

By the Committee on Governmental Oversight and Productivity

302-571-99

1                                   A bill to be entitled  
 2           An act relating to the Florida Retirement  
 3           System; amending s. 121.055, F.S.;  
 4           redesignating the Senior Management Service  
 5           Class as the Senior Management and Exempt  
 6           Service Class; providing for state employees  
 7           who are exempt from the Career Service System  
 8           to participate in the Senior Management and  
 9           Exempt Service Class; authorizing such members  
 10          to elect to participate in the Senior  
 11          Management Service Optional Annuity Program;  
 12          specifying forms of benefit payments that are  
 13          made under the optional annuity program;  
 14          providing requirements for electing to  
 15          participate in the optional annuity program;  
 16          amending ss. 121.021, 121.051, 121.052,  
 17          121.091, 121.122, F.S., relating to the Florida  
 18          Retirement System, the optional annuity  
 19          program, the Elected State Officers' Class,  
 20          retirement benefits, and renewed membership in  
 21          the retirement system; providing an effective  
 22          date.

23  
 24 Be It Enacted by the Legislature of the State of Florida:  
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26           Section 1. Section 121.055, Florida Statutes, 1998  
 27 Supplement, is amended to read:  
 28           121.055 Senior Management and Exempt Service  
 29 Class.--There is ~~hereby~~ established a separate class of  
 30 membership within the Florida Retirement System to be known as  
 31

1 the "Senior Management and Exempt Service Class," which shall  
2 become effective July 1, 2000 ~~February 1, 1987~~.

3 (1)(a) Participation in the Senior Management and  
4 Exempt Service Class shall be limited to and compulsory for  
5 any member of the Florida Retirement System who holds a  
6 position in the Senior Management Service ~~of the State of~~  
7 ~~Florida~~, established by part III of chapter 110, the Selected  
8 Exempt Service System established by part V of chapter 110, or  
9 is otherwise exempt from the Career Service System, unless  
10 such member elects, within the time specified in this section  
11 herein, to participate in the Senior Management Service  
12 Optional Annuity Program as established in subsection (6).

13 (b)1. Except as provided in subparagraph 2., effective  
14 January 1, 1990, participation in the Senior Management and  
15 Exempt Service Class shall be compulsory for the president of  
16 each community college, the manager of each participating city  
17 or county, and all appointed district school superintendents.  
18 Effective January 1, 1994, additional positions may be  
19 designated for inclusion in the Senior Management and Exempt  
20 Service Class of the Florida Retirement System, provided that:

21 a. Positions to be included in the class shall be  
22 designated by the local agency employer. Notice of intent to  
23 designate positions for inclusion in the class shall be  
24 published once a week for 2 consecutive weeks in a newspaper  
25 of general circulation published in the county or counties  
26 affected, as provided in chapter 50.

27 b. One nonelective full-time position may be  
28 designated for each local agency employer reporting to the  
29 Division of Retirement; for local agencies with 100 or more  
30 regularly established positions, additional nonelective  
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1 full-time positions may be designated, not to exceed 1 percent  
2 of the regularly established positions within the agency.

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

8 (I) Heads an organizational unit; or

9 (II) Has responsibility to effect or recommend  
10 personnel, budget, expenditure, or policy decisions in his or  
11 her areas of responsibility.

12 2. In lieu of participation in the Senior Management  
13 and Exempt Service Class, members of the Senior Management and  
14 Exempt Service Class pursuant to the provisions of  
15 subparagraph 1. may withdraw from the Florida Retirement  
16 System altogether and participate in a lifetime monthly  
17 annuity program that ~~which~~ may be provided by the employing  
18 agency. The cost to the employer for such annuity shall equal  
19 the normal cost portion of the contributions required in the  
20 Senior Management and Exempt Service Class. The employer  
21 providing such annuity shall contribute an additional amount  
22 to the Florida Retirement System Trust Fund equal to the  
23 unfunded actuarial accrued liability portion of the Senior  
24 Management and Exempt Service Class contribution rate. The  
25 decision to participate in such local government annuity is  
26 ~~shall be~~ irrevocable for as long as the employee holds a  
27 position eligible for the annuity. Any service creditable  
28 under the Senior Management and Exempt Service Class shall be  
29 retained after the member withdraws from the Florida  
30 Retirement System; however, additional service credit in the  
31 Senior Management and Exempt Service Class may ~~shall~~ not be

1 earned after such withdrawal. Such members are ~~shall~~ not be  
2 eligible to participate in the Senior Management Service  
3 Optional Annuity Program. Benefits may be payable in the form  
4 of a lifetime annuity, a full or partial cash distribution, or  
5 a full or partial rollover to a tax-qualified account.

