

By the Committee on Governmental Operations and
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.
9 121.051, F.S.; revising language with respect
10 to optional participation in the system;
11 amending s. 121.052, F.S.; authorizing certain
12 elected officers to opt for membership in the
13 Senior Management Class under certain
14 circumstances; clarifying provisions relating
15 to the purchase of retirement credit for
16 upgraded service by certain elected officers
17 and former elected officers; amending s.
18 121.053, F.S.; allowing Senior Management
19 Service Class renewed membership service to be
20 used by members with renewed membership in the
21 Elected State and County Officers' Class;
22 amending s. 121.055, F.S.; allowing certain
23 elected officers to participate in the Senior
24 Management Service Optional Annuity Program
25 under certain conditions; providing for payment
26 only as a lifetime annuity; providing
27 exceptions; providing for State Board of
28 Administration review of investment products;
29 providing for payment of certain creditable
30 service; providing for future repeal;
31 authorizing local agency employers to reassess

1 designation of positions for inclusion in the
2 Senior Management Service Class; providing for
3 removal of certain positions; amending s.
4 121.091, F.S.; providing for forfeiture of
5 benefits for a beneficiary who intentionally
6 killed or procured the death of the member;
7 clarifying the effective date of a joint
8 annuitant change; amending s. 121.1115, F.S.;
9 authorizing the purchase of retirement credit
10 for certain out-of-state service; creating s.
11 121.1120, F.S.; providing for the purchase of
12 retirement credit for certain in-state service;
13 amending s. 121.121, F.S.; providing for
14 authorized leave of absence credit after 1
15 month on an employer's payroll; amending s.
16 121.122, F.S.; providing for the enrollment of
17 certain members in the Senior Management
18 Service Class; amending s. 121.23, F.S.;
19 providing for reasonable attorney's fees for
20 disability retirement orders issued by the
21 State Retirement Commission under certain
22 circumstances; amending s. 121.35, F.S.;
23 providing that certain employees who are
24 eligible to participate in the Optional
25 Retirement Program shall become members of the
26 Regular Class of the Florida Retirement System
27 under certain circumstances; providing that
28 contributions accumulated in the Florida
29 Retirement Trust Fund for certain members be
30 applied towards retroactive membership in the
31 Regular Class; limiting employee contributions

1 in the Optional Retirement Program; providing
2 that benefits in the Optional Retirement
3 Program shall be paid only as a lifetime
4 annuity; providing exceptions; providing for
5 State Board of Administration review of
6 investment products; repealing chapter 123,
7 F.S., relating to the retirement system for
8 Supreme Court justices, District Courts of
9 Appeals judges, and Circuit judges; providing
10 for rules; providing an appropriation;
11 providing a legislative finding of important
12 state interest; providing effective dates.

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

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16 Section 1. Paragraph (e) of subsection (3) of section
17 121.011, Florida Statutes, is amended, and paragraph (g) is
18 added to said subsection, to read:

19 121.011 Florida Retirement System.--

20 (3) PRESERVATION OF RIGHTS.--

21 (e) Any member of the Florida Retirement System or any
22 member of an existing system under this chapter on July 1,
23 1975, who is not retired and who is, has been, or shall be,
24 suspended and reinstated without compensation shall receive
25 retirement service credit for the period of time from the date
26 of suspension to the date of reinstatement, provided:

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

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

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1 3. upon The member pays ~~paying~~ into the Retirement
2 System Trust Fund the total required ~~cost of providing said~~
3 ~~retirement credit. The cost to the member shall be the total~~
4 employer contributions plus the total employee contributions,
5 if applicable, based on the member's monthly compensation in
6 effect ~~paid to the Retirement Trust Fund~~ for the pay period
7 immediately preceding the period of suspension, prorated for
8 the said period of suspension, plus interest thereon at a rate
9 of 4 percent per annum compounded annually until July 1, 1975,
10 and 6.5 percent interest thereafter until paid.

11
12 If permitted by federal law, the member may pay into the
13 Social Security Trust Fund the total cost, if any, of
14 providing social security coverage for the period of
15 suspension if any social security payments have been made by
16 the employer for the benefit of the member during such period.
17 Should there be any conflict as to payment for social security
18 coverage, the payment for retirement service credit shall be
19 made and retirement service credit granted regardless of such
20 conflict.

