

1 A bill to be entitled
2 An act relating to retirement; amending s.
3 121.021, F.S.; redefining the terms "system,"
4 "average final compensation," "normal
5 retirement date," "System Trust Fund,"
6 "vested," and "vesting" and defining the terms
7 "actuarial surplus," "stabilization surplus,"
8 and "available surplus" with respect to the
9 Florida Retirement System; creating s. 121.36,
10 F.S.; directing the State Board of
11 Administration to establish an optional defined
12 contribution retirement program for members of
13 the Florida Retirement System; providing
14 definitions; providing for eligibility and
15 retirement service credit; providing for
16 participation and enrollment; providing for
17 contributions; providing vesting requirements;
18 providing benefits; providing for
19 administration; providing for investment
20 options or products; providing for performance
21 review; providing for an education component;
22 providing participant information requirements;
23 providing that advisory committees shall
24 provide advice and assistance; providing for
25 federal requirements; providing an investment
26 policy statement; providing a statement of
27 fiduciary standards and responsibilities;
28 providing for disability benefits; providing
29 for social security and health insurance
30 subsidy coverage; creating s. 121.571, F.S.;
31 providing for contributions; providing a

1 statement of state purpose; providing future
2 effect for certain provisions; amending s.
3 121.055, F.S.; increasing the number of
4 personnel that may be designated as Senior
5 Management Class by local governments; allowing
6 senior management optional annuity program
7 benefits to be distributed through a direct
8 rollover; amending s. 112.363, F.S.; revising
9 guidelines for determining eligibility for
10 retiree health insurance subsidies; amending
11 ss. 121.0515, 121.052, 121.053, 121.081,
12 121.091, 121.1115, 121.1122, 121.031, 121.121,
13 F.S.; prescribing the method for calculating
14 average final compensation; providing that
15 members employed in a regularly established
16 position shall be vested after 6 years of
17 creditable service; providing that any
18 terminated, inactive member must be actively
19 employed in a covered position for 1 calendar
20 year or more on or after the act's effective
21 date to achieve vested status with 6 years of
22 service; providing for employer contribution
23 rate increases to each membership class; adding
24 to the Special Risk Class of membership certain
25 aerial firefighting surveillance positions;
26 upgrading service credit for certain years for
27 special risk members; providing for funding of
28 changes to the definition of average final
29 compensation from the assets of the Florida
30 Retirement System Trust Fund in an amount and
31 manner sufficient to maintain actuarial

1 soundness; providing for employer contribution
2 rate decreases to each membership class;
3 providing for the development of a rate
4 stabilization mechanism; providing for funding
5 of the 1999 actuarial experience study from
6 excess assets of the Florida Retirement System
7 Trust Fund; providing for assignment and use of
8 surplus; adding assistant state attorneys,
9 assistant statewide prosecutors, and assistant
10 public defenders to the Senior Management
11 Service Class of the system; providing an
12 appropriation; providing effective dates.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsections (3), (24), (29), (36), and (45)
17 of section 121.021, Florida Statutes, are amended, and
18 subsections (55), (56), and (57) are added to that section, to
19 read:

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

23 (3) "System" means the general retirement system
24 established by this chapter to be known and cited as the
25 "Florida Retirement System," including, but not limited to,
26 the defined benefit retirement program and the defined
27 contribution retirement program known as the Public Employee
28 Optional Retirement Program.

29 (24) "Average final compensation" means the average of
30 the 3 ~~5~~ highest fiscal years of compensation for creditable
31 service prior to retirement, termination, or death. For

1 in-line-of-duty disability benefits, if less than 3 5 years of
2 creditable service have been completed, the term "average
3 final compensation" means the average annual compensation of
4 the total number of years of creditable service. Each year
5 used in the calculation of average final compensation shall
6 commence on July 1.

7 (a) The average final compensation shall include:

8 1. Accumulated annual leave payments, not to exceed
9 500 hours; and

10 2. All payments defined as compensation in subsection
11 (22).

12 (b) The average final compensation shall not include:

13 1. Compensation paid to professional persons for
14 special or particular services;

15 2. Payments for accumulated sick leave made due to
16 retirement or termination;

17 3. Payments for accumulated annual leave in excess of
18 500 hours;

19 4. Bonuses as defined in subsection (47);

20 5. Third party payments made on and after July 1,
21 1990; or

22 6. Fringe benefits (for example, automobile allowances
23 or housing allowances).

24 (29) "Normal retirement date" means the first day of
25 any month following the date a member attains one of the
26 following statuses:

27 (a) If a Regular Class member, the member:

28 1. Completes 5 ~~10~~ or more years of creditable service
29 and attains age 62; or

30 2. Completes 30 years of creditable service,
31 regardless of age, which may include a maximum of 4 years of

1 military service credit as long as such credit is not claimed
2 under any other system.

3 (b) If a Special Risk Class member, the member:

4 1. Completes 5 ~~10~~ or more years of creditable service
5 in the Special Risk Class and attains age 55;

6 2. Completes 25 years of creditable service in the
7 Special Risk Class, regardless of age; or

8 3. Completes 25 years of creditable service and
9 attains age 52, which service may include a maximum of 4 years
10 of military service credit as long as such credit is not
11 claimed under any other system and the remaining years are in
12 the Special Risk Class.

13 (c) If a Senior Management Service Class member, the
14 member:

15 1. Completes 5 ~~7~~ years of creditable service in the
16 Senior Management Service Class and attains age 62; or

17 2. Completes 30 years of any creditable service,
18 regardless of age, which may include a maximum of 4 years of
19 military service credit as long as such credit is not claimed
20 under any other system.

21 (d) If an Elected Officers' Class member, the member:

22 1. Completes 5 ~~8~~ years of creditable service in the
23 Elected Officers' Class and attains age 62; or

24 2. Completes 30 years of any creditable service,
25 regardless of age, which may include a maximum of 4 years of
26 military service credit as long as such credit is not claimed
27 under any other system.

28

29 "Normal retirement age" is attained on the "normal retirement
30 date."
31

1 (36) "System Trust Fund" means the trust fund
2 established in the State Treasury by this chapter for the
3 purpose of holding and investing the contributions paid by
4 members and employers and paying the benefits to which members
5 or their beneficiaries may become entitled. Other trust funds
6 may be established in the State Treasury to administer the
7 "System Trust Fund." The "System Trust Fund" shall include a
8 stabilization reserve to hold in reserve a specific portion of
9 any actuarial surplus to be used for the sole and exclusive
10 purpose of providing for future unfunded liabilities caused by
11 adverse experience, thereby minimizing the risk of future
12 increases in contribution rates.

13 (45)(a) "Vested" or "vesting" means the guarantee that
14 a member is eligible to receive a future retirement benefit
15 upon completion of the required years of creditable service
16 for the employee's class of membership, even though the member
17 may have terminated covered employment before reaching normal
18 or early retirement date. Being vested does not entitle a
19 member to a disability benefit based on a disability caused by
20 an injury or disease that occurs after termination of covered
21 employment.

22 (b) Effective July 1, 2000, a 5-year vesting
23 requirement shall be implemented for the Florida Retirement
24 System. Pursuant thereto:

25 1. Any member employed in a regularly established
26 position on July 1, 2000, who completes or has completed a
27 total of 5 years of creditable service will be considered
28 vested as described in paragraph (a).

29 2. Any member not employed in a regularly established
30 position on July 1, 2000, will be deemed vested upon
31 completion of 5 years of creditable service, provided that

1 such member is employed in a covered position for at least 1
2 work year after July 1, 2000. However, no member shall be
3 required to complete more years of creditable service than
4 would have been required for that member to vest under
5 retirement laws in effect before July 1, 2000.

6 (55) "Actuarial surplus" means, for any actuarial
7 valuation date, the excess of the actuarial value of assets of
8 the Florida Retirement System Trust Fund over the actuarial
9 (past service) liabilities of the Florida Retirement System.

