

By Representative Sanderson

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

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

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

14 121.355 Optional retirement program.--

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

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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, 2001, 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, 2001, 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 not to be less than 10
25 percent of the employer retirement contribution which would be
26 required if the participant were a regular member of the
27 Florida Retirement System, plus the portion of the
28 contribution rate required in s. 112.363(8) that would
29 otherwise be assigned to the Retiree Health Insurance Subsidy
30 Trust Fund, less an amount approved by the Legislature which
31 shall be deducted by the division to provide for the

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

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

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

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

1 each participant in the optional retirement program and shall
2 be in addition to the retirement contributions specified in
3 this subsection.

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

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

25 (5) BENEFITS.--

26 (a) Benefits shall be payable under the optional
27 retirement program only to vested participants in the program
28 or their beneficiaries, and such benefits shall be paid only
29 by the designated company in accordance with the terms of the
30 investment contract or contracts applicable to the
31 participant. The participant must be terminated from all

1 employment with all Florida Retirement System employers, as
2 provided in s. 121.021(39), to begin receiving the
3 employer-funded benefit.

4 (b) The benefits payable to any person under the
5 optional retirement program, and any contribution accumulated
6 under such program, shall not be subject to assignment,
7 execution, or attachment or to any legal process whatsoever.

8 (c) A participant who chooses to receive his or her
9 benefits upon termination of employment shall have
10 responsibility to notify the provider company regarding the
11 date and provisions under which he or she wants to receive his
12 or her benefits.

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

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

24 (6) ADMINISTRATION OF PROGRAM.--

25 (a) The optional retirement program authorized by this
26 section shall be administered by the division. The State Board
27 of Administration shall, no more than 90 days after July 1,
28 1999, submit to the division its recommendations for the
29 investment contracts to be offered by the companies chosen by
30 the division. The recommendations shall include the following:
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1 1. The nature and extent of the rights and benefits in
2 relation to the required contributions.

3 2. The suitability of the rights and benefits to the
4 needs of the participants and the interests of the
5 institutions in the recruitment and retention of eligible
6 employees.

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

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

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

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

10 (e) The division shall ensure that each participant in
11 the optional retirement program is provided an accounting of
12 the total contribution and the annual contribution made by and
13 on behalf of such participant.

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

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

20 (h) The alternative retirement option authorized by
21 this section shall be established and administered in
22 accordance with the requirements for qualified retirement
23 plans under section 401(a) of the Internal Revenue Code of
24 1986, as amended.

25 (i) If any provision of this section is found to be in
26 conflict with the plan qualification requirements for the
27 governmental plans in section 401(a) of the Internal Revenue
28 Code, the conflicting part of this section is inoperative
29 solely to the extent of the conflict, and such finding shall
30 not affect the operation of the remainder of this section.

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1 Section 2. Subsection (2) of section 112.363, Florida
2 Statutes, is amended to read:

3 112.363 Retiree health insurance subsidy.--

4 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE

5 SUBSIDY.--A person who is retired under a state-administered
6 retirement system, or a beneficiary who is a spouse or
7 financial dependent entitled to receive benefits under a
8 state-administered retirement system, is eligible for health
9 insurance subsidy payments provided under this section; except
10 that pension recipients under ss. 121.40, 238.07(16)(a), and
11 250.22, recipients of health insurance coverage under s.
12 110.1232, or any other special pension or relief act shall not
13 be eligible for such payments. Payment of the retiree health
14 insurance subsidy shall be made only after coverage for health
15 insurance for the retiree or beneficiary has been certified in
16 writing to the Department of Management Services.

17 Participation in a former employer's group health insurance
18 program is not a requirement for eligibility under this
19 section. However, participants in the Senior Management
20 Service Optional Annuity Program as provided in s. 121.055(6)
21 ~~and the State University System Optional Retirement Program as~~
22 ~~provided in s. 121.35 shall not receive the retiree health~~
23 ~~insurance subsidy provided in this section.~~ The employer of
24 such participant shall pay the contributions required in
25 subsection (8) to the annuity program provided in s.
26 121.055(6)(d) or s. 121.35(4)(a), as applicable.