21 (g) Any member of the Florida Retirement System or any
22 member of an existing system under this chapter who is not
23 retired and who is, has been, or shall be, dismissed from
24 employment shall be considered terminated from active
25 membership in such system.

26 1. In the event such dismissal is rescinded by proper
27 authority or through legal proceedings, the member shall be
28 eligible to receive retirement service credit for such period
29 of dismissal provided:

30 a. The dismissal action taken against the member is
31 determined to be incorrect and is negated, the employee is

1 made whole for the period of the dismissal or any portion
2 thereof, employment is reinstated.

3 b. The employer pays into the Retirement System Trust
4 Fund the total required employer contributions for the period
5 for which the employee is made whole, plus interest at 6.5
6 percent compounded annually until full payment is made. The
7 employee shall pay the total employee contributions, plus
8 interest, if applicable.

9 2. In the event the dismissal action is subsequently
10 changed to a suspension by proper authority or through legal
11 proceedings, the member shall be eligible to receive
12 retirement service credit provided the member's employment is
13 reinstated, restoring the employee-employer relationship, and
14 the employee pays the total required employer and employee
15 contributions and complies with all requirements in paragraph
16 (e).

17 Section 2. Subsection (43) is added to section
18 121.021, Florida Statutes, 1996 Supplement, to read:

19 121.021 Definitions.--The following words and phrases
20 as used in this chapter have the respective meanings set forth
21 unless a different meaning is plainly required by the context:

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

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

28 (b) The retired member is reemployed for not more than
29 780 hours during the first 12 months of his retirement.

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

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2 Renewed membership for a retiree participating in a phased
3 retirement program shall be determined in accordance with s.
4 121.122 or 121.053.

5 Section 3. Paragraph (e) of subsection (2) of section
6 121.051, Florida Statutes, 1996 Supplement, is amended to
7 read:

8 121.051 Participation in the system.--

9 (2) OPTIONAL PARTICIPATION.--

10 (e) Notwithstanding any other provision of this
11 chapter to the contrary, any independent participating agency
12 that has failed to report the employees of a dependent
13 governmental entity within its jurisdiction for membership in
14 the Florida Retirement System as required under this chapter
15 shall enroll in the system, effective July 1, 1996, all
16 employees filling a regularly established position who are not
17 currently participating in a retirement plan provided by the
18 dependent entity.~~the~~ Employees of the dependent entity
19 participating in such a retirement plan on July 1, 1996, may
20 remain in that plan or participate in the Florida Retirement
21 System and shall make such election in writing into the system
22 ~~effective July 1, 1996. The eligible employees of the~~
23 ~~dependent entity shall be compulsory members of the Florida~~
24 ~~Retirement System as of that date. Such employees are eligible~~
25 ~~to claim past service as provided in s. 121.081. All eligible~~
26 employees hired on or after July 1, 1996, by any such
27 dependent entity shall be compulsory members of the Florida
28 Retirement System. Any independent participating agency shall
29 be responsible for identifying all such dependent governmental
30 entities within its jurisdiction and for providing to the

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1 division a list of all employees of such entities as of July
2 1, 1997.

3 Section 4. Subsections (3) and (5) of section 121.052,
4 Florida Statutes, 1996 Supplement, are amended to read:

5 121.052 Membership class of elected state and county
6 officers.--

7 (3) PARTICIPATION AND WITHDRAWAL,
8 GENERALLY.--Effective July 1, 1990, participation in the
9 Elected State and County Officers' Class shall be compulsory
10 for elected officers listed in paragraphs (2)(a)-(d) assuming
11 office on or after said date, unless the elected officer
12 elects membership in another class or withdraws from the
13 Florida Retirement System as follows:

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

21 (b) Upon assuming office, any sheriff shall have a
22 period of 6 months to notify the administrator of his or her
23 decision to remain or elect membership in the Special Risk
24 Class in lieu of membership in the Elected State and County
25 Officers' Class.

26 (c) Any elected officer may, within 6 months of
27 assuming office, or within 6 months of this act becoming law
28 for serving elected officers, elect membership in the Senior
29 Management Service Class as provided in s. 121.055 in lieu of
30 membership in the Elected State and County Officers' Class.
31 Any such election made by a county elected officer shall have

1 no effect upon the statutory limit on the number of
2 nonelective full-time positions which may be designated by a
3 local agency employer for inclusion in the Senior Management
4 Service Class under s. 121.055(1)(b)1.