6 (c)1. Effective January 1, 1990, participation in the  
7 Senior Management and Exempt Service Class shall be compulsory  
8 for up to 75 nonelective positions at the level of committee  
9 staff director or higher or equivalent managerial or  
10 policymaking positions within the House of Representatives, as  
11 selected by the Speaker of the House of Representatives, up to  
12 50 nonelective positions at the level of committee staff  
13 director or higher or equivalent managerial or policymaking  
14 positions within the Senate, as selected by the President of  
15 the Senate, all staff directors of joint committees and  
16 service offices of the Legislature, the Auditor General and up  
17 to 9 managerial or policymaking positions within his or her  
18 office as selected by the Auditor General, and the executive  
19 director of the Commission on Ethics.

20 2. Participation in this class shall be compulsory,  
21 except as provided in subparagraph 3., for any legislative  
22 employee who holds a position designated for coverage in the  
23 Senior Management and Exempt Service Class, and such  
24 participation shall continue until the employee terminates  
25 employment in a covered position.

26 3. In lieu of participation in the Senior Management  
27 and Exempt Service Class, at the discretion of the President  
28 of the Senate and the Speaker of the House of Representatives,  
29 such members may participate in the Senior Management Service  
30 Optional Annuity Program as established in subsection (6).

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1           (d) Effective January 1, 1991, participation in the  
2 Senior Management and Exempt Service Class shall be compulsory  
3 for any member of the Florida Retirement System in a position  
4 that has been designated eligible for inclusion in the  
5 Executive Service of the State University System or who holds  
6 a position as president of a state university, unless such  
7 member elects, pursuant to s. 121.35, to participate in the  
8 optional retirement program.

9           (e) Effective January 1, 1991, participation in the  
10 Senior Management and Exempt Service Class shall be compulsory  
11 for the number of senior managers who have policymaking  
12 authority with the State Board of Administration, as  
13 determined by the Governor, Treasurer, and Comptroller acting  
14 as the State Board of Administration, unless such member  
15 elects to participate in the Senior Management Service  
16 Optional Annuity Program as established in subsection (6) in  
17 lieu of participation in the Senior Management and Exempt  
18 Service Class. Such election shall be made in writing and  
19 filed with the division and the personnel officer of the State  
20 Board of Administration within 90 days after becoming eligible  
21 for membership in the Senior Management and Exempt Service  
22 Class.

23           (f) Effective July 1, 1997:

24           1. Any elected state officer eligible for membership  
25 in the Elected State and County Officers' Class under s.  
26 121.052(2)(a), (b), or (c) who elects membership in the Senior  
27 Management and Exempt Service Class under s. 121.052(3)(c)  
28 may, within 6 months after assuming office or within 6 months  
29 after this act becomes a law for serving elected state  
30 officers, elect to participate in the Senior Management  
31 Service Optional Annuity Program, as provided in subsection

1 (6), in lieu of membership in the Senior Management and Exempt  
2 Service Class.

3 2. Any elected county officer eligible for membership  
4 in the Elected State and County Officers' Class under s.  
5 121.052(2)(d) who elects membership in the Senior Management  
6 and Exempt Service Class under s. 121.052(3)(c) may, within 6  
7 months after assuming office, or within 6 months after this  
8 act becomes a law for serving elected county officers, elect  
9 to participate in a lifetime monthly annuity program, as  
10 provided in subparagraph (b)2., in lieu of membership in the  
11 Senior Management and Exempt Service Class.

12 (g) Effective July 1, 1996, participation in the  
13 Senior Management and Exempt Service Class shall be compulsory  
14 for any member of the Florida Retirement System employed with  
15 the Department of Military Affairs in the positions of the  
16 Adjutant General, Assistant Adjutant General-Army, Assistant  
17 Adjutant General-Air, State Quartermaster, Director of  
18 Military Personnel, Director of Administration, and additional  
19 directors as designated by the agency head, not to exceed a  
20 total of 10 positions. In lieu of participation in the Senior  
21 Management and Exempt Service Class, such members may  
22 participate in the Senior Management Service Optional Annuity  
23 Program as established in subsection (6).