10 (56) "Stabilization surplus" means that portion of the
11 actuarial surplus assigned to the stabilization reserve.

12 (57) "Available surplus" means that portion of the
13 actuarial surplus that is not assigned to the stabilization
14 reserve.

15 Section 2. Section 121.36, Florida Statutes, is
16 created to read:

17 121.36 Public Employee Optional Retirement Program.--

18 (1) The Trustees of the State Board of Administration
19 shall establish an optional defined contribution retirement
20 program for members of the Florida Retirement System under
21 which retirement benefits will be provided for eligible
22 employees who elect to participate in the program. The
23 benefits to be provided for or on behalf of participants in
24 such optional retirement program shall be provided through
25 employee-directed investments, in accordance with s. 401(a) of
26 the Internal Revenue Code and its related regulations. The
27 employers shall contribute, as provided in this section and s.
28 121.571, toward the funding of such optional benefits.

29 (2) DEFINITIONS.--As used in this section, the term:

30 (a) "Approved provider" or "provider" means a
31 private-sector company that is selected and approved by the

1 state board to offer one or more investment products or
2 services to the Public Employee Optional Retirement Program.
3 Private-sector companies include nonprofit investment
4 management companies, insurance companies, depositories,
5 financial services, and mutual fund companies.

6 (b) "De minimis account" refers to an account
7 containing total vested account contributions and accumulated
8 earnings under the Public Employee Optional Retirement Program
9 of not more than \$5,000.

10 (c) "Department" means the Department of Management
11 Services.

12 (d) "Division" means the Division of Retirement within
13 the Department of Management Services.

14 (e) "Education-related employer" means any district
15 school board that participates in the Florida Retirement
16 System for the benefit of certain employees or a charter
17 school or charter technical career center that participates in
18 the Florida Retirement System as provided in s. 121.051(2)(d).

19 (f) "Eligible employee" means an officer or employee,
20 as defined in s. 121.021(11), who:

21 1. Is a member of, or is eligible for membership in,
22 the Florida Retirement System;

23 2. Participates in, or is eligible to participate in,
24 the Senior Management Service Optional Annuity Program as
25 established under s. 121.055(6); or

26 3. Is eligible to participate in, but does not
27 participate in, the State University System Optional
28 Retirement Program established under s. 121.35 or the State
29 Community College System Optional Retirement Program
30 established under s. 121.051(2)(c).

31

1 The term does not include any renewed member of the Florida
2 Retirement System, any member participating in the Deferred
3 Retirement Option Program established under s. 121.091(13), or
4 any employee participating in an optional retirement program
5 established under s. 121.35 or s. 121.051(2)(c).

6 (g) "Employer" means an employer, as defined in s.
7 121.021(10), of an eligible employee.

8 (h) "Local employer" means any county agency, branch,
9 department, or board, or special district of the state, or any
10 municipality of the state, which participates in the Florida
11 Retirement System for the benefit of certain employees.

12 (i) "Participant" means an eligible employee who
13 elects to participate in the Public Employee Optional
14 Retirement Program and enrolls in such optional program as
15 provided in subsection (4).

16 (j) "Public Employee Optional Retirement Program,"
17 "optional program," or "optional retirement program" means the
18 alternative defined contribution retirement program
19 established under this section.

20 (k) "State board" or "board" means the State Board of
21 Administration.

22 (l) "State employer" means any agency, branch,
23 department, institution, community college, university,
24 institution of higher education, water management district, or
25 board of the state which participates in the Florida
26 Retirement System for the benefit of certain employees.

27 (m) "Third party administrator" means a private-sector
28 company that is selected and approved by the state board to
29 perform the recordkeeping, participant-account management, and
30 payroll facilitation for the Public Employee Optional
31 Retirement Program.

1 (n) "Vested" or "vesting" means the guarantee that a
2 participant is eligible to receive a full retirement benefit
3 upon completion of the required years of service under the
4 Public Employee Optional Retirement Program.

5 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.--

6 (a) Participation in the Public Employee Optional
7 Retirement Program is limited to eligible employees.
8 Participation in the optional retirement program is in lieu of
9 participation in the defined benefit program of the Florida
10 Retirement System. A participant shall receive contributions
11 into the participant's account based on the participant's
12 class of membership.

13 (b) An eligible employee who is a member of the
14 defined benefit retirement program of the Florida Retirement
15 System at the time of his or her election to participate in
16 the Public Employee Optional Retirement Program shall retain
17 all retirement service credit earned under the defined benefit
18 retirement program of the Florida Retirement System at the
19 rate earned. However, election to participate in the Public
20 Employee Optional Retirement Program terminates the active
21 membership of the employee in the defined benefit program of
22 the Florida Retirement System, and the service of a
23 participant in the Public Employee Optional Retirement Program
24 shall not be creditable under the defined benefit retirement
25 program of the Florida Retirement System for purposes of
26 benefit accrual but shall be credited for purposes of vesting.

27 (c)1. Notwithstanding paragraph (b), each eligible
28 employee who elects to participate in the Public Employee
29 Optional Retirement Program and establishes one or more
30 individual participant accounts under the optional program may
31 elect to transfer to the optional program a sum representing

1 the present value of the employee's accrued service benefit
2 under the defined benefit retirement program of the Florida
3 Retirement System. Upon such transfer, all service credit
4 previously earned under the defined benefit program of the
5 Florida Retirement System shall be nullified for purposes of
6 entitlement to a future benefit under the defined benefit
7 program of the Florida Retirement System. A participant is
8 precluded from transferring the accrued service balance from
9 the defined benefit program upon the expiration of the period
10 afforded to enroll in the optional program.

11 2. For purposes of this subsection, the present value
12 of the member's accrued service benefit obligation is based
13 upon the member's estimated creditable service and estimated
14 final average compensation as of 12 midnight of the day prior
15 to the opening of the election window for the employee. The
16 actuarial present value of the employee's accrued service
17 benefit shall be based on the following:

18 a. The discount rate and other actuarial assumptions
19 used to value the Florida Retirement System Trust Fund at the
20 time the amount to be transferred is determined, consistent
21 with the factors provided in sub-subparagraphs b.-d.

22 b. A 50-percent male and 50-percent female
23 gender-neutral blend of the mortality tables used to project
24 retirement longevity in the most recent actuarial valuation
25 report.

26 c. A benefit commencement age, based on the member's
27 estimated creditable service as of 12 midnight on May 31,
28 2002. The benefit commencement age shall be the younger of the
29 following, but shall not be younger than the member's age as
30 of 12 midnight on May 31, 2002:

31 (I) Age 62; or

1 (II) The age the member would attain if the member
2 completed 30 years of service with an employer, assuming the
3 member worked continuously from May 31, 2002, and disregarding
4 any vesting requirement that would otherwise apply under the
5 defined benefit program of the Florida Retirement System.

6 d. For members of the Special Risk Class, the benefit
7 commencement age shall be the younger of the following, but
8 shall not be younger than the member's age as of 12 midnight
9 on May 31, 2002:

10 (I) Age 55; or

11 (II) The age the member would attain if the member
12 completed 25 years of service with an employer, assuming the
13 member worked continuously from May 31, 2002, and disregarding
14 any vesting requirement that would otherwise apply under the
15 defined benefit program of the Florida Retirement System.

16 e. No reduction shall be taken due to failure to meet
17 vesting requirements under the defined benefit program.

18 3. For each participant who elects to transfer moneys
19 from the defined benefit program to his or her account in the
20 optional program, the division shall recompute the amount
21 transferred under subparagraph 2. not later than 60 days after
22 the actual transfer of funds based upon the participant's
23 actual creditable service and actual final average
24 compensation as of the initial date of participation in the
25 optional program. If the recomputed amount differs from the
26 amount transferred under subparagraph 2. by \$10 or more, the
27 division shall:

28 a. Transfer, or cause to be transferred, from the
29 Florida Retirement System Trust Fund to the participant's
30 account in the optional program the excess, if any, of the
31 recomputed amount over the previously transferred amount

1 together with interest from the initial date of transfer to
2 the date of transfer under this subparagraph, based upon 8
3 percent effective annual interest, compounded annually.