5 (d)~~(c)~~1. Any elected officer may elect to withdraw
6 from participating in the Florida Retirement System in any
7 manner whatsoever. Upon assuming office, the member shall have
8 a period of 6 months to notify the administrator of his or her
9 decision to withdraw from the Florida Retirement System
10 altogether. Such election shall be made in writing and a copy
11 shall be filed with the employer.

12 2. Upon receipt of a request from an elected officer
13 to withdraw from the Florida Retirement System pursuant to
14 subparagraph 1., the administrator shall refund all moneys
15 contributed by the elected officer to the system during the
16 period of participation in the system, unless the elected
17 officer has a vested right under the Florida Retirement
18 System, in which case he or she shall not receive a refund of
19 contributions.

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

24 a. Credit for prior service based on the period for
25 which refunds were received pursuant to subparagraph 2. shall
26 be received by an elected officer who rejoins the system upon
27 payment to the System Trust Fund of an amount equal to the
28 contributions refunded to the elected officer pursuant to
29 subparagraph 2., plus 4 percent interest compounded annually
30 from the date of refund until July 1, 1975, and 6.5 percent
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1 interest, compounded annually thereafter until the date of
2 payment.

3 b. Credit for prior service based on the period during
4 which the elected officer had withdrawn from the system, and
5 for which no contributions were made, shall be received by the
6 elected officer upon payment to the System Trust Fund of an
7 amount equal to the contributions required, under the
8 contribution rate in effect during the period of withdrawal
9 for which credit is being purchased, plus 6.5 percent
10 interest, compounded annually until the date of payment. The
11 payment of the total of such amount shall be made by the
12 employer and the elected officer in the relative proportions
13 provided by law for contributions during the period of
14 withdrawal.

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16 Failure to timely withdraw from the Elected State and County
17 Officers' Class shall constitute an election to maintain
18 membership in the Elected State and County Officers' Class.

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

20 (a) As provided in paragraph (b), and subject to the
21 provisions of subsection (6), if applicable, a current or
22 former member of the Elected State and County Officers' Class
23 an elected officer, or former elected officer who held office
24 after his subclass of the Elected State and County Officers'
25 Class was established, and who opted for membership in a
26 membership class of the Florida Retirement System other than
27 the Elected State and County Officers' Class as described in
28 subparagraph (b)2., may purchase at his or her own expense
29 additional retirement credit in the Elected State and County
30 Officers' Class for all creditable service as an officer
31 within the purview of this class, and such other creditable

1 service as authorized hereunder for which he or she has
2 accumulated credit in the retirement system or class within
3 the Florida Retirement System from which he or she transfers.
4 Any member of the Elected State and County Officers' Class may
5 purchase additional retirement credit for service prior to
6 January 1, 1973, as a county solicitor, elected county
7 prosecuting attorney, county judge, judge of a court of
8 record, judge of a criminal or civil court of record, judge of
9 any metropolitan court established pursuant to s. 6, Art. VIII
10 of the State Constitution, judge of a small claims court, or
11 justice of the peace, or for service as a county court judge
12 from January 1, 1973, to October 1, 1974.

13 (b) To receive additional retirement credit for
14 service within the purview of the Elected State and County
15 Officers' Class as provided ~~authorized~~ in paragraph (a), such
16 member+

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

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

24 ~~2.b.~~ The total contributions which would have been
25 required at the time the service was rendered for the subclass
26 of elected state officers' service being purchased, based on
27 the actual gross salary received or on a gross salary of
28 \$1,000 per month, whichever is greater, multiplied by the
29 contribution rates required, as follows:

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1 a.~~(I)~~ The contribution rates in effect at the time the
2 service was rendered for the subclass of elected state
3 officers' service being purchased; or
4 b.~~(II)~~ The contribution rates in effect on July 1,
5 1972, for such service rendered before July 1, 1972, by an
6 elected officer who held an elective office included within
7 the Elected State Officers' Class upon its creation; or
8 c.~~(III)~~ The contribution rates in effect for the
9 appropriate subclass on the date of inclusion of the elective
10 office within the Elected State and County Officers' Class, as
11 set forth in subsection (2); or
12 d.~~(IV)~~ For service as an elected county officer before
13 July 1, 1981, the contribution rate applicable for the
14 legislative subclass of the Elected State Officers' Class,
15
16 plus interest thereon at the rate of 4 percent per year
17 compounded annually each June 30 from the date of such service
18 until July 1, 1975, and at the rate of 6.5 percent per year
19 thereafter until the date of payment.
20 ~~2. A former elected officer who held office after his~~
21 ~~or her subclass of the Elected State and County Officers'~~
22 ~~Class was established, and who opted for membership in another~~
23 ~~membership class of the Florida Retirement System rather than~~
24 ~~the Elected State and County Officers' Class, shall pay a sum~~
25 ~~equal to the difference between the amounts derived under~~
26 ~~sub-subparagraphs a. and b.:~~
27 ~~a. The total employee and employer contributions~~
28 ~~actually paid, based on the actual gross salary received and~~
29 ~~the contribution rates in effect for the period of his or her~~
30 ~~tenure in office within the purview of the class; and~~
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1 b. ~~The total contributions which would have been~~
2 ~~required at the time the service was rendered for the subclass~~
3 ~~of elected state officers' service being purchased, based on~~
4 ~~the actual gross salary received or on a gross salary of~~
5 ~~\$1,000 per month, whichever is greater, multiplied by the~~
6 ~~contribution rates required, as follows:~~

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

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

14 ~~(III) The contribution rates in effect for the~~
15 ~~appropriate subclass on the date of inclusion of the elective~~
16 ~~office within the Elected State and County Officers' Class, as~~
17 ~~set forth in subsection (2); or~~

18 ~~(IV) For service as an elected county officer before~~
19 ~~July 1, 1981, the contribution rate applicable for the~~
20 ~~legislative subclass of the Elected State Officers' Class,~~
21
22 ~~plus interest thereon at the rate of 4 percent per year~~
23 ~~compounded annually each June 30 from the date of such service~~
24 ~~until July 1, 1975, and at the rate of 6.5 percent per year~~
25 ~~thereafter until the date of payment.~~

26 (c) Notwithstanding any provision of this subsection
27 to the contrary, a current or former member of the Elected
28 State and County Officers' Class, or a former ~~an~~ elected state
29 officer as described in paragraph (a), may elect to claim ~~who~~
30 purchases additional retirement credit in the Elected State
31 and County Officers' Class pursuant to paragraph (a) upon

1 ~~payment of the required during the period from January 1,~~
2 ~~1991, to June 30, 1991, shall be required to pay one-half the~~
3 ~~contributions and interest due the Florida Retirement System~~
4 ~~Trust Fund, and an equal amount shall be paid by the employer.~~
5 The current or former employer of such officer may elect to
6 pay any portion of the total required employee and employer
7 contributions and interest due on behalf of such member,
8 provided such payment is made prior to January 1, 1998. No
9 ~~contributions shall be paid by the employer on behalf of any~~
10 ~~elected state officer who purchases such retirement credit~~
11 ~~after June 30, 1991.~~

12 Section 5. Paragraph (b) of subsection (1) of section
13 121.053, Florida Statutes, is amended to read:

14 121.053 Participation in the Elected State and County
15 Officers' Class for retired members.--

16 (1)

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

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

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

6 3. Such member shall be entitled to purchase
7 additional retirement credit in the Elected State and County
8 Officers' Class for any postretirement service performed in an
9 elected position eligible for the Elected State and County
10 Officers' Class prior to July 1, 1990, or in the Regular Class
11 for any postretirement service performed in any other
12 regularly established position prior to July 1, 1991, by
13 paying the applicable Elected State and County Officers' Class
14 or Regular Class employee and employer contributions for the
15 period being claimed, plus 4 percent interest compounded
16 annually from the first year of service claimed until July 1,
17 1975, and 6.5 percent interest compounded thereafter, until
18 full payment is made to the Florida Retirement System Trust
19 Fund. The contribution for postretirement Regular Class
20 service between July 1, 1985, and July 1, 1991, for which the
21 reemployed retiree contribution was paid, shall be the
22 difference between such contribution and the total applicable
23 contribution for the period being claimed, plus interest. The
24 employer of such member may pay the applicable employer
25 contribution in lieu of the member.

26 4. No creditable service for which credit was
27 received, or which remained unclaimed, at retirement may be
28 claimed or applied toward service credit earned following
29 renewed membership. However, service earned in accordance with
30 the renewed membership provisions ~~for the Regular Class~~ in s.
31 121.122 may be used in conjunction with creditable service

1 earned under this paragraph, provided applicable vesting
2 requirements and other existing statutory conditions required
3 by this chapter are met.