24 (h)1. Except as provided in subparagraph 3., effective  
25 January 1, 1994, participation in the Senior Management and  
26 Exempt Service Class shall be compulsory for the State Courts  
27 Administrator and the Deputy State Courts Administrators, the  
28 Clerk of the Supreme Court, the Marshal of the Supreme Court,  
29 the Executive Director of the Justice Administrative  
30 Commission, the Capital Collateral Representative, the clerks  
31 of the district courts of appeals, the marshals of the

1 district courts of appeals, and the trial court administrator  
2 in each judicial circuit. Effective January 1, 1994,  
3 additional positions in the offices of the state attorney and  
4 public defender in each judicial circuit may be designated for  
5 inclusion in the Senior Management and Exempt Service Class of  
6 the Florida Retirement System, provided that:

7       a. Positions to be included in the class shall be  
8 designated by the state attorney or public defender, as  
9 appropriate. Notice of intent to designate positions for  
10 inclusion in the class shall be published once a week for 2  
11 consecutive weeks in a newspaper of general circulation  
12 published in the county or counties affected, as provided in  
13 chapter 50.

14       b. One nonelective full-time position may be  
15 designated for each state attorney and public defender  
16 reporting to the Division of Retirement; for agencies with 200  
17 or more regularly established positions under the state  
18 attorney or public defender, additional nonelective full-time  
19 positions may be designated, not to exceed 0.5 percent of the  
20 regularly established positions within the agency.

21       c. Each position added to the class must be a  
22 managerial or policymaking position filled by an employee who  
23 serves at the pleasure of the state attorney or public  
24 defender without civil service protection, and who:

25           (I) Heads an organizational unit; or

26           (II) Has responsibility to effect or recommend  
27 personnel, budget, expenditure, or policy decisions in his or  
28 her areas of responsibility.

29       2. Participation in this class shall be compulsory,  
30 except as provided in subparagraph 3., for any judicial  
31 employee who holds a position designated for coverage in the

1 Senior Management and Exempt Service Class and such  
2 participation shall continue until the employee terminates  
3 employment in a covered position.

4 3. In lieu of participation in the Senior Management  
5 and Exempt Service Class, such members may participate in the  
6 Senior Management Service Optional Annuity Program as  
7 established in subsection (6).

8 (i) Except as may otherwise be provided, any member of  
9 the Senior Management and Exempt Service Class may purchase  
10 additional retirement credit in such class for creditable  
11 service within the purview of the Senior Management and Exempt  
12 Service Class retroactive to February 1, 1987, and may upgrade  
13 retirement credit for such service, to the extent of 2 percent  
14 of the member's average monthly compensation as specified in  
15 paragraph (4)(d) for such service. Contributions for upgrading  
16 the additional Senior Management and Exempt Service credit  
17 pursuant to this paragraph shall be equal to the difference in  
18 the contributions paid and the Senior Management and Exempt  
19 Service Class contribution rate as a percentage of gross  
20 salary in effect for the period being claimed, plus interest  
21 thereon at the rate of 6.5 percent a year, compounded annually  
22 until the date of payment. This service credit may be  
23 purchased by the employer on behalf of the member.

24 (2)(a) Participation in this class shall cease when  
25 the member terminates employment in an eligible position.  
26 Once a position is designated as eligible for inclusion in the  
27 class, that position shall not be removed from the class  
28 unless the duties and responsibilities of the position change  
29 substantially and therefore no longer meet the requirements  
30 provided in this section for participation in the class,  
31 except as provided in paragraph (b).



1 (b) Effective July 1, 1997, each local agency employer  
2 may between July 1, 1997, and December 31, 1997, reassess its  
3 designation of positions for inclusion in the Senior  
4 Management and Exempt Service Class as provided in paragraph  
5 (1)(b), and may request removal from the class of any such  
6 positions that it deems appropriate. Such removal of any  
7 previously designated positions shall be effective on the  
8 first day of the month following written notification of  
9 removal to the division prior to January 1, 1998.

10 (3)(a) The following table states the required  
11 retirement contribution rates for members of the Senior  
12 Management and Exempt Service Class and their employers in  
13 terms of a percentage of the member's gross compensation. A  
14 change in the contribution rate is effective with the first  
15 salary paid on or after the beginning date of the change.  
16 Contributions shall be made for each pay period and are in  
17 addition to the contributions required for social security and  
18 the Retiree Health Insurance Subsidy Trust Fund.

