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A bill to be entitled
An act relating to the Florida Retirement System; creating s. 121.355, F.S.; providing for an optional retirement program for all members of the Florida Retirement System; amending ss. 112.363 and 121.081, F.S.; conforming to the act; providing an effective date.

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

Section 1. Section 121.355, Florida Statutes, is created to read:

121.355 Optional retirement program.--

(1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.--The Division of Retirement shall establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for eligible members of the Florida Retirement System who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through individual contracts or individual certificates issued for group investment contracts, which may be fixed, variable, or a combination thereof. Any individual contract or certificate shall state the investment plan on its face page, and shall include, but not be limited to, a statement of ownership, the contract benefits, investment income options, limitations, expense charges, and surrender charges, if any. The state shall contribute, as provided in this section, toward the purchase of such optional benefits.

1 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
2 PROGRAM.--Participation in the optional retirement program
3 provided by this section shall be limited to persons who are
4 otherwise eligible for membership in the Florida Retirement
5 System; and who are not participating in any other optional
6 annuity program authorized under this chapter.

7 (3) ELECTION OF OPTIONAL PROGRAM.--

8 (a) Any eligible employee who is employed on or before
9 July 1, 2000, may elect to participate in the optional
10 retirement program in lieu of participation in the Florida
11 Retirement System. Such election shall be made in writing and
12 filed with the division and the personnel officer of the
13 employer on or before June 1 of the year preceding the fiscal
14 year which the eligible employee elects to participate in the
15 optional retirement program. Upon such election, participation
16 in the optional program shall take effect on July 1 after the
17 eligible employee elects to participate in the optional
18 retirement program and election to so participate shall
19 terminate the membership of the employee in the Florida
20 Retirement System. Any eligible employee who fails to make an
21 election to participate in the optional program by June 1,
22 shall be deemed to have elected to retain membership in the
23 Florida Retirement System for the next fiscal year.

24 (b) Any employee who becomes eligible to participate
25 in the optional retirement program by reason of initial
26 employment commencing after July 1, 2000, may, within 90 days
27 after the date of commencement of employment, elect to
28 participate in the optional program. Such election shall be
29 made in writing and filed with the personnel officer of the
30 employer. The eligible employees described in this paragraph
31 shall be enrolled in the Florida Retirement System at the

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

20 (c) Participants shall be fully and immediately vested
21 in the optional retirement program from the initial date of
22 employment only upon execution of an investment contract.

23 (d) The election by an eligible employee to
24 participate in the optional retirement program shall be
25 irrevocable for so long as the employee continues to meet the
26 eligibility requirements specified in subsection (2), except
27 as provided in paragraph (f).

28 (e) An eligible employee who is a member of the
29 Florida Retirement System at the time of election to
30 participate in the optional retirement program shall have the
31 option to transfer all retirement service credit earned under

1 the Florida Retirement System, at the rate earned to the
2 optional retirement program. No additional service credit in
3 the Florida Retirement System shall be earned while the
4 employee participates in the optional program, nor shall the
5 employee be eligible for disability retirement under the
6 Florida Retirement System.

7 (f) A participant in the optional retirement program
8 may not participate in more than one state-administered
9 retirement system, plan, or class simultaneously, except as
10 provided in s. 121.052(6)(d). At retirement, the average final
11 compensation used to calculate any benefits for which the
12 member becomes eligible under the Florida Retirement System
13 shall be based on all salary reported for both positions
14 during such period of dual employment. When such member ceases
15 to be dually employed, he or she may, within 90 days, elect to
16 remain the the Florida Retirement System class for which he or
17 she is eligible or to again become a participant in the
18 optional retirement program. Failure to elect membership in
19 the optional program within 90 days shall result in compulsory
20 membership in the Florida Retirement System.

21 (4) CONTRIBUTIONS.--

22 (a) Each employer shall contribute on behalf of each
23 participant in the optional retirement program an amount equal
24 to the average normal cost portion of the employer retirement
25 contribution which would be required if the participant were a
26 regular 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 and an amount outlined

1 in paragraph (5)(e) for Death and Disability Benefits. The
2 payment of the contributions to the optional program which is
3 required by this paragraph for each participant shall be made
4 by the employer to the division, which shall forward the
5 contributions to the designated company or companies
6 contracting for payment of benefits for the participant under
7 the program. However, such contributions paid on behalf of an
8 employee described in paragraph (3)(c) shall not be forwarded
9 to a company and shall not begin to accrue interest until the
10 employee has executed an investment contract and notified the
11 division.

12 (b) Each employer shall contribute on behalf of each
13 participant in the optional retirement program an amount equal
14 to the unfunded actuarial accrued liability portion of the
15 employer contribution which would be required for members of
16 the Florida Retirement System. This contribution shall be paid
17 to the division for transfer to the Florida Retirement System
18 Trust Fund.

19 (c) An Optional Retirement Program Trust Fund account
20 within the Florida Retirement System Trust Fund shall be
21 established in the State Treasury and administered by the
22 Division of Retirement to make payments to the provider
23 companies on behalf of the optional retirement program
24 participants, and to transfer the unfunded liability portion
25 of the state optional retirement program contributions to the
26 Florida Retirement System Trust Fund.