4 b. Transfer, or cause to be transferred, from the
5 participant's account to the Florida Retirement System Trust
6 Fund the excess, if any, of the previously transferred amount
7 over the recomputed amount, together with interest from the
8 initial date of transfer to the date of transfer under this
9 subparagraph, based upon 8 percent effective annual interest,
10 compounded annually.

11 4. As directed by the participant, the board shall
12 transfer or cause to be transferred the appropriate amounts to
13 the designated accounts. At least ten percent of the amount
14 transferred shall be transferred to a stable value product.
15 The board shall establish transfer procedures by rule, but the
16 actual transfer shall not be later than 30 days after the
17 effective date of the member's participation in the optional
18 program begins. Transfers are not commissionable and must be
19 in the form of cash as determined by the state board.

20 5. If the board or the division receives notification
21 from the United States Internal Revenue Service that this
22 paragraph or any portion of this paragraph will cause the
23 retirement system, or a portion thereof, to be disqualified
24 for tax purposes under the Internal Revenue Code, then the
25 portion that will cause the disqualification does not apply.
26 Upon such notice, the state board and the division shall
27 notify the presiding officers of the Legislature.

28 (4) PARTICIPATION; ENROLLMENT.--

29 (a)1. With respect to an eligible employee who is
30 employed in a regularly established position on June 1, 2002,
31 by a state employer:

1 a. Any such employee may elect to participate in the
2 Public Employee Optional Retirement Program in lieu of
3 retaining his or her membership in the defined benefit program
4 of the Florida Retirement System. The election must be made in
5 writing and must be filed with the department and the
6 personnel officer of the employer within 180 days after June
7 1, 2002, or, in the case of an active employee who is on a
8 leave of absence on June 1, 2002, within 90 days after the
9 conclusion of the leave of absence. Except as otherwise
10 provided in paragraph (f), this election is irrevocable. Upon
11 making such election, the employee shall be enrolled as a
12 participant of the Public Employee Optional Retirement
13 Program, and the employee's membership in the defined benefit
14 program of the Florida Retirement System shall terminate. The
15 employee's enrollment in the Public Employee Optional
16 Retirement Program shall be effective the first day of the
17 month for which a full month's employer contribution is made
18 to the optional program.

19 b. Any such employee who fails to elect to participate
20 in the Public Employee Optional Retirement Program within the
21 prescribed 180 days is deemed to have elected to retain
22 membership in the defined benefit program of the Florida
23 Retirement System, and the employee's option to elect to
24 participate in the optional program is forfeited except as
25 provided in paragraph (f).

26 2. With respect to employees who become eligible to
27 participate in the Public Employee Optional Retirement Program
28 by reason of employment in a regularly established position
29 commencing after June 1, 2002:

30 a. Any such employee shall, by default, be enrolled in
31 the defined benefit retirement program of the Florida

1 Retirement System at the commencement of employment and may,
2 within 180 days after employment commences, elect to
3 participate in the Public Employee Optional Retirement
4 Program. The employee's election must be made in writing and
5 must be filed with the personnel officer of the employer. The
6 election to participate in the optional program is
7 irrevocable, except as provided in paragraph (f).

8 b. If the employee files such election before the
9 initial payroll is submitted for the employee, enrollment in
10 the Public Employee Optional Retirement Program shall be
11 effective on the first day of employment.

12 c. If the employee files such election within 180 days
13 after employment commences, but after the initial payroll is
14 submitted for the employee, enrollment in the optional program
15 shall be effective on the first day of the month for which a
16 full month's employer contribution is made to the optional
17 program.

18 d. Any such employee who fails to elect to participate
19 in the Public Employee Optional Retirement Program within the
20 prescribed 180 days is deemed to have elected to retain
21 membership in the defined benefit program of the Florida
22 Retirement System, and the employee's option to elect to
23 participate in the optional program is forfeited except as
24 provided in paragraph (f).

25 (b)1. With respect to an eligible employee who is
26 employed in a regularly established position on September 1,
27 2002, by an education-related employer:

28 a. Any such employee may elect to participate in the
29 Public Employee Optional Retirement Program in lieu of
30 retaining his or her membership in the defined benefit program
31 of the Florida Retirement System. The election must be made in

1 writing and must be filed with the department and the
2 personnel officer of the employer within 180 days after
3 September 1, 2002, or, in the case of an active employee who
4 is on a leave of absence on September 1, 2002, within 180 days
5 after the conclusion of the leave of absence. This election is
6 irrevocable, except as provided in paragraph (f). Upon making
7 such election, the employee shall be enrolled as a participant
8 of the Public Employee Optional Retirement Program, and the
9 employee's membership in the defined benefit program of the
10 Florida Retirement System shall terminate. The employee's
11 enrollment in the Public Employee Optional Retirement Program
12 shall be effective the first day of the month for which a full
13 month's employer contribution is made to the optional program.

14 b. Any such employee who fails to elect to participate
15 in the Public Employee Optional Retirement Program within the
16 prescribed 180 days is deemed to have elected to retain
17 membership in the defined benefit program of the Florida
18 Retirement System, and the employee's option to elect to
19 participate in the optional program is forfeited except as
20 provided in paragraph (f).

21 2. With respect to employees who become eligible to
22 participate in the Public Employee Optional Retirement Program
23 by reason of employment in a regularly established position
24 with an education-related employer commencing after September
25 1, 2002:

26 a. Any such employee shall, by default, be enrolled in
27 the defined benefit retirement program of the Florida
28 Retirement System at the commencement of employment and may,
29 within 180 days after employment commences, elect to
30 participate in the Public Employee Optional Retirement
31 Program. The employee's election must be made in writing and

1 must be filed with the personnel officer of the employer. The
2 election to participate in the optional program is
3 irrevocable, except as provided in paragraph (f).

4 b. If the employee files such election before the
5 initial payroll is submitted for the employee, enrollment in
6 the Public Employee Optional Retirement Program shall be
7 effective on the first day of employment.

8 c. If the employee files such election within 180 days
9 after employment commences, but after the initial payroll is
10 submitted for the employee, enrollment in the optional program
11 shall be effective on the first day of the month for which a
12 full month's employer contribution is made to the optional
13 program.

14 d. Any such employee who fails to elect to participate
15 in the Public Employee Optional Retirement Program within the
16 prescribed 180 days is deemed to have elected to retain
17 membership in the defined benefit program of the Florida
18 Retirement System, and the employee's option to elect to
19 participate in the optional program is forfeited except as
20 provided in paragraph (f).

21 (c)1. With respect to an eligible employee who is
22 employed in a regularly established position on December 1,
23 2002, by a local employer:

24 a. Any such employee may elect to participate in the
25 Public Employee Optional Retirement Program in lieu of
26 retaining his or her membership in the defined benefit program
27 of the Florida Retirement System. The election must be made in
28 writing and must be filed with the department and the
29 personnel officer of the employer within 180 days after
30 December 1, 2002, or, in the case of an active employee who is
31 on a leave of absence on December 1, 2002, within 180 days

1 after the conclusion of the leave of absence. This election is
2 irrevocable, except as provided in paragraph (f). Upon making
3 such election, the employee shall be enrolled as a participant
4 of the Public Employee Optional Retirement Program, and the
5 employee's membership in the defined benefit program of the
6 Florida Retirement System shall terminate. The employee's
7 enrollment in the Public Employee Optional Retirement Program
8 shall be effective the first day of the month for which a full
9 month's employer contribution is made to the optional program.

10 b. Any such employee who fails to elect to participate
11 in the Public Employee Optional Retirement Program within the
12 prescribed 180 days is deemed to have elected to retain
13 membership in the defined benefit program of the Florida
14 Retirement System, and the employee's option to elect to
15 participate in the optional program is forfeited except as
16 provided in paragraph (f).