19  
20 Dates of Contribution

21 Rate Changes	Members	Employers
22		
23 February 1, 1987, through		
24 December 31, 1988	0%	13.88%
25 January 1, 1989, through		
26 December 31, 1989	0%	14.95%
27 January 1, 1990, through		
28 December 31, 1990	0%	16.04%
29 January 1, 1991, through		
30 December 31, 1991	0%	18.39%
31 January 1, 1992, through		

1	December 31, 1992	0%	19.48%
2	January 1, 1993, through		
3	December 31, 1993	0%	20.55%
4	January 1, 1994, through		
5	December 31, 1994	0%	23.07%
6	January 1, 1995, through		
7	December 31, 1995	0%	23.88%
8	January 1, 1996, through		
9	June 30, 1996	0%	24.14%
10	July 1, 1996, through		
11	June 30, 1998	0%	21.58%
12	Effective July 1, 1998	0%	23.10%

13

14           (b) The employer paying the salary of a member of the  
15 Senior Management and Exempt Service Class shall contribute an  
16 amount as specified in this section which shall constitute the  
17 entire employer retirement contribution with respect to such  
18 member. The employer shall also withhold one-half of the  
19 entire contribution of the member required for social security  
20 coverage.

21           (c) The following table states the required employer  
22 contribution on behalf of each member of the Senior Management  
23 and Exempt Service Class in terms of a percentage of the  
24 member's gross compensation. Such contribution constitutes  
25 the entire health insurance subsidy contribution with respect  
26 to the member. A change in the contribution rate is effective  
27 with the first salary paid on or after the beginning date of  
28 the change. The retiree health insurance subsidy contribution  
29 rate is as follows:

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1	Dates of Contribution	Contribution
2	Rate Changes	Rate
3		
4	October 1, 1987, through December 31, 1988	0.24%
5	January 1, 1989, through December 31, 1993	0.48%
6	January 1, 1994, through December 31, 1994	0.56%
7	January 1, 1995, through June 30, 1998	0.66%
8	Effective July 1, 1998	0.94%
9		
10	Such contributions shall be deposited by the administrator in	
11	the Retiree Health Insurance Subsidy Trust Fund.	
12	(4)(a) The definitions set forth in s. 121.021 and all	
13	other provisions of this chapter shall apply to the Senior	
14	Management <u>and Exempt</u> Service Class, except the definitions	
15	and provisions in conflict with, or superseded or modified by,	
16	the provisions of this section.	
17	(b) Service in an eligible position prior to February	
18	1, 1987, or after January 31, 1987, shall satisfy the	
19	requirement of attaining the normal retirement date as defined	
20	in s. 121.021(29) for a Senior Management <u>and Exempt</u> Service	
21	Class member, provided the employee is a member of the Senior	
22	Management <u>and Exempt</u> Service Class after January 31, 1987. A	
23	member of this class who fails to complete 7 years of	
24	creditable service in an eligible position shall be required	
25	to satisfy the requirements for the normal retirement date for	
26	a regular member as provided in s. 121.021(29).	
27	(c) The average final compensation of a member of this	
28	class shall be as defined in s. 121.021(24).	
29	(d) A member of the Senior Management <u>and Exempt</u>	
30	Service Class shall receive retirement credit at the rate of 2	
31		

1 percent of average final compensation for each year of service  
2 in such class after January 31, 1987.

3 (5) A member of the Senior Management and Exempt  
4 Service Class shall retain all rights and creditable service  
5 accumulated in the Florida Retirement System prior to  
6 membership in the Senior Management and Exempt Service Class.

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

26 (b) Retirement service credit.--An eligible employee  
27 who is a member of the Florida Retirement System or an  
28 existing retirement system at the time of his or her election  
29 to participate in the Senior Management Service Optional  
30 Annuity Program shall retain all retirement service credit  
31 earned under the retirement system from which he or she

1 transferred; however, no additional service credit in the  
2 Florida Retirement System or existing retirement system shall  
3 be earned while the employee participates in the optional  
4 annuity program, nor shall the employee be eligible for  
5 disability retirement under the Florida Retirement System or  
6 existing retirement system.