27 (d) Contributions required for social security by each
28 employer and each participant, in the amount required for
29 social security coverage as now or hereafter may be provided
30 by the federal Social Security Act, shall be maintained for
31 each participant in the optional retirement program and shall

1 be in addition to the retirement contributions specified in
2 this subsection.

3 (e) Each participant in the optional retirement
4 program who has executed an investment contract may contribute
5 by way of salary reduction or deduction a percentage amount of
6 the participant's gross compensation not to exceed federal
7 limitations. Payment of the participant's contributions shall
8 be made by the financial officer of the employer to the
9 division which shall forward the contributions to the
10 designated company or companies contracting for payment of
11 benefits for the participant under the program. A participant
12 may not make, through salary reduction, any voluntary employee
13 contributions to any other plan under s. 403(b) of the
14 Internal Revenue Code, with the exception of a custodial
15 account under s. 403(b)(7) of the Internal Revenue Code, until
16 he or she has made an employee contribution to his or her
17 optional program equal to the employer contribution. A
18 participant is responsible for monitoring his or her
19 individual tax-deferred income to ensure he or she does not
20 exceed the maximum deferral amounts permitted under the
21 Internal Revenue Code.

22 (f) Upon election to participate in the optional
23 retirement program, the division shall determine an actuarial
24 equivalent value of the participant's retirement benefits
25 under the Florida Retirement System which may, at the
26 employee's discretion, be transferred to the optional
27 retirement program. In no case shall a vested employee be
28 required to transfer existing credit to the optional
29 retirement program if he or she so chooses.

30 (5) BENEFITS.--
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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 investment contract or contracts applicable to the
6 participant. The participant must be terminated from all
7 employment with all Florida Retirement System employers, as
8 provided in s. 121.021(39), to begin receiving the
9 employer-funded benefit.

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

14 (c) A participant who chooses to receive his or her
15 benefits upon termination of employment shall have
16 responsibility to notify the provider company regarding the
17 date and provisions under which he or she wants to receive his
18 or her benefits.

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

26 (e) An actuarial determined percentage of the employer
27 retirement contribution shall be deducted by the division to
28 cover the expense of a group death and disability insurance
29 plan not to exceed .05 percent.

30 (6) ADMINISTRATION OF PROGRAM.--
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1 (a) The optional retirement program authorized by this
2 section shall be administered by the division. The State Board
3 of Administration shall, no more than 90 days after July 1,
4 1999, submit to the division its recommendations for the
5 investment contracts to be offered by the companies chosen by
6 the division. The recommendations shall include the following:
7 1. The nature and extent of the rights and benefits in
8 relation to the required contributions.

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

13 3. An educational component to describe the benefits
14 and risks associated with the optional retirement program.

15 (b) After receiving and considering the
16 recommendations of the State Board of Administration, the
17 division shall designate no more than five companies from
18 which investment contracts may be purchased under the program
19 and shall approve the form and content of the optional
20 retirement program contracts; which shall be for a period of
21 no more than 5 years. Of the contract providers, at least one
22 must be a mutual fund provider and one must be a provider of
23 insurance investments. Existing contracts for the State
24 University System shall remain intact. Contracts for the newly
25 created optional retirement program shall be awarded through
26 the request for proposal process.

27 (c) The State Board of Administration shall review and
28 make recommendations to the division on the acceptability of
29 all investment products proposed by provider companies of the
30 optional retirement program before they are offered through
31 investment contracts to the participants and may advise the

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

6 (d) The provisions of each contract applicable to a
7 participant in the optional retirement program shall be
8 contained in a written program description which shall include
9 a report of pertinent financial and actuarial information on
10 the solvency and actuarial soundness of the program and the
11 benefits applicable to the participant. Such description shall
12 be furnished by the companies to each participant in the
13 program and to the division upon commencement of participation
14 in the program and annually thereafter.

15 (e) The division shall ensure that each participant in
16 the optional retirement program is provided an accounting of
17 the total contribution and the annual contribution made by and
18 on behalf of such participant.

19 (f) The division shall make available to all approved
20 investment contract providers under this section, a list of
21 all employees eligible for the optional retirement plan,
22 within 10 days of a written request.

23 (g) There shall be no transfer restrictions between
24 approved providers of investment contracts.

25 Section 2. Subsection (2) of section 112.363, Florida
26 Statutes, 1998 Supplement, is amended to read:

27 112.363 Retiree health insurance subsidy.--

28 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
29 SUBSIDY.--A person who is retired under a state-administered
30 retirement system, or a beneficiary who is a spouse or
31 financial dependent entitled to receive benefits under a

1 state-administered retirement system, is eligible for health
2 insurance subsidy payments provided under this section; except
3 that pension recipients under ss. 121.40, 238.07(16)(a), and
4 250.22, recipients of health insurance coverage under s.
5 110.1232, or any other special pension or relief act shall not
6 be eligible for such payments. Payment of the retiree health
7 insurance subsidy shall be made only after coverage for health
8 insurance for the retiree or beneficiary has been certified in
9 writing to the Division of Retirement. Participation in a
10 former employer's group health insurance program is not a
11 requirement for eligibility under this section. However,
12 participants in the Senior Management Service Optional Annuity
13 Program as provided in s. 121.055(6) ~~and the State University~~
14 ~~System Optional Retirement Program as provided in s. 121.35~~
15 ~~shall not receive the retiree health insurance subsidy~~
16 ~~provided in this section.~~ The employer of such participant
17 shall pay the contributions required in subsection (8) to the
18 annuity program provided in s. 121.055(6)(d) or s.
19 121.35(4)(a), as applicable.

