elected membership in the Florida Retirement System.

10. Repeal chapter 123, F.S., relating to the retirement system for Supreme Court justices, District Courts of Appeal judges, and Circuit judges.

See bill for details.