7 (c) Participation.--

8 1. Any eligible employee who is employed on or before  
9 July 1, 2000 ~~February 1, 1987~~, may elect to participate in the  
10 optional annuity program in lieu of participation in the  
11 Senior Management and Exempt Service Class. Such election  
12 shall be made in writing and filed with the department and the  
13 personnel officer of the employer on or before June 30, 2000  
14 ~~May 1, 1987~~. Any eligible employee who is employed on or  
15 before July 1, 2000 ~~February 1, 1987~~, and who fails to make an  
16 election to participate in the optional annuity program by  
17 June 30, 2000 ~~May 1, 1987~~, shall be deemed to have elected  
18 membership in the Senior Management and Exempt Service Class.

19 2. Any employee who becomes eligible to participate in  
20 the optional annuity program by reason of initial employment  
21 commencing after July 1, 2000 ~~February 1, 1987~~, may, within 90  
22 days after the date of commencement of employment, elect to  
23 participate in the optional annuity program. Such election  
24 shall be made in writing and filed with the personnel officer  
25 of the employer. Any eligible employee who does not within 90  
26 days after commencement of such employment elect to  
27 participate in the optional annuity program shall be deemed to  
28 have elected membership in the Senior Management and Exempt  
29 Service Class.

30 3. A person who is appointed to a position in the  
31 Senior Management and Exempt Service Class and who is a member

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

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

20           (d) Contributions.--

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

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

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

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

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

28         5. Each participant in the Senior Management Service  
29 Optional Annuity Program may contribute by way of salary  
30 reduction or deduction a percentage amount of the  
31 participant's gross compensation not to exceed the percentage

1 amount contributed by the employer to the optional annuity  
2 program. Payment of the participant's contributions shall be  
3 made by the employer to the division which shall forward the  
4 contributions to the designated company or companies  
5 contracting for payment of benefits for the participant under  
6 the program.

7 (e) Benefits.--

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

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

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



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

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

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

13           (f) Administration.--

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

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

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

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

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

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

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

31

1           a. Remain a member of the optional annuity program, in  
2 which case contributions shall be paid as required only on the  
3 salary earned in the position eligible for the optional  
4 annuity program during the period of dual employment;

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

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

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

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

1 | which he or she is eligible or to again become a participant  
2 | in the optional annuity program. Failure to elect membership  
3 | in the optional annuity program within 90 days shall result in  
4 | compulsory membership in the Florida Retirement System; or

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

9 |         Section 2. Subsection (12) and paragraph (c) of  
10 | subsection (29) of section 121.021, Florida Statutes, 1998  
11 | Supplement, are amended to read:

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

15 |         (12) "Member" means any officer or employee who is  
16 | covered or who becomes covered under this system in accordance  
17 | with this chapter. On and after December 1, 1970, all new  
18 | members and those members transferring from existing systems  
19 | shall be divided into the following classes: "Special Risk  
20 | Class," as provided in s. 121.0515(2); "Special Risk  
21 | Administrative Support Class," as provided in s. 121.0515(7);  
22 | "Elected State and County Officers' Class," as provided in s.  
23 | 121.052; "Senior Management and Exempt Service Class," as  
24 | provided in s. 121.055; and "Regular Class," which consists of  
25 | all members who are not in the Special Risk Class, Special  
26 | Risk Administrative Support Class, Elected State and County  
27 | Officers' Class, or Senior Management and Exempt Service  
28 | Class.

29 |         (29) "Normal retirement date" means the first day of  
30 | any month following the date a member attains one of the  
31 | following statuses:

1 (c) If a Senior Management and Exempt Service Class  
2 member, the member:

3 1. Completes 7 years of creditable service in the  
4 Senior Management and Exempt Service Class and attains age 62;  
5 or

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

10 Section 3. Paragraph (c) of subsection (2) and  
11 subsection (9) of section 121.051, Florida Statutes, 1998  
12 Supplement, are amended to read:

13 121.051 Participation in the system.--

14 (2) OPTIONAL PARTICIPATION.--

15 (c) Employees of members of the State Community  
16 College System or charter technical career centers sponsored  
17 by members of the State Community College System, as  
18 designated in s. 240.3031, who are members of the Regular  
19 Class of the Florida Retirement System and who comply with the  
20 criteria set forth in this paragraph and in s. 240.3195 may  
21 elect, in lieu of participating in the Florida Retirement  
22 System, to withdraw from the Florida Retirement System  
23 altogether and participate in a lifetime monthly annuity  
24 program, to be known as the State Community College System  
25 Optional Retirement Program, which may be provided by the  
26 employing agency under s. 240.3195. Pursuant thereto:

27 1. The cost to the employer for such annuity shall  
28 equal the normal cost portion of the employer retirement  
29 contribution which would be required if the employee were a  
30 member of the Regular Class, plus the portion of the  
31 contribution rate required by s. 112.363(8) that would

1 otherwise be assigned to the Retiree Health Insurance Subsidy  
2 Trust Fund, and less an amount approved by the employer to  
3 provide for the administration of the optional retirement  
4 program. The employer providing such annuity shall contribute  
5 an additional amount to the Florida Retirement System Trust  
6 Fund equal to the unfunded actuarial accrued liability portion  
7 of the Regular Class contribution rate.

8 2. The decision to participate in such an optional  
9 retirement program shall be irrevocable for as long as the  
10 employee holds a position eligible for participation. Any  
11 service creditable under the Florida Retirement System shall  
12 be retained after the member withdraws from the Florida  
13 Retirement System; however, additional service credit in the  
14 Florida Retirement System shall not be earned while a member  
15 of the optional retirement program.

16 3. Participation in an optional annuity program shall  
17 be limited to those employees who satisfy the following  
18 eligibility criteria:

19 a. The employee must be otherwise eligible for  
20 membership in the Regular Class of the Florida Retirement  
21 System, as provided in s. 121.021(11) and (12).

22 b. The employee must be employed in a full-time  
23 position classified in the Accounting Manual for Florida's  
24 Public Community Colleges as:

25 (I) Instructional; or

26 (II) Executive Management, Instructional Management,  
27 or Institutional Management, if a community college determines  
28 that recruiting to fill a vacancy in the position is to be  
29 conducted in the national or regional market, and:

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1 (A) The duties and responsibilities of the position  
2 include either the formulation, interpretation, or  
3 implementation of policies; or

4 (B) The duties and responsibilities of the position  
5 include the performance of functions that are unique or  
6 specialized within higher education and that frequently  
7 involve the support of the mission of the community college.

8 c. The employee must be employed in a position not  
9 included in the Senior Management and Exempt Service Class of  
10 the Florida Retirement System, as described in s. 121.055.

11 4. Participants in the program are subject to the same  
12 reemployment limitations, renewed membership provisions, and  
13 forfeiture provisions as are applicable to regular members of  
14 the Florida Retirement System under ss. 121.091(9), 121.122,  
15 and 121.091(5), respectively.

16 5. Eligible community college employees shall be  
17 compulsory members of the Florida Retirement System until,  
18 pursuant to the procedures set forth in s. 240.3195, the first  
19 day of the next full calendar month following the filing of  
20 both a written election to withdraw and a completed  
21 application for an individual contract or certificate with the  
22 program administrator and receipt of such election by the  
23 division.

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

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

31

1           1. The member must participate in the membership class  
2 for the position in which he or she is employed the majority  
3 of the time: the Regular Class, Senior Management and Exempt  
4 Service Class, Special Risk Class, or Special Risk  
5 Administrative Support Class; or

6           2. If the employment is split equally between or among  
7 positions, the member may choose any single class of  
8 membership for which he or she is eligible, whether or not the  
9 positions are full-time positions. The member's choice must be  
10 made in writing and remains in effect as long as the member is  
11 employed equally in two or more positions.

12           (b) Contributions shall be made and creditable service  
13 shall be determined as follows:

14           1. If the member is participating in the Regular  
15 Class, retirement contributions shall be made on the total  
16 salary the member has received for all covered employment, and  
17 at retirement the member's average final compensation shall be  
18 calculated on the total salary received from all covered  
19 employment.

20           2. If the member is participating in the Senior  
21 Management and Exempt Service Class, Special Risk Class, or  
22 Special Risk Administrative Support Class, retirement  
23 contributions shall be made only on the salary received in the  
24 designated class of membership. At retirement, the member's  
25 average final compensation shall be based only on the salary  
26 received in the designated class of membership for any period,  
27 including any period of dual employment.

28           Section 4. Paragraph (c) of subsection (3) of section  
29 121.052, Florida Statutes, 1998 Supplement, is amended to  
30 read:

31           121.052 Membership class of elected officers.--



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

9           (c) Any elected officer may, within 6 months after  
10 assuming office, or within 6 months after this act becomes a  
11 law for serving elected officers, elect membership in the  
12 Senior Management and Exempt Service Class as provided in s.  
13 121.055 in lieu of membership in the Elected State and County  
14 Officers' Class. Any such election made by a county elected  
15 officer shall have no effect upon the statutory limit on the  
16 number of nonelective full-time positions that may be  
17 designated by a local agency employer for inclusion in the  
18 Senior Management and Exempt Service Class under s.  
19 121.055(1)(b)1.