17 2. With respect to employees who become eligible to
18 participate in the Public Employee Optional Retirement Program
19 by reason of employment in a regularly established position
20 with a local employer commencing after December 1, 2002:

21 a. Any such employee shall, by default, be enrolled in
22 the defined benefit retirement program of the Florida
23 Retirement System at the commencement of employment and may,
24 within 180 days after employment commences, elect to
25 participate in the Public Employee Optional Retirement
26 Program. The employee's election must be made in writing and
27 must be filed with the personnel officer of the employer. The
28 election to participate in the optional program is
29 irrevocable, except as provided in paragraph (f).

30 b. If the employee files such election before the
31 initial payroll is submitted for the employee, enrollment in

1 the Public Employee Optional Retirement Program shall be
2 effective on the first day of employment.

3 c. If the employee files such election within 180 days
4 after employment commences, but after the initial payroll is
5 submitted for the employee, enrollment in the optional program
6 shall be effective on the first day of the month for which a
7 full month's employer contribution is made to the optional
8 program.

9 d. Any such employee who fails to elect to participate
10 in the Public Employee Optional Retirement Program within the
11 prescribed 180 days is deemed to have elected to retain
12 membership in the defined benefit program of the Florida
13 Retirement System, and the employee's option to elect to
14 participate in the optional program is forfeited except as
15 provided in paragraph (f).

16 (d) Contributions of participants who fail to make
17 asset allocation shall be deposited into the participant's
18 account and shall be invested in a diversified default
19 investment fund mix as determined by the board.

20 (e) Except as provided in paragraph (f), the election
21 to participate in the Public Employee Optional Retirement
22 Program is irrevocable for as long as the employee holds a
23 position eligible for participation in the optional program
24 and otherwise continues to meet the requirements of this
25 section.

26 (f) After the period during which an eligible employee
27 had the choice to elect the defined benefit program or the
28 Public Employee Optional Retirement Program, the employee
29 shall have an annual 30-day open enrollment opportunity, at
30 the employee's discretion, to choose to move from the defined
31 benefit program to the Public Employee Optional Retirement

1 Program or from the Public Employee Optional Retirement
2 Program to the defined benefit program.

3 1. If the employee chooses to move to the Public
4 Employee Optional Retirement Program, the applicable
5 provisions of this section shall govern the transfer.

6 2. If the employee chooses to move to the defined
7 benefit program, the employee must transfer from his or her
8 Public Employee Optional Retirement Program account subject to
9 the provisions of the contract, and from other employee moneys
10 as necessary, a sum representing all contributions that would
11 have been made to the defined benefit plan for that employee
12 and the actual return that would have been earned on those
13 contributions had they been invested in the defined benefit
14 program.

15 (5) CONTRIBUTIONS.--

16 (a) Each employer shall contribute on behalf of each
17 participant in the Public Employee Optional Retirement Program
18 10 percent of the employee's monthly compensation. The
19 employer shall forward to the third-party administrator the
20 required contributions for each participant of the optional
21 program, and the third-party administrator shall forward the
22 applicable contributions to the division and to the
23 participant's account, less an amount approved by the
24 Legislature to provide for the administration of the program.

25 (b) Employers are responsible for notifying
26 participants regarding maximum contribution levels permitted
27 under the Internal Revenue Code. If a participant contributes
28 to any other tax-deferred plan, he or she is responsible for
29 ensuring that total contributions made to the optional program
30 and to any other such plan do not exceed federally permitted
31 maximums.

1 (6) VESTING REQUIREMENTS.--A participant will be fully
2 or partially vested in the Regular Class Optional Retirement
3 Program only upon execution of a contract with an approved
4 provider. Subject thereto:

5 (a) With respect to participant contributions, plus
6 interest and earnings thereon, participants are fully and
7 immediately vested.

8 (b) With respect to employer contributions made on
9 behalf of the participant, plus interest and earnings thereon,
10 credit toward vesting under the optional program shall be
11 gradually earned, as follows:

12 1. A participant who completes 2 years of service
13 under the optional program shall be considered to be
14 20-percent vested and is entitled to receive an
15 employer-funded benefit based on 20 percent of the employer
16 contributions made to the participant's account, plus interest
17 and earnings thereon.

18 2. A member who completes 3 years of service under the
19 optional program shall be considered to be 40-percent vested
20 and is entitled to receive an employer-funded benefit based on
21 40 percent of the employer contributions made to the
22 participant's account, plus interest and earnings thereon.

23 3. A member who completes 4 years of service under the
24 optional program shall be considered to be 60-percent vested
25 and is entitled to receive an employer-funded benefit based on
26 60 percent of the employer contributions made to the
27 participant's account, plus interest and earnings thereon.

28 4. A member who completes 5 years of service under the
29 optional program shall be considered to be 80-percent vested
30 and is entitled to receive an employer-funded benefit based on
31

1 80 percent of the employer contributions made to the
2 participant's account, plus interest and earnings thereon.

3 5. Any member who completes 6 years of service under
4 the optional program shall be considered to be 100-percent
5 vested, or fully vested, and is entitled to receive an
6 employer-funded benefit based on 100 percent of the employer
7 contributions made to the participant's account, plus interest
8 and earnings thereon.

9 (7) BENEFITS.--Under the Public Employee Optional
10 Retirement Program:

11 (a) Benefits shall be provided in accordance with s.
12 401(a) of the Internal Revenue Code.

13 (b) Benefits shall accrue in individual accounts or
14 contracts with designated approved providers which are
15 participant-directed, freely transferrable to a provider
16 subject to the provisions of the contract, and funded by
17 employer and participant contributions and earnings thereon.

18 (c) Benefits shall be payable in accordance with the
19 following terms and conditions:

20 1. To the extent vested, benefits shall be payable
21 only to a participant, or to his or her beneficiaries as
22 designated by the participant.

23 2. Benefits shall be paid by the board or designated
24 approved providers in accordance with the law, the contracts,
25 and board rules.

26 3. To begin receiving the employer-funded benefits,
27 the participant must be terminated from all employment with
28 all Florida Retirement System employers, as provided in s.
29 121.021(39). If a participant elects to receive his or her
30 employer-funded benefits upon termination of employment, the
31 participant must submit either an electronic or written

1 application to the third-party administrator indicating his or
2 her preferred distribution date and selecting an authorized
3 method of distribution as provided in paragraph (d). The
4 participant may defer receipt of employer-funded benefits
5 until he or she chooses to make such application, subject to
6 federal requirements.

7 4. In the event of a participant's death, moneys
8 accumulated by, or on behalf of, the participant, less
9 withholding taxes remitted to the Internal Revenue Service,
10 shall be distributed to the participant's designated
11 beneficiary or beneficiaries, or to the participant's estate,
12 as if the participant retired on the date of death, as
13 provided in paragraph (e). No other death benefits shall be
14 available for survivors of participants under the Public
15 Employee Optional Retirement Program, except for such
16 benefits, or coverage for such benefits, as are separately
17 afforded by the employer, in the employer's discretion.

18 (d) Upon receipt by the department of a properly
19 executed application for distribution of benefits, the total
20 accumulated employer-funded benefit shall be payable to the
21 participant, as:

- 22 1. A lump-sum distribution to the participant;
- 23 2. A cash-out of a de minimis account of \$5,000 or
24 less, in accordance with rules adopted by the board;
- 25 3. A lump-sum direct rollover distribution whereby all
26 accrued benefits, plus interest and investment earnings, are
27 paid from the participant's account directly to the custodian
28 of an eligible retirement plan, as defined in s. 402(c)(8)(B)
29 of the Internal Revenue Code, on behalf of the participant;
- 30 4. A partial lump-sum payment whereby a portion of the
31 accrued benefit is paid to the deceased participant's

1 surviving spouse or other designated beneficiaries, less
2 withholding taxes remitted to the Internal Revenue Service,
3 and the remaining amount is transferred directly to the
4 custodian of an individual retirement account or an individual
5 retirement annuity, as described in s. 402(c)(9) of the
6 Internal Revenue Code, on behalf of the surviving spouse. The
7 proportions must be specified by the participant or the
8 surviving spouse;

9 5. Periodic distributions or installments, as
10 authorized by the state board; or

11 6. A distribution of benefits for the purchase of
12 fixed or variable annuities.