4 Section 6. Paragraphs (f), (g), and (h) of subsection
5 (1) of section 121.055, Florida Statutes, 1996 Supplement, are
6 redesignated as paragraphs (g), (h), and (i), respectively,
7 and a new paragraph (f) is added to said subsection, and
8 subsection (2) and paragraphs (e) and (f) of subsection (6),
9 are amended to read:

10 121.055 Senior Management Service Class.--There is
11 hereby established a separate class of membership within the
12 Florida Retirement System to be known as the "Senior
13 Management Service Class," which shall become effective
14 February 1, 1987.

15 (1)

16 (f) Effective July 1, 1997:

17 1. Any elected state officer eligible for membership
18 in the Elected State and County Officers' Class under s.
19 121.052(2)(a), (b), or (c) who elects membership in the Senior
20 Management Service Class under s. 121.052(3)(c) may, within 6
21 months of assuming office or within 6 months of this act
22 becoming law for serving elected state officers, elect to
23 participate in the Senior Management Service Optional Annuity
24 Program, as provided in subsection (6), in lieu of membership
25 in the Senior Management Service Class.

26 2. Any elected county officer eligible for membership
27 in the Elected State and County Officers' Class under s.
28 121.052(2)(d) who elects membership in the Senior Management
29 Service Class under s. 121.052(3)(c) may, within 6 months of
30 assuming office, or within 6 months of this act becoming law
31 for serving elected county officers, elect to participate in a

1 lifetime monthly annuity program, as provided in subparagraph
2 (1)(b)2., in lieu of membership in the Senior Management
3 Service Class.

4 (2)(a) Participation in this class shall cease when
5 the member terminates employment in an eligible position.
6 Once a position is designated as eligible for inclusion in the
7 class, that position shall not be removed from the class
8 unless the duties and responsibilities of the position change
9 substantially and therefore no longer meet the requirements
10 provided in this section for participation in the class,
11 except as provided in paragraph (b).

12 (b) Effective July 1, 1997, each local agency employer
13 may, between July 1, 1997, and December 31, 1997, reassess its
14 designation of positions for inclusion in the Senior
15 Management Service Class as provided in paragraph (b) of
16 subsection (1), and may request removal from the class of any
17 such positions that it deems appropriate. Such removal of any
18 previously designated positions shall be effective on the
19 first day of the month following written notification of
20 removal to the division prior to January 1, 1998.

21 (6)

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

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

1 b. 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 shall be subject to the provisions of the Internal
10 Revenue Code.

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

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

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

1 ~~3.2.~~ The provisions of each contract applicable to a
2 participant in the Senior Management Service Optional Annuity
3 Program shall be contained in a written program description
4 which shall include a report of pertinent financial and
5 actuarial information on the solvency and actuarial soundness
6 of the program and the benefits applicable to the participant.
7 Such description shall be furnished by the company or
8 companies to each participant in the program and to the
9 division upon commencement of participation in the program and
10 annually thereafter.

11 ~~4.3.~~ The division shall ensure that each participant
12 in the Senior Management Service Optional Annuity Program is
13 provided an accounting of the total contribution and the
14 annual contribution made by and on behalf of such
15 participants.

16 Section 7. The current or former employer of the
17 member claiming service credit as provided in s.
18 121.052(5)(c), may elect to pay any portion of the required
19 contributions provided such payment is made prior to January
20 1, 1998. This section is repealed effective January 1, 1998.

21 Section 8. Paragraph (i) is added to subsection (5) of
22 section 121.091, Florida Statutes, 1996 Supplement, and
23 paragraph (d) of subsection (6) is amended, to read:

24 121.091 Benefits payable under the system.--No
25 benefits shall be paid under this section unless the member
26 has terminated employment as provided in s. 121.021(39) and a
27 proper application has been filed in the manner prescribed by
28 the division.

29 (5) TERMINATION BENEFITS.--

30 (i) Any beneficiary who is found guilty by a verdict
31 of a jury, or by the court trying the case without a jury, or

1 who has entered a plea of guilty or of nolo contendere, of
2 unlawfully and intentionally killing or procuring the death of
3 the member, shall forfeit all rights to the deceased member's
4 benefits under this chapter and the benefits will be paid as
5 if such beneficiary had predeceased the decedent. No benefits
6 shall be paid by the division pending final resolution of such
7 charges against the beneficiary.