20           Section 5. Subsections (1) and (2) and paragraph (a)  
21 of subsection (3) of section 121.091, Florida Statutes, 1998  
22 Supplement, are amended to read:

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

1 division's rules. The division shall adopt rules establishing  
2 procedures for application for retirement benefits and for the  
3 cancellation of such application when the required information  
4 or documents are not received.

5 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or  
6 her normal retirement date, the member, upon application to  
7 the administrator, shall receive a monthly benefit which shall  
8 begin to accrue on the first day of the month of retirement  
9 and be payable on the last day of that month and each month  
10 thereafter during his or her lifetime. The normal retirement  
11 benefit, including any past or additional retirement credit,  
12 may not exceed 100 percent of the average final compensation.  
13 The amount of monthly benefit shall be calculated as the  
14 product of A and B, subject to the adjustment of C, if  
15 applicable, as set forth below:

16 (a)1. For creditable years of Regular Class service, A  
17 is 1.60 percent of the member's average final compensation, up  
18 to the member's normal retirement date. Upon completion of the  
19 first year after the normal retirement date, A is 1.63 percent  
20 of the member's average final compensation. Following the  
21 second year after the normal retirement date, A is 1.65  
22 percent of the member's average final compensation. Following  
23 the third year after the normal retirement date, and for  
24 subsequent years, A is 1.68 percent of the member's average  
25 final compensation.

26 2. For creditable years of special risk service, A is:

27 a. Two percent of the member's average final  
28 compensation for all creditable years prior to October 1,  
29 1974;

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1           b. Three percent of the member's average final  
2 compensation for all creditable years after September 30,  
3 1974, and before October 1, 1978;

4           c. Two percent of the member's average final  
5 compensation for all creditable years after September 30,  
6 1978, and before January 1, 1989;

7           d. Two and two-tenths percent of the member's final  
8 monthly compensation for all creditable years after December  
9 31, 1988, and before January 1, 1990;

10          e. Two and four-tenths percent of the member's average  
11 final compensation for all creditable years after December 31,  
12 1989, and before January 1, 1991;

13          f. Two and six-tenths percent of the member's average  
14 final compensation for all creditable years after December 31,  
15 1990, and before January 1, 1992;

16          g. Two and eight-tenths percent of the member's  
17 average final compensation for all creditable years after  
18 December 31, 1991, and before January 1, 1993; and

19          h. Three percent of the member's average final  
20 compensation for all creditable years after December 31, 1992;

21          3. For creditable years of Senior Management and  
22 Exempt Service Class service after January 31, 1987, A is 2  
23 percent;

24          4. For creditable years of Elected State and County  
25 Officers' Class service as a Supreme Court Justice, district  
26 court of appeal judge, circuit judge, or county court judge, A  
27 is 3 1/3 percent of the member's average final compensation,  
28 and for all other creditable service in such class, A is 3  
29 percent of average final compensation.†

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1 (b) B is the number of the member's years and any  
2 fractional part of a year of creditable service earned  
3 subsequent to November 30, 1970, ~~and~~

4 (c) C is the normal retirement benefit credit brought  
5 forward as of November 30, 1970, by a former member of an  
6 existing system. Such normal retirement benefit credit shall  
7 be determined as the product of X and Y when X is the  
8 percentage of average final compensation which the member  
9 would have been eligible to receive if the member had attained  
10 his or her normal retirement date as of November 30, 1970, all  
11 in accordance with the existing system under which the member  
12 is covered on November 30, 1970, and Y is average final  
13 compensation as defined in s. 121.021(25). However, any  
14 member of an existing retirement system who is eligible to  
15 retire and who does retire, become disabled, or die prior to  
16 April 15, 1971, may have his or her retirement benefits  
17 calculated on the basis of the best 5 of the last 10 years of  
18 service.

19 (d) A member's average final compensation shall be  
20 determined by formula to obtain the coverage for the 5 highest  
21 fiscal years' salaries, calculated as provided by rule.