13 (e) Survivor benefits shall be payable as:

14 1. A lump-sum distribution payable to the
15 beneficiaries, or to the deceased participant's estate;

16 2. An eligible rollover distribution on behalf of the
17 surviving spouse of a deceased participant, whereby all
18 accrued benefits, plus interest and investment earnings, are
19 paid from the deceased participant's account directly to the
20 custodian of an individual retirement account or an individual
21 retirement annuity, as described in s. 402(c)(9) of the
22 Internal Revenue Code, on behalf of the surviving spouse; or

23 3. A partial lump-sum payment whereby a portion of the
24 accrued benefit is paid to the deceased participant's
25 surviving spouse or other designated beneficiaries, less
26 withholding taxes remitted to the Internal Revenue Service,
27 and the remaining amount is transferred directly to the
28 custodian of an individual retirement account or an individual
29 retirement annuity, as described in s. 402(c)(9) of the
30 Internal Revenue Code, on behalf of the surviving spouse. The
31

1 proportions must be specified by the participant or the
2 surviving spouse.

3
4 This paragraph does not abrogate other applicable provisions
5 of state or federal law providing for payment of death
6 benefits.

7 (f) The benefits payable to any person under the
8 Public Employee Optional Retirement Program, and any
9 contributions accumulated under such program, are not subject
10 to assignment, execution, attachment, or any legal process,
11 except for qualified domestic relations orders by a court of
12 competent jurisdiction, income deduction orders as provided in
13 s. 61.1301, and federal income tax levies.

14 (8) ADMINISTRATION OF PROGRAM.--

15 (a) The Public Employee Optional Retirement Program
16 shall be administered by the state board, the department, and
17 affected employers. The board shall adopt rules establishing
18 the role and responsibilities of affected state, local
19 government, and education-related employers, the state board,
20 the department, and third-party contractors in administering
21 the Public Employee Optional Retirement Program. The
22 department shall adopt rules necessary to implement the
23 optional program in coordination with the defined benefit
24 retirement program.

25 (b)1. The state board shall select and contract with
26 one third-party administrator to provide administrative
27 services. The third-party administrator may be an approved
28 provider, if so designated by the State Board of
29 Administration. If at any time plan assets in the third-party
30 administrator's proprietary funds reach 25 percent of the
31 total plan assets the third-party administrator shall not

1 accept any new clients. Any product sold by a provider company
2 from a fund of the third-party administrator shall not count
3 as part of the 25 percent limitation. A plan review shall be
4 conducted when plan assets in the third-party administrator's
5 proprietary funds reach 25 percent. The plan review shall be
6 conducted by a newly created joint oversight committee
7 comprised of four members from the House of Representatives
8 and four members from the Senate. The committee shall oversee
9 and periodically review investment options and is authorized
10 to recommend changes to the third-party administrator and the
11 State Board of Administration. Staff for this committee shall
12 be provided by the Joint Legislative Auditing Committee.
13 Independent from the third-party administrator, the board
14 shall select and contract with a separate firm to provide
15 education services, which firm shall have no financial
16 relationship with any program provider or the third-party
17 administrator. With the approval of the state board, the
18 third-party administrator may subcontract with other
19 organizations to provide components of the administrative
20 services. As a cost of administration, the board may
21 compensate any such contractor for its services, in accordance
22 with the terms of the contract, as is deemed necessary or
23 proper by the board.

24 2. Administrative services include, but are not
25 limited to, services relating to consolidated billing;
26 individual and collective recordkeeping and accounting; asset
27 purchase, control, and safekeeping; and direct disbursement of
28 funds to and from the third-party administrator, the division,
29 the board, employers, participants, approved providers, and
30 beneficiaries.

31

1 3. Educational services may be designed to assist
2 employers, eligible employees, participants, and beneficiaries
3 in order to maintain compliance with United States Department
4 of Labor regulations under s. 404(c) of the Employee
5 Retirement Income Security Act of 1974 and to assist employees
6 in their choice of defined benefit or defined contribution
7 retirement alternatives. Educational services include, but are
8 not limited to, disseminating educational materials; providing
9 retirement planning education; explaining the differences
10 between the defined benefit retirement plan and the defined
11 contribution retirement plan; and offering financial planning
12 guidance on matters such as investment diversification,
13 investment risks, investment costs, and asset allocation. Such
14 materials and services may not include investment advice or
15 recommendations with respect to particular providers or
16 products. An approved provider may not perform this function,
17 but may provide information concerning its products and
18 services. An approved provider, however, may also provide
19 educational information, including, but not limited to,
20 retirement planning and investment allocation information
21 concerning its products and services.

22 (c)1. In evaluating and selecting a third-party
23 administrator, the board shall establish criteria under which
24 it shall consider the relative capabilities and qualifications
25 of each proposed administrator. In developing such criteria,
26 the board shall consider:

27 a. The administrator's demonstrated experience in
28 providing administrative services to large public-sector or
29 private-sector retirement systems.

30

31

1 b. The administrator's demonstrated experience in
2 providing daily valued recordkeeping to defined contribution
3 plans.

4 c. The administrator's ability and willingness to
5 coordinate its activities with the Florida Retirement System
6 employers, the board, and the division, and to supply to such
7 employers, the board, and the division the information and
8 data they require, including, but not limited to, monthly
9 management reports, quarterly participant reports, and ad hoc
10 reports requested by the department or trustees.

11 d. The cost-effectiveness and levels of the
12 administrative services provided.

13 e. The administrator's ability to interact with the
14 participants, the employers, the board, the division, and the
15 providers; the means by which participants may access account
16 information, direct investment of contributions, make changes
17 to their accounts, transfer moneys between available
18 investment vehicles, and transfer moneys between investment
19 products; its capacity to provide paperless options; and any
20 fees that apply to such activities.

21 f. Demonstrated experience in providing similar type
22 services to either public or private clients.

23 g. Demonstrated experience in providing educational
24 services to public-sector or private-sector retirement systems
25 of similar size.

26 h. Ability and willingness to coordinate its
27 activities with the Florida Retirement System employers, the
28 board, and the division, and to supply to such employers, the
29 board, and the division the information and data they require,
30 including, but not limited to, reports on educational
31 contacts.

1 i. The cost-effectiveness and levels of the
2 educational services provided.

3 j. Ability to provide educational services via
4 different media, including, but not limited to, the Internet,
5 personal contact, seminars, brochures, and newsletters.

6 k. Any other factor deemed necessary by the Trustees
7 of the State Board of Administration.

8 l. The recommendations of the Public Employee Optional
9 Retirement Program Advisory Committee established in
10 subsection (12).

11 2. The establishment of the criteria shall be solely
12 within the discretion of the board.

13 (d) The board shall develop the form and content of
14 all contracts to be offered under the Public Employee Optional
15 Retirement Program. In developing its recommendations, the
16 board must consider:

17 1. The nature and extent of the rights and benefits to
18 be afforded participants in relation to the required
19 contributions under the program.

20 2. The suitability of the rights and benefits to be
21 afforded participants to the needs of the participants and the
22 interests of employers in the recruitment and retention of
23 eligible employees.

24 (e)1. The board may contract with any consultant for
25 professional services, including legal, consulting,
26 accounting, and actuarial services, deemed necessary to
27 implement and administer the optional program by the Trustees
28 of the State Board of Administration. The board may enter into
29 a contract with one or more vendors to provide low-cost
30 investment advice to participants. All fees under any such
31

1 contract shall be paid by those participants who choose to use
2 the services of the vendor.