27 Section 3. Subsection (2) of section 121.081, Florida
28 Statutes, is amended to read:

29 121.081 Past service; prior service;

30 contributions.--Conditions under which past service or prior
31 service may be claimed and credited are:

1 (2) Prior service, as defined in s. 121.021(19), may
2 be claimed as creditable service under the Florida Retirement
3 System or the Optional Retirement System as set forth in s.
4 121.355 after a member has been reemployed for 1 complete year
5 of creditable service within a period of 12 consecutive
6 months, except as provided in paragraph (c). Service performed
7 as a participant of the optional retirement program for the
8 State University System under s. 121.35 or the Optional
9 Retirement System as set forth in s. 121.355 or the Senior
10 Management Service Optional Annuity Program under s. 121.055
11 may be used to satisfy the reemployment requirement of 1
12 complete year of creditable service. The member shall not be
13 permitted to make any contributions for prior service until
14 after completion of the 1 year of creditable service. The
15 required contributions for claiming the various types of prior
16 service are:

17 (a) For prior service performed prior to the date the
18 system becomes noncontributory for the member and for which
19 the member had credit under one of the existing retirement
20 systems and received a refund of contributions upon
21 termination of employment, the member shall contribute 4
22 percent of all salary received during the period being
23 claimed, plus 4 percent interest compounded annually from date
24 of refund until July 1, 1975, and 6.5 percent interest
25 compounded annually thereafter, until full payment is made to
26 the Retirement Trust Fund. A member who elected to transfer to
27 the Florida Retirement System from an existing system may
28 receive credit for prior service under the existing system if
29 he or she was eligible under the existing system to claim the
30 prior service at the time of the transfer. Contributions for
31 such prior service shall be determined by the applicable

1 provisions of the system under which the prior service is
2 claimed and shall be paid by the member, with matching
3 contributions paid by the employer at the time the service was
4 performed. Effective July 1, 1978, the account of a person who
5 terminated under s. 238.05(3) may not be charged interest for
6 contributions that remained on deposit in the Annuity Savings
7 Trust Fund established under chapter 238, upon retirement
8 under this chapter or chapter 238.

9 (b) For prior service performed prior to the date the
10 system becomes noncontributory for the member and for which
11 the member had credit under the Florida Retirement System and
12 received a refund of contributions upon termination of
13 employment, the member shall contribute at the rate that was
14 required of him or her during the period of service being
15 claimed, on all salary received during such period, plus 4
16 percent interest compounded annually from date of refund until
17 July 1, 1975, and 6.5 percent interest compounded annually
18 thereafter, until the full payment is made to the Retirement
19 Trust Fund.

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

30 (d) In order to claim credit for prior service as
31 defined in s. 121.021(19)(d) for which no retirement

1 contributions were paid during the period of such service, the
2 member shall contribute the total employee and employer
3 contributions which were required to be made to the Highway
4 Patrol Pension Trust Fund, as provided in chapter 321, during
5 the period claimed, plus 4 percent interest compounded
6 annually from the first year of service until July 1, 1975,
7 and 6.5 percent interest compounded annually thereafter, until
8 full payment is made to the Retirement Trust Fund. However,
9 any governmental entity which employed such member may elect
10 to pay up to 50 percent of the contributions and interest
11 required to purchase this prior service credit.

12 (e) For service performed under the Florida Retirement
13 System after December 1, 1970, that was never reported to the
14 division or the department due to error, retirement credit may
15 be claimed by a member of the Florida Retirement System. The
16 department shall adopt rules establishing criteria for
17 claiming such credit and detailing the documentation required
18 to substantiate the error.

19 (f) The employer may not be required to make
20 contributions for prior service credit for any member, except
21 that the employer shall pay the employer portion of
22 contributions for any legislator who elects to withdraw from
23 the Florida Retirement System and later rejoins the system and
24 pays any employee contributions required in accordance with s.
25 121.052(3)(d).

26 Section 4. This act shall take effect upon becoming a
27 law.

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HOUSE SUMMARY

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