20 Section 3. subsection (2) of section 121.081, Florida
21 Statutes, 1998 Supplement, is amended to read:

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

25 (2) Prior service, as defined in s. 121.021(19), may
26 be claimed as creditable service under the Florida Retirement
27 System or the Optional Retirement System as set forth in s.
28 121.355 after a member has been reemployed for 12 continuous
29 months, except as provided in paragraph (c). Service performed
30 as a participant of the optional retirement program for the
31 State University System under s. 121.35 or the Optional

1 Retirement System as set forth in s. 121.355 or the Senior
2 Management Service Optional Annuity Program under s. 121.055
3 may be used to satisfy the 12-continuous-month requirement.
4 The member shall not be permitted to make any contributions
5 for prior service until after the 12-month period. The
6 required contributions for claiming the various types of prior
7 service are:

8 (a) For prior service performed prior to the date the
9 system becomes noncontributory for the member and for which
10 the member had credit under one of the existing retirement
11 systems and received a refund of contributions upon
12 termination of employment, the member shall contribute 4
13 percent of all salary received during the period being
14 claimed, plus 4 percent interest compounded annually from date
15 of refund until July 1, 1975, and 6.5 percent interest
16 compounded annually thereafter, until full payment is made to
17 the Retirement Trust Fund. A member who elected to transfer to
18 the Florida Retirement System from an existing system may
19 receive credit for prior service under the existing system if
20 he or she was eligible under the existing system to claim the
21 prior service at the time of the transfer. Contributions for
22 such prior service shall be determined by the applicable
23 provisions of the system under which the prior service is
24 claimed and shall be paid by the member, with matching
25 contributions paid by the employer at the time the service was
26 performed. Effective July 1, 1978, the account of a person who
27 terminated under s. 238.05(3) may not be charged interest for
28 contributions that remained on deposit in the Annuity Savings
29 Trust Fund established under chapter 238, upon retirement
30 under this chapter or chapter 238.
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1 (b) For prior service performed prior to the date the
2 system becomes noncontributory for the member and for which
3 the member had credit under the Florida Retirement System and
4 received a refund of contributions upon termination of
5 employment, the member shall contribute at the rate that was
6 required of him or her during the period of service being
7 claimed, on all salary received during such period, plus 4
8 percent interest compounded annually from date of refund until
9 July 1, 1975, and 6.5 percent interest compounded annually
10 thereafter, until the full payment is made to the Retirement
11 Trust Fund.

12 (c) For prior service as defined in s. 121.021(19)(b)
13 and (c) during which no contributions were made because the
14 member did not participate in a retirement system, the member
15 shall contribute 14.38 percent of all salary received during
16 such period or 14.38 percent of \$100 per month during such
17 period, whichever is greater, plus 4 percent interest
18 compounded annually from the first year of service claimed
19 until July 1, 1975, and 6.5 percent interest compounded
20 annually thereafter, until full payment is made to the
21 Retirement Trust Fund.

22 (d) In order to claim credit for prior service as
23 defined in s. 121.021(19)(d) for which no retirement
24 contributions were paid during the period of such service, the
25 member shall contribute the total employee and employer
26 contributions which were required to be made to the Highway
27 Patrol Pension Trust Fund, as provided in chapter 321, during
28 the period claimed, plus 4 percent interest compounded
29 annually from the first year of service until July 1, 1975,
30 and 6.5 percent interest compounded annually thereafter, until
31 full payment is made to the Retirement Trust Fund. However,

1 any governmental entity which employed such member may elect
2 to pay up to 50 percent of the contributions and interest
3 required to purchase this prior service credit.

4 (e) For service performed under the Florida Retirement
5 System after December 1, 1970, that was never reported to the
6 division due to error, retirement credit may be claimed by a
7 member of the Florida Retirement System. The division shall
8 adopt rules establishing criteria for claiming such credit and
9 detailing the documentation required to substantiate the
10 error.

11 (f) The employer may not be required to make
12 contributions for prior service credit for any member, except
13 that the employer shall pay the employer portion of
14 contributions for any legislator who elects to withdraw from
15 the Florida Retirement System and later rejoins the system and
16 pays any employee contributions required in accordance with s.
17 121.052(3)(d).

18 Section 4. This act shall take effect upon becoming a
19 law.

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22 HOUSE SUMMARY

23 Provides for an optional retirement program for all
24 members of the Florida Retirement System. See bill for
25 details.
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