3 2. The department may contract with consultants for
4 professional services, including legal, consulting,
5 accounting, and actuarial services, deemed necessary to
6 implement and administer the optional program in coordination
7 with the defined benefit program of the Florida Retirement
8 System. The department may enter into a contract with the
9 third-party administrator in order to coordinate services
10 common to the various programs within the Florida Retirement
11 System, provided, however, that no such contract shall provide
12 for administrative charges.

13 (f) The board shall resolve any conflict between the
14 third-party administrator and an approved provider when such
15 conflict threatens the implementation or administration of the
16 program or the quality of services to employees.

17 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE
18 REVIEW.--

19 (a) The board shall develop policy and procedures for
20 selecting, evaluating, and monitoring the performance of
21 investment products to which employees may direct retirement
22 contributions under the program based upon the highest
23 industry standard. In accordance with such policy and
24 procedures, the board shall have nine or more providers who
25 offer multiple investment products and services that afford
26 value to the participants otherwise not available through
27 individual investment products.

28 (b) The board shall consider investment options or
29 products it considers appropriate to give participants the
30 opportunity to accumulate retirement benefits, subject to the
31 following:

1 1. The Public Employee Optional Retirement Program
2 must offer a diversified mix of low-cost investment products
3 that span the risk-return spectrum.

4 2. Investment options or products offered by the group
5 of approved providers may include mutual funds, group annuity
6 contracts, individual retirement annuities, interests in
7 trusts, collective trusts, separate accounts, and other such
8 financial instruments.

9 (c) In evaluating and selecting approved providers and
10 products, the board shall establish criteria under which it
11 shall consider the relative capabilities and qualifications of
12 each proposed provider company and product. In developing such
13 criteria, the board shall consider:

14 1. Experience in the United States providing
15 retirement products and related financial services under
16 defined contribution retirement plans.

17 2. Financial strength and stability, which shall be
18 evidenced by the highest ratings assigned by nationally
19 recognized rating services when comparing proposed providers
20 that are so rated.

21 3. Intrastate and interstate portability of the
22 product offered, including early withdrawal options.

23 4. Compliance with the Internal Revenue Code.

24 5. The cost-effectiveness of the product provided and
25 the levels of service supporting the product relative to its
26 benefits and its characteristics, including, without
27 limitation, the level of risk borne by the provider.

28 6. The provider company's ability and willingness to
29 coordinate its activities with Florida Retirement System
30 employers, the department, and the board, and to supply to
31

1 such employers, the department, and the board the information
2 and data they require.

3 7. The methods available to participants to interact
4 with the provider company; the means by which participants may
5 access account information, direct investment of
6 contributions, make changes to their accounts, transfer moneys
7 between available investment vehicles, and transfer moneys
8 between provider companies; and any fees that apply to such
9 activities.

10 8. The provider company's policies with respect to the
11 transfer of individual account balances, contributions, and
12 earnings thereon, both internally among investment products
13 offered by the provider company and externally between
14 approved providers, as well as any fees, charges, reductions,
15 or penalties that may be applied.

16 9. An evaluation of specific investment products,
17 taking into account each product's track record in meeting its
18 investment return objectives net of all related fees,
19 expenses, and charges, including, but not limited to,
20 investment management fees, loads, distribution and marketing
21 fees, custody fees, recordkeeping fees, education fees,
22 annuity expenses, and consulting fees.

23 10. Organizational factors, including, but not limited
24 to, financial solvency, organizational depth, and experience
25 in providing institutional investment services.

26 (d) As a condition of offering any investment option
27 or product in the optional retirement program, the approved
28 provider must agree to make the investment product or service
29 available under the most beneficial terms offered to any other
30 similar customer, subject to approval by the Trustees of the
31 State Board of Administration.

1 (e) The board shall periodically review the
2 performance of each approved provider and product and related
3 organizational factors to ensure continued compliance with
4 established selection criteria and with board policy and
5 procedures. Providers and products may be terminated subject
6 to contract provisions. The board shall adopt procedures to
7 transfer account balances from terminated products or
8 providers to other products or providers in the optional
9 program.

10 (10) EDUCATION COMPONENT.--

11 (a) The board shall provide for an education component
12 for system members in a manner consistent with the provisions
13 of this section. The education component must be available to
14 eligible employees at least 90 days prior to the beginning
15 date of the election period for the employees of the
16 respective types of employers.

17 (b) The education component must provide system
18 members with impartial and balanced information about plan
19 choices. The education component must involve multimedia
20 formats. Program comparisons must, to the greatest extent
21 possible, be based upon real rates of return on investments
22 available in each retirement plan. The board shall monitor the
23 performance of the contract to ensure that the program is
24 conducted in accordance with the contract, applicable law, and
25 the rules of the board.

26 (c) The board shall provide for an initial and ongoing
27 transfer education component to provide system members with
28 information necessary to make informed plan choice decisions.
29 The transfer education component must include, but is not
30 limited to, information on:

31

1 1. The amount of money available to a member to
2 transfer to the defined contribution program.

3 2. The features of and differences between the defined
4 benefit program and the defined contribution program, both
5 generally and specifically, as those differences may affect
6 the member.

7 3. The expected benefit available if the member were
8 to retire under each of the retirement programs, based on
9 appropriate alternative sets of assumptions.

10 4. The aggregate rate of return from investments in
11 the defined contribution program and the period of time over
12 which the aggregate rate of return must be achieved to equal
13 or exceed the expected monthly benefit payable to the member
14 under the defined benefit program.

15 5. The historical rates of return for the investment
16 alternatives available in the defined contribution programs
17 (30-year, 20-year, 15-year, 10-year, 8-year, 5-year, and
18 1-year data).

19 6. The benefits and historical rates of return on
20 investments available in deferred compensation plans or a plan
21 under s. 403(b) of the Internal Revenue Code for which the
22 employee may be eligible.

23 7. The program choices available to employees of the
24 State University System and the comparative benefits of each
25 available program.

26 8. Payout options available in each of the retirement
27 programs.

28 (d) An ongoing education and communication component
29 must provide members of either program with information
30 necessary to make informed decisions about choices within
31 their program of membership and in preparation for retirement.

- 1 The component must include, but is not limited to, information
2 concerning:
- 3 1. Rights and conditions of membership.
 - 4 2. Benefit features within the program, options, and
5 effects of certain decisions.
 - 6 3. Coordination of contributions and benefits with a
7 deferred compensation plan under s. 457 or a plan under s.
8 403(b) of the Internal Revenue Code.
 - 9 4. Significant program changes.
 - 10 5. Contribution rates and program funding status.
 - 11 6. Planning for retirement.
- 12 (e) The board shall also establish a communication
13 component to provide program information to participating
14 employers and the employers' personnel and payroll officers
15 and to explain their respective responsibilities in
16 conjunction with the retirement programs.
- 17 (11) PARTICIPANT INFORMATION REQUIREMENTS.--The board
18 shall ensure that each participant is provided a quarterly
19 statement that accounts for the contributions made by and on
20 behalf of such participants; the interest and investment
21 earnings thereon; and any fees, penalties, or other deductions
22 that apply thereto. At a minimum, such statements must:
- 23 (a) Indicate the participant's investment options.
 - 24 (b) State the market value of the account at the close
25 of the current quarter and previous quarter.
 - 26 (c) Show account gains and losses for the period and
27 changes in account accumulation unit values for the period.
 - 28 (d) Itemize account contributions for the quarter.
 - 29 (e) Indicate any account changes due to adjustment of
30 contribution levels, reallocation of contributions, balance
31 transfers, or withdrawals.

1 (f) Set forth any fees, charges, penalties, and
2 deductions that apply to the account.

3 (g) Indicate the amount of the account in which the
4 participant is fully vested.