8 (6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND
9 DISABILITY RETIREMENT BENEFITS.--

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

21 Effective the first day of the next month following ~~upon~~
22 receipt by the division of a completed change of joint
23 annuitant form, the division shall adjust the member's monthly
24 benefit by the application of actuarial tables and
25 calculations developed to ensure that the benefit paid is the
26 actuarial equivalent of the present value of the member's
27 current benefit. The consent of a retired member's first
28 designated joint annuitant to any such change shall not be
29 required. However, if the member dies prior to the effective
30 date of the request for change of joint annuitant, the
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1 requested change shall be void and survivor benefits, if any,
2 shall be paid as if no request had been made.

3 Section 9. Section 121.1115, Florida Statutes, 1996
4 Supplement, is amended to read:

5 121.1115 Purchase of retirement credit for
6 out-of-state and federal service.--Effective January 1, 1995,
7 a member of the Florida Retirement System may purchase
8 creditable service for periods of public employment in another
9 state and receive creditable service for such periods of
10 employment. Service with the Federal Government, including
11 any military service, may be claimed. Upon completion of each
12 year of service earned under the Florida Retirement System, a
13 member may purchase up to 1 year of retirement credit for his
14 or her out-of-state service, subject to the following
15 provisions:

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

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

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

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

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

28 (b) The member must have completed a minimum of 10
29 years of creditable service under the Florida Retirement
30 System, excluding out-of-state service and in-state service
31 claimed and purchased under s. 121.1120.

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

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

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

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

23 Section 10. Section 121.1120, Florida Statutes, is
24 created to read:

25 121.1120 Purchase of retirement credit for in-state
26 public service and in-state service in accredited nonpublic,
27 nonsectarian schools and colleges, including charter
28 schools.--Effective January 1, 1998, a member of the Florida
29 Retirement System may purchase creditable service for periods
30 of certain public or nonpublic, nonsectarian employment
31 performed in Florida, as provided herein.

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

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

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

10
11 Credit for 1 year of such service may be purchased for each
12 year of creditable service a member completes under the
13 Florida Retirement System.

14 (2) LIMITATIONS AND CONDITIONS.--

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

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

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

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

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

3 (e) The service claimed must have been service covered
4 by a retirement or pension plan provided by the employer.

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

9 Section 11. Section 121.121, Florida Statutes, is
10 amended to read:

11 121.121 Future service to include authorized leaves of
12 absence.--Future service of any member as defined in s.
13 121.021(21) shall also include up to 2 work years of
14 creditable service for authorized leaves of absence if:

15 (1) The member has completed a minimum of 10 years of
16 creditable service, excluding periods of leave of absence.

17 (2) The leave of absence is authorized in writing by
18 the employer of the member and approved by the administrator.

19 (3) The member returns to active employment performing
20 service with a Florida Retirement System employer in a
21 regularly established position immediately upon termination of
22 the leave of absence and remains on the employer's payroll for
23 1 calendar month, except that a member who retires on
24 disability while on a medical leave of absence shall not be
25 required to return to employment.

26 (4)~~(3)~~ The member makes the required contributions for
27 service credit during the leave of absence, which shall be 8
28 percent until January 1, 1975, and 9 percent thereafter of his
29 or her rate of monthly compensation in effect immediately
30 prior to the commencement of such leave for each month of such
31 period, plus 4 percent interest until July 1, 1975, and 6.5

1 percent interest thereafter on such contributions, compounded
2 annually each June 30 from the due date of the contribution to
3 date of payment. Effective July 1, 1980, any leave of absence
4 purchased pursuant to this section shall be at the
5 contribution rates specified in s. 121.071 in effect at the
6 time the leave is granted for the class of membership from
7 which the leave of absence was granted; however, any member
8 who purchased leave-of-absence credit prior to July 1, 1980,
9 for a leave of absence from a position in a class other than
10 the regular membership class, may pay the appropriate
11 additional contributions plus compound interest thereon and
12 receive creditable service for such leave of absence in the
13 membership class from which the member was granted the leave
14 of absence.

15 Section 12. Section 121.122, Florida Statutes, is
16 amended to read:

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

30 (1)(a) Such member shall resatisfy the age and service
31 requirements as provided in this chapter for initial

1 membership under the system, unless such member elects to
2 participate in the Senior Management Service Optional Annuity
3 Program in lieu of the Senior Management Service Class as
4 provided in s. 121.055(6).