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

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

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

21           Section 6. Section 121.122, Florida Statutes, 1998  
22 Supplement, is amended to read:

23           121.122 Renewed membership in system.--Except as  
24 provided in s. 121.053, effective July 1, 1991, any retiree of  
25 a state-administered retirement system who is employed in a  
26 regularly established position with a covered employer shall  
27 be enrolled as a compulsory member of the Regular Class of the  
28 Florida Retirement System or, effective July 1, 1997, any  
29 retiree of a state-administered retirement system who is  
30 employed in a position included in the Senior Management and  
31 Exempt Service Class shall be enrolled as a compulsory member

1 of the Senior Management and Exempt Service Class of the  
2 Florida Retirement System as provided in s. 121.055, and shall  
3 be entitled to receive an additional retirement benefit,  
4 subject to the following conditions:

5 (1)(a) Such member shall resatisfy the age and service  
6 requirements as provided in this chapter for initial  
7 membership under the system, unless such member elects to  
8 participate in the Senior Management Service Optional Annuity  
9 Program in lieu of the Senior Management and Exempt Service  
10 Class, as provided in s. 121.055(6).

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

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

16 (2) Upon renewed membership, the employer of such  
17 member shall pay the applicable employer contributions as  
18 required by ss. 121.055(3) and 121.071(1)(a) and (4).

19 (3) Such member shall be entitled to purchase  
20 additional retirement credit in the Regular Class or the  
21 Senior Management and Exempt Service Class, as applicable, for  
22 any postretirement service performed in a regularly  
23 established position as follows:

24 (a) For regular class service prior to July 1, 1991,  
25 by paying the Regular Class applicable employee and employer  
26 contributions for the period being claimed, plus 4 percent  
27 interest compounded annually from first year of service  
28 claimed until July 1, 1975, and 6.5 percent interest  
29 compounded thereafter, until full payment is made to the  
30 Florida Retirement System Trust Fund; or

31

1           (b) For Senior Management Service Class prior to June  
2 1, 1997, as provided in s. 121.055(1)(h).

3  
4 The contribution for postretirement service between July 1,  
5 1985, and July 1, 1991, for which the reemployed retiree  
6 contribution was paid, shall be the difference between such  
7 contribution and the total applicable contribution for the  
8 period being claimed, plus interest. The employer of such  
9 member may pay the applicable employer contribution in lieu of  
10 the member. If a member does not wish to claim credit for all  
11 of the postretirement service for which he or she is eligible,  
12 the service the member claims must be the most recent service.

13           (4) No creditable service for which credit was  
14 received, or which remained unclaimed, at retirement may be  
15 claimed or applied toward service credit earned following  
16 renewed membership. However, service earned as an elected  
17 officer with renewed membership in the Elected State and  
18 County Officers' Class may be used in conjunction with  
19 creditable service earned under this section, provided the  
20 applicable vesting requirements and other existing statutory  
21 conditions required by this chapter are met.

22           (5) Notwithstanding any other limitations provided in  
23 this section, a participant of the State University System  
24 Optional Retirement Program or the Senior Management Service  
25 Optional Annuity Program who terminated employment and  
26 commenced receiving an annuity under the provisions of the  
27 optional program, who renews membership in the Regular Class  
28 as required by this section upon reemployment after  
29 retirement, and who had previously earned creditable Florida  
30 Retirement System service that was not included in any  
31 retirement benefit may include such previous service toward

1 vesting and service credit in the second career benefit  
2 provided under renewed membership.

3 (6) Any renewed member who is not receiving the  
4 maximum health insurance subsidy provided in s. 112.363 shall  
5 be entitled to earn additional credit toward the maximum  
6 health insurance subsidy. Any additional subsidy due because  
7 of such additional credit shall be received only at the time  
8 of payment of the second career retirement benefit. In no  
9 case shall the total health insurance subsidy received by a  
10 retiree receiving benefits from initial and renewed membership  
11 exceed the maximum allowed in s. 112.363.

12 Section 7. This act shall take effect July 1, 2000.

13

14 \*\*\*\*\*

15 SENATE SUMMARY

16 Renames the Senior Management Service Class as the Senior  
17 Management and Exempt Service Class. Provides for state  
18 employees in the Selected Exempt Service System and other  
19 employees who are exempt from the Career Service System  
20 to participate in the Senior Management and Exempt  
21 Service Class. Authorizes such members to elect to  
22 participate in the Senior Management Service Optional  
23 Annuity Program.  
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