

By the Committee on Governmental Oversight and Productivity;
and Senator Silver

302-1881-99

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; amending s. 121.091, F.S., relating to
4 benefits payable under the Florida Retirement
5 System; providing for payment of federally
6 limited benefits through the Florida Retirement
7 System Preservation of Benefits Plan; creating
8 s. 121.1001, F.S.; creating the Florida
9 Retirement System Preservation of Benefits
10 Plan; providing for eligibility; providing for
11 benefits and contributions; providing for
12 administration; providing a finding of
13 important state interest; providing an
14 effective date and a contingent expiration
15 date.

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

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19 Section 1. Paragraph (d) is added to subsection (14)
20 of section 121.091, Florida Statutes, 1998 Supplement, to
21 read:

22 121.091 Benefits payable under the system.--Benefits
23 may not be paid under this section unless the member has
24 terminated employment as provided in s. 121.021(39)(a) or
25 begun participation in the Deferred Retirement Option Program
26 as provided in subsection (13), and a proper application has
27 been filed in the manner prescribed by the division. The
28 division may cancel an application for retirement benefits
29 when the member or beneficiary fails to timely provide the
30 information and documents required by this chapter and the
31 division's rules. The division shall adopt rules establishing

1 procedures for application for retirement benefits and for the
2 cancellation of such application when the required information
3 or documents are not received.

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

7 (d) A payee whose retirement benefits are reduced by
8 the application of maximum benefit limits under s. 415(b) of
9 the Internal Revenue Code, as specified in s. 121.30(5), shall
10 have the portion of his or her calculated benefit in the
11 Florida Retirement System defined benefit plan which exceeds
12 such federal limitation paid through the Florida Retirement
13 System Preservation of Benefits Plan, as provided in s.
14 121.1001.

15 Section 2. Section 121.1001, Florida Statutes, is
16 created to read:

17 121.1001 Florida Retirement System Preservation of
18 Benefits Plan.--Effective July 1, 1999, the Florida Retirement
19 System Preservation of Benefits Plan is established as a
20 qualified governmental excess benefit arrangement pursuant to
21 s. 415(m) of the Internal Revenue Code. The Preservation of
22 Benefits Plan is created as a separate portion of the Florida
23 Retirement System defined benefit plan, for the purpose of
24 providing benefits to a payee (retiree or beneficiary) of the
25 Florida Retirement System whose benefits would otherwise be
26 limited by s. 415(b) of the Internal Revenue Code.

27 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF
28 BENEFITS PLAN.--A payee of the Florida Retirement System shall
29 participate in the Preservation of Benefits Plan whenever his
30 or her calculated benefit in the Florida Retirement System
31 defined benefit plan exceeds the benefit maximum established

1 under s. 415(b) of the Internal Revenue Code. Participation in
2 the Preservation of Benefits Plan shall continue for as long
3 as the payee's calculated benefit in the Florida Retirement
4 System defined benefit plan is reduced by the application of
5 the maximum benefit limit under s. 415(b) of the Internal
6 Revenue Code.

7 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF
8 BENEFITS PLAN.--

9 (a) On and after July 1, 1999, the Division of
10 Retirement shall pay to each eligible payee of the Florida
11 Retirement System who retires before, on, or after such date a
12 supplemental retirement benefit equal to the difference
13 between the amount of the payee's monthly retirement benefit
14 which would have been payable from the Florida Retirement
15 System defined benefit plan if not for a reduction due to the
16 application of s. 415(b) of the Internal Revenue Code and the
17 reduced monthly retirement benefit as paid to the payee. The
18 Preservation of Benefits Plan benefit shall be computed and
19 payable under the same terms and conditions and to the same
20 person as would have applied under the Florida Retirement
21 System defined benefit plan were it not for the federal
22 limitation.

23 (b) The benefits under the Preservation of Benefits
24 Plan shall not be subject to execution, garnishment,
25 attachment or any other process of any court with respect to a
26 payee under the Preservation of Benefits Plan except for
27 qualified domestic relations orders by a court of competent
28 jurisdiction, income deduction orders as provided in s.
29 61.1301, and federal income tax levies.

30 (3) CONTRIBUTIONS.--
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1 (a) The Preservation of Benefits Plan benefit shall be
2 an unfunded benefit within the meaning of the federal tax
3 laws. No payee contributions or deferrals (direct or indirect)
4 by election or otherwise shall be made or allowed under the
5 Preservation of Benefits Plan. Benefits due under the
6 Preservation of benefits Plan as determined by the Division of
7 Retirement shall be paid out of the Preservation of Benefits
8 Plan Trust Fund, if created by law.

9 (b) Florida Retirement System monthly retirement
10 contributions paid to the Division of Retirement by the
11 payee's past employer shall be reduced by the employer as
12 directed by the Division of Retirement by an amount necessary
13 to meet the requirements for payment of restored benefits
14 under the Preservation of Benefits Plan.

15 (4) ADMINISTRATION.--

16 (a) The Division of Retirement shall compile and
17 maintain all records necessary or appropriate for the
18 administration of the Preservation of Benefits Plan,
19 including, but not limited to, the making of requisite
20 calculations and disbursements under the Preservation of
21 Benefits Plan.

22 (b) The Division of Retirement is authorized to adopt
23 rules necessary to implement the provisions of this section,
24 including rules providing the procedures by which the
25 Preservation of Benefits Plan is to be implemented in
26 accordance with s. 415(m) of the Internal Revenue Code.

27 Section 3. The Legislature finds that a proper and
28 legitimate state purpose is served when employees and retirees
29 of the state and of its political subdivisions and the
30 dependents, survivors, and beneficiaries of such employees and
31 retirees, are extended the basic protections afforded by

1 governmental retirement systems that provide fair and adequate
2 benefits and that are managed, administered, and funded in an
3 actuarially sound manner, as required by s. 12, Article X of
4 the Florida Constitution and part VII of chapter 112, Florida
5 Statutes. Therefore, the Legislature hereby determines and
6 declares that the provisions of this act fulfill an important
7 state interest.

8 Section 4. This act shall take effect July 1, 1999,
9 and expires upon the effective date of a modification or
10 repeal of s. 415(b) of the Internal Revenue Code in a manner
11 that exempts governmental retirement plans from the maximum
12 benefit limitations established under that section or
13 otherwise makes such provisions inapplicable to governmental
14 retirement plans.

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16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 Senate Bill 1858

19 Adds necessary constitutional, statutory and Internal Revenue
20 Code references to ensure IRS compliance.

21 References creating a trust fund are removed.

22 Language directing employers to make deductions with regard to
Federal withholdings is removed.

23 Provides that the Legislature finds that the bill serves an
important state interest.

24 Changes the effective date to July 1, 1999, and provides for
25 expiration of the act.