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

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

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

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

29 (4) No creditable service for which credit was
30 received, or which remained unclaimed, at retirement may be
31 claimed or applied toward service credit earned following

1 renewed membership. However, service earned as an elected
2 officer with renewed membership in the Elected State and
3 County Officers' Class may be used in conjunction with
4 creditable service earned under this section, provided the
5 applicable vesting requirements and other existing statutory
6 conditions required by this chapter are met.

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

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

28 Section 13. Paragraph (a) of subsection (2) of section
29 121.23, Florida Statutes, 1996 Supplement, is amended to read:

30 121.23 Disability retirement and special risk
31 membership applications; Retirement Commission; powers and

1 duties; judicial review.--The provisions of this section apply
2 to all proceedings in which the administrator has made a
3 written final decision on the merits respecting applications
4 for disability retirement, reexamination of retired members
5 receiving disability benefits, applications for special risk
6 membership, and reexamination of special risk members in the
7 Florida Retirement System. The jurisdiction of the State
8 Retirement Commission under this section shall be limited to
9 written final decisions of the administrator on the merits.

10 (2) A member shall be entitled to a hearing before the
11 State Retirement Commission pursuant to ss. 120.569 and
12 120.57(1) on the merits of any written adverse decision of the
13 administrator, if he or she files with the commission a
14 written request for such hearing within 21 days after receipt
15 of such written decision from the administrator. For the
16 purpose of such hearings, the commission shall be an "agency
17 head" as defined by s. 120.52.

18 (a) The commission shall have the authority to issue
19 orders as a result of a hearing that shall be binding on all
20 parties to the dispute. The commission may order any action
21 that it deems appropriate. Any disability retirement order of
22 the commission issued pursuant to this subsection which
23 sustains the application of the member may include an amount,
24 to be determined by the commission, for reasonable attorney's
25 fees and taxable cost which shall be calculated in accordance
26 with the statewide uniform guidelines for taxation of cost in
27 civil actions. The amount of the attorney's fee shall not
28 exceed 50 percent of the initial yearly benefit awarded under
29 s. 121.091(4).In cases involving disability retirement, the
30 State Retirement Commission shall require the member to
31

1 present competent medical evidence and may require vocational
2 evidence before awarding disability retirement benefits.

3 Section 14. Paragraph (b) of subsection (3),
4 paragraphs (a) and (d) of subsection (4), and paragraph (a) of
5 subsection (5) of section 121.35, Florida Statutes, are
6 amended, and paragraphs (c) and (d) of subsection (6) are
7 redesignated as paragraphs (d) and (e), respectively, and a
8 new paragraph (c) is added to said subsection, to read:

9 121.35 Optional retirement program for the State
10 University System.--

11 (3) ELECTION OF OPTIONAL PROGRAM.--

12 (a) Any eligible employee who is employed on or before
13 March 1, 1984, may elect to participate in the optional
14 retirement program in lieu of participation in the Florida
15 Retirement System. Such election shall be made in writing and
16 filed with the division and the personnel officer of the
17 employer on or before June 1, 1984. Upon such election,
18 participation in the optional program will take effect July 1,
19 1984, and election to so participate will terminate the
20 membership of the employee in the Florida Retirement System.
21 Any eligible employee who is employed on or before March 1,
22 1984, and who fails to make an election to participate in the
23 optional program by June 1, 1984, shall be deemed to have
24 elected to retain membership in the Florida Retirement System.

25 (b)1. Any employee who becomes eligible to participate
26 in the optional retirement program by reason of initial
27 employment commencing after March 1, 1984, but before January
28 1, 1993, may, within 90 days after the date of commencement of
29 employment, elect to participate in the optional program. Such
30 election shall be made in writing and filed with the personnel
31 officer of the employer. The eligible employees described in

1 this subparagraph shall be enrolled in the Florida Retirement
2 System at the commencement of employment, with the exception
3 of those employees who file an election with the personnel
4 officer of the employer prior to the submission of the initial
5 payroll for the employee. For such employees, participation
6 will be effective on the first day of employment or on July 1,
7 1984, whichever is later. If an eligible employee, as
8 described in this subparagraph, files an election to
9 participate in the optional program within 90 days after the
10 commencement of employment, but after the submission by the
11 employer of the initial payroll for the employee, the
12 employee's participation in the optional program will not be
13 effective until the first day of the month for which a full
14 month's employer contribution may be made, or until July 1,
15 1984, whichever is later. Any eligible employee who does not
16 within 90 days after commencement of such employment elect to
17 participate in the optional program shall be deemed to have
18 elected to retain membership in the Florida Retirement System.