5
6 The third-party administrator shall provide quarterly and
7 annual summary reports to the board and any other reports
8 requested by the department or the board. In any solicitation
9 or offer of coverage under an optional retirement program, a
10 provider company shall be governed by the contract readability
11 provisions of s. 627.4145, notwithstanding s. 627.4145(6)(c).
12 In addition, all descriptive materials must be prepared under
13 the assumption that the participant is an unsophisticated
14 investor. Provider companies must maintain an internal system
15 of quality assurance, have proven functional systems that are
16 date-calculation compliant, and be subject to a due-diligence
17 inquiry that proves their capacity and fitness to undertake
18 service responsibilities.

19 (12) ADVISORY COMMITTEES TO PROVIDE ADVICE AND
20 ASSISTANCE.--The Investment Advisory Council and the Public
21 Employee Optional Retirement Program Advisory Committee shall
22 assist the board in implementing and administering the Public
23 Employee Optional Retirement Program.

24 (a) The Investment Advisory Council, created pursuant
25 to s. 215.444, shall review the board's initial
26 recommendations regarding the criteria to be used in selecting
27 and evaluating approved providers and investment products. The
28 council shall make comments and recommendations to the board
29 within 45 days after receiving the initial recommendations.
30 The board shall make the final determination as to whether any
31

1 investment provider or product, any contractor, or any and all
2 contract provisions shall be approved for the program.

3 (b)1. The Public Employee Optional Retirement Program
4 Advisory Committee shall be composed of seven members. The
5 President of the Senate shall appoint two members, the Speaker
6 of the House of Representatives shall appoint two members, the
7 Governor shall appoint one member, the Treasurer shall appoint
8 one member, and the Comptroller shall appoint one member. The
9 members of the advisory committee shall elect a member as
10 chair. The appointments shall be made by September 1, 2000,
11 and the committee shall meet to organize by October 1, 2000.

12 2. The advisory committee shall make recommendations
13 on the critical factors to be considered in the selection
14 process for the third-party administrator and related
15 subcontractors and the design and implementation of the
16 education component of the program. The committee's
17 recommendations on selection criteria for the third-party
18 administrator must be forwarded to the Trustees of the State
19 Board of Administration by January 1, 2001. The
20 recommendations on the design and implementation of the
21 education component must be forwarded to the trustees by May
22 1, 2001.

23 3. The advisory committee's recommendations and
24 activities shall be guided by the best interests of the
25 employees, considering the interests of employers, and the
26 intent of the Legislature in establishing the Public Employee
27 Optional Retirement Program.

28 4. The staff of the state board and the department
29 shall assist the advisory committee.

30 (13) FEDERAL REQUIREMENTS.--

31

1 (a) Provisions of this section shall be construed, and
2 the Public Employee Optional Retirement Program shall be
3 administered, so as to comply with the Internal Revenue Code,
4 26 U.S.C., and specifically with plan qualification
5 requirements imposed on governmental plans under s. 401(a) of
6 the Internal Revenue Code.

7 (b) Any section or provision of this chapter which is
8 susceptible to more than one construction must be interpreted
9 in favor of the construction most likely to satisfy
10 requirements imposed by s. 401(a) of the Internal Revenue
11 Code.

12 (c) Contributions payable under this section for any
13 limitation year may not exceed the maximum amount allowable
14 for qualified defined contribution pension plans under
15 applicable provisions of the Internal Revenue Code. If an
16 employee who has elected to participate in the Public Employee
17 Optional Retirement Program participates in any other plan
18 that is maintained by the participating employer, benefits
19 that accrue under the Public Employee Optional Retirement
20 Program shall be considered primary for any aggregate
21 limitation applicable under s. 415 of the Internal Revenue
22 Code.

23 (14) INVESTMENT POLICY STATEMENT.--

24 (a) Investment products and approved providers
25 selected for the Public Employee Optional Retirement Program
26 shall be in conformance with the Public Employee Optional
27 Retirement Program Investment Policy Statement, herein
28 referred to as the "statement," as developed and approved by
29 the Trustees of the State Board of Administration and
30 submitted to the department. The statement must include, among
31 other items, the investment objectives of the Public Employee

1 Optional Retirement Program, manager selection and monitoring
2 guidelines, and performance measurement criteria. As required
3 from time to time, the executive director of the state board
4 may present recommended changes in the statement to the board
5 for approval.

6 (b) Prior to presenting the statement, or any
7 recommended changes thereto, to the state board, the executive
8 director of the board shall present such statement or changes
9 to the Investment Advisory Council for review. The council
10 shall present the results of its review to the board prior to
11 the board's final approval of the statement or changes in the
12 statement.

13 (15) STATEMENT OF FIDUCIARY STANDARDS AND
14 RESPONSIBILITIES.--

15 (a) Investment of optional defined contribution
16 retirement plan assets shall be made for the sole interest and
17 exclusive purpose of providing benefits to plan participants
18 and beneficiaries and defraying reasonable expenses of
19 administering the plan. The program's assets are to be
20 invested, on behalf of the program participants, with the
21 care, skill, and diligence that a prudent person acting in a
22 like manner would undertake. The performance of the investment
23 duties set forth in this paragraph shall comply with the
24 fiduciary standards set forth in the Employee Retirement
25 Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C).
26 In case of conflict with other provisions of law authorizing
27 investments, the investment and fiduciary standards set forth
28 in this subsection shall prevail.

29 (b) If a participant or beneficiary of the Regular
30 Class Optional Retirement Program exercises control over the
31 assets in his or her account, as determined by reference to

1 regulations of the United States Department of Labor under s.
2 404(c) of the Employee Retirement Income Security Act of 1974
3 and all applicable laws governing the operation of the
4 program, no program fiduciary shall be liable for any loss to
5 a participant's or beneficiary's account which results from
6 such participant's or beneficiary's exercise of control.

7 (16) DISABILITY BENEFITS.--For any member of the
8 optional retirement program who becomes totally and
9 permanently disabled, as defined in s. 121.091(4)(b), the
10 member shall be entitled to receive those moneys that have
11 accrued in his or her participant account. It is the intent of
12 the Legislature to provide participants of the Public Employee
13 Optional Retirement Program disability benefits comparable to
14 the benefits afforded defined benefit program participants.
15 The department is directed to study the potential options of
16 such coverage and the fiscal impacts on the employees and
17 employers, and to make recommendations to the Legislature by
18 January 1, 2001.

19 (17) SOCIAL SECURITY COVERAGE.--

20 (a) Social Security coverage shall be provided for all
21 officers and employees who become participants of the optional
22 program. Any modification of the present agreement with the
23 Social Security Administration, or referendum required under
24 the Social Security Act, for the purpose of providing Social
25 Security coverage for any member shall be requested by the
26 state agency in compliance with the applicable provisions of
27 the Social Security Act governing such coverage. However,
28 retroactive Social Security coverage for service prior to
29 December 1, 1970, with the employer shall not be provided for
30 any member who was not covered under the agreement as of
31 November 30, 1970.

1 (b) All officers and employees who are participants of
2 the optional program shall be eligible to receive the retiree
3 health insurance subsidy, subject to the provisions of s.
4 112.363.

5 Section 3. Section 121.571, Florida Statutes, is
6 created to read:

7 121.571 Contributions.--Contributions to the Public
8 Employee Optional Retirement Program shall be made as follows:

9 (1) CONTRIBUTION RATES GENERALLY.--The contributions
10 established in this section shall be paid by each participant
11 or the participant's employer to the third-party administrator
12 based on the class membership of the participant. The
13 contributions are stated as a percentage of each participant's
14 gross compensation for the calendar month. A change in a
15 contribution rate is effective the first day of the month for
16 which a full month's employer contribution is made on or after
17 the beginning date of the change. Contribution rates may be
18 modified by general law.

19 (2) CONTRIBUTIONS TO PARTICIPANTS' ACCOUNTS.--Employer
20 and participant contributions to participant accounts shall be
21 accounted for separately. Interest and investment earnings on
22 employer contributions shall accrue on a tax-deferred basis
23 until proceeds are distributed. Pursuant thereto, all
24 contributions made by or on behalf of a participant pursuant
25 to this subsection shall be transferred by the employer to the
26 third-party administrator for deposit in the participant's
27 account, less an amount approved by the Legislature to fund
28 the administration of the optional retirement program.