19 2. Any employee who after March 1, 1984, but before
20 January 1, 1993, becomes eligible to participate in the
21 optional program by reason of a change in status due to the
22 subsequent designation of the employee's position as one of
23 those specified in paragraph (2)(a) or due to the employee's
24 appointment, promotion, transfer, or reclassification to a
25 position specified in paragraph (2)(a) may elect to
26 participate in the optional program. Such employee shall be
27 notified by the employer of the change in his or her
28 eligibility status. Such employee may, within 90 days after
29 the date of such notification, file with the personnel officer
30 of the employer an election in writing to participate in the
31 optional program in lieu of participation in the Florida

1 Retirement System. Upon such election, participation in the
2 optional program will be effective on the first day of the
3 month for which a full month's employer contribution may be
4 made or on July 1, 1984, whichever is later. Election to so
5 participate shall terminate the membership of the employee in
6 the Florida Retirement System. Any eligible employee who does
7 not within 90 days after notification of his or her
8 eligibility to participate in the optional program elect to
9 participate in the program shall be deemed to have elected to
10 retain membership in the Florida Retirement System.

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

26 (4) CONTRIBUTIONS.--

27 (a) Each employer shall contribute on behalf of each
28 participant in the optional retirement program an amount equal
29 to the normal cost portion of the employer retirement
30 contribution which would be required if the participant were a
31 regular member of the Florida Retirement System, plus the

1 portion of the contribution rate required in s. 112.363(8)
2 that would otherwise be assigned to the Retiree Health
3 Insurance Subsidy Trust Fund, less an amount approved by the
4 Legislature which shall be deducted by the division to provide
5 for the administration of this program. The payment of the
6 contributions to the optional program which is required by
7 this paragraph for each participant shall be made by the
8 employer to the division, which shall forward the
9 contributions to the designated company or companies
10 contracting for payment of benefits for the participant under
11 the program. However, such contributions paid on behalf of an
12 employee described in paragraph (3)(c) shall not be forwarded
13 to a company and shall not begin to accrue interest until the
14 employee has executed an annuity contract and notified the
15 division. ~~The contributions required by this paragraph and~~
16 ~~paid on behalf of an employee described in paragraph (3)(c)~~
17 ~~who fails to execute an annuity contract prior to termination~~
18 ~~of employment shall be retained by the division for the~~
19 ~~administration of this program.~~

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

31 (5) BENEFITS.--

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

9 1. A lump sum payment to the beneficiary upon the
10 death of the participant; or

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

21 (6) ADMINISTRATION OF PROGRAM.--

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

1 Section 15. Sections 123.10, 123.12, 123.16, 123.18,
2 123.21, 123.22, 123.23, 123.27, 123.28, 123.30, 123.31,
3 123.32, 123.33, 123.34, 123.35, 123.37, 123.38, 123.39,
4 123.41, 123.42, 123.43, 123.44, and 123.45, all Florida
5 Statutes; sections 123.02, 123.03, 123.04, 123.05, 123.051,
6 123.06, 123.08, 123.13, 123.14, 123.15, 123.17, 123.19,
7 123.26, 123.29, and 123.40, Florida Statutes, as amended by
8 chapter 95-147; sections 123.11, 123.24, 123.25, and 123.36,
9 Florida Statutes, as amended by chapter 95-154, Laws of
10 Florida; section 123.01, Florida Statutes, as amended by
11 chapter 94-249, Laws of Florida; and section 123.07, Florida
12 Statutes, as amended by chapters 95-147 and 95-154, Laws of
13 Florida, are hereby repealed.

14 Section 16. The Division of Retirement shall have
15 rulemaking authority for implementing all the provisions of
16 this act.

17 Section 17. There is hereby appropriated from the
18 Florida Retirement System Trust Fund sufficient funds, not to
19 exceed \$300,000 annually, to pay attorney's fees and taxable
20 costs as directed by the State Retirement Commission in
21 accordance with s. 121.123(2)(a).

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

1 determines and declares that the provisions of this act
2 fulfill an important state interest.

3 Section 19. Except as otherwise provided herein, this
4 act shall take effect upon becoming a law.

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