29 (3) CONTRIBUTIONS TO DISABILITY ACCOUNT.--

30 (a) All contributions made on behalf of a participant
31 pursuant to this subsection shall be transferred by the

1 employer to the third-party administrator for deposit in the
 2 Public Employee Disability Trust Fund administered by the
 3 Division of Retirement. Such contributions, less any fees or
 4 charges authorized by the Legislature to offset the costs of
 5 administering the disability component of the optional
 6 retirement program, shall be used to provide disability
 7 coverage for participants in the optional retirement program.

8 (b) Disability contributions for Regular Class members
 9 of the optional retirement plan are as follows:

10 Dates of Contribution Employers

11 Rate Changes

12 Effective July 1, 2002: 0.50%

13 (c) Disability contribution for Special Risk Class
 14 members of the optional retirement plan are as follows:

15 Dates of Contribution Employers

16 Rate Changes

17 Effective July 1, 2002: 1.38%

18 (d) Disability contribution for Special Risk
 19 Administrative Support Class members of the optional
 20 retirement plan are as follows:

21 Dates of Contribution Employers

22 Rate Changes

23 Effective July 1, 2002: 0.84%

24 (e) Disability contribution for Elected Officers'
 25 Class members of the optional retirement plan are as follows:

26 Dates of Contribution Employers

27 Rate Changes

28 Effective July 1, 2002:

29 Legislators 0.72%

30 Governor, Lt. Governor,

31 Cabinet Officers 0.72%

1	<u>State Attorneys, Public</u>	
2	<u>Defenders</u>	<u>0.72%</u>
3	<u>Justices, Judges</u>	<u>1.56%</u>
4	<u>County Elected Officers</u>	<u>0.95%</u>

5 (f) Disability contribution for Senior Management
6 Service Class members of the optional retirement plan are as
7 follows:

8	<u>Dates of Contribution</u>	<u>Employers</u>
9	<u>Rate Changes</u>	
10	<u>Effective July 1, 2002:</u>	<u>0.59%</u>

11 (4) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
12 RETIREE HEALTH INSURANCE SUBSIDY.--Contributions required
13 under this section shall be in addition to employer and member
14 contributions required for Social Security and the Retiree
15 Health Insurance Subsidy Trust Fund as provided in s. 121.071.

16 (5) FEES AND OTHER CHARGES.--The board or the
17 third-party administrator may deduct reasonable fees and may
18 apply appropriate charges to participant accounts, but only as
19 expressly covered by the terms of the approved contract for
20 the third-party administrator or as authorized by the
21 Legislature.

22 Section 4. The Legislature finds that a proper and
23 legitimate state purpose is served when employees and retirees
24 of the state and of its political subdivisions, and the
25 dependents, survivors, and beneficiaries of such employees and
26 retirees, are extended the basic protections afforded by
27 governmental retirement systems that provide fair and adequate
28 benefits that are managed, administered, and funded in an
29 actuarially sound manner, as required by section 14, Article X
30 of the State Constitution and part VII of chapter 112, Florida

31

1 Statutes. Therefore, the Legislature determines and declares
2 that this act fulfills an important state interest.

3 Section 5. Paragraphs (b) and (h) of subsection (1),
4 paragraph (b) of subsection (4), and paragraph (e) of
5 subsection (6) of section 121.055, Florida Statutes, are
6 amended to read:

7 121.055 Senior Management Service Class.--There is
8 hereby established a separate class of membership within the
9 Florida Retirement System to be known as the "Senior
10 Management Service Class," which shall become effective
11 February 1, 1987.

12 (1)

13 (b)1. Except as provided in subparagraph 2., effective
14 January 1, 1990, participation in the Senior Management
15 Service Class shall be compulsory for the president of each
16 community college, the manager of each participating city or
17 county, and all appointed district school superintendents.
18 Effective January 1, 1994, additional positions may be
19 designated for inclusion in the Senior Management Service
20 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. Up to 10 ~~one~~ nonelective full-time positions
28 ~~position~~ may be designated for each local agency employer
29 reporting to the Department of Management Services; for local
30 agencies with 100 or more regularly established positions,
31 additional nonelective full-time positions may be designated,

1 not to exceed 1 percent of the regularly established positions
2 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 Service Class, members of the Senior Management Service Class
14 pursuant to the provisions of subparagraph 1. may withdraw
15 from the Florida Retirement System altogether. The decision to
16 withdraw from the Florida Retirement System shall be
17 irrevocable for as long as the employee holds such a position.
18 Any service creditable under the Senior Management Service
19 Class shall be retained after the member withdraws from the
20 Florida Retirement System; however, additional service credit
21 in the Senior Management Service Class shall not be earned
22 after such withdrawal. Such members shall not be eligible to
23 participate in the Senior Management Service Optional Annuity
24 Program.

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

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

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

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

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

27 (I) Heads an organizational unit; or
28 (II) Has responsibility to effect or recommend
29 personnel, budget, expenditure, or policy decisions in his or
30 her areas of responsibility.

31

1 2. Participation in this class shall be compulsory,
2 except as provided in subparagraph 3., for any judicial
3 employee who holds a position designated for coverage in the
4 Senior Management Service Class, and such participation shall
5 continue until the employee terminates employment in a covered
6 position. Effective January 1, 2001, participation in this
7 class is compulsory for assistant state attorneys, assistant
8 statewide prosecutors, assistant public defenders, and
9 assistant capital collateral regional counsels.

10 3. In lieu of participation in the Senior Management
11 Service Class, such members may participate in the Senior
12 Management Service Optional Annuity Program as established in
13 subsection (6).

14 (4)

15 (b) Service in an eligible position prior to February
16 1, 1987, or after January 31, 1987, shall satisfy the
17 requirement of attaining the normal retirement date as defined
18 in s. 121.021(29) for a Senior Management Service Class
19 member, provided the employee is a member of the Senior
20 Management Service Class after January 31, 1987. A member of
21 this class who fails to complete 5 ~~7~~ years of creditable
22 service in an eligible position shall be required to satisfy
23 the requirements for the normal retirement date for a regular
24 member as provided in s. 121.021(29).

25 (6)

26 (e) Benefits.--

27 1. Benefits shall be payable under the Senior
28 Management Service Optional Annuity Program only to
29 participants in the program, or their beneficiaries as
30 designated by the participant in the contract with a provider
31 company, and such benefits shall be paid by the designated

1 company in accordance with the terms of the annuity contract
2 or contracts applicable to the participant. A participant must
3 be terminated from all employment with all Florida Retirement
4 System employers as provided in s. 121.021(39) to begin
5 receiving the employer-funded benefit. Benefits funded by
6 employer contributions shall be payable only as a lifetime
7 annuity to the participant, his or her beneficiary, or his or
8 her estate, except for:

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

11 b. A cash-out of a de minimis account upon the request
12 of a former participant who has been terminated for a minimum
13 of 6 months from the employment that entitled him or her to
14 optional annuity program participation. A de minimis account
15 is an account with a provider company containing employer
16 contributions and accumulated earnings of not more than \$5,000
17 made under the provisions of this chapter. Such cash-out must
18 be a complete liquidation of the account balance with that
19 company and is subject to the provisions of the Internal
20 Revenue Code; ~~or-~~

21 c. A lump-sum direct rollover distribution whereby all
22 accrued benefits, plus interest and investment earnings, are
23 paid from the participant's account directly to the custodian
24 of an eligible retirement plan, as defined in s. 402(c)(8)(B)
25 of the Internal Revenue Code, on behalf of the participant.

26 2. The benefits payable to any person under the Senior
27 Management Service Optional Annuity Program, and any
28 contribution accumulated under such program, shall not be
29 subject to assignment, execution, or attachment or to any
30 legal process whatsoever.

31

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

6 Section 6. Effective July 1, 2001, subsections (2) and
7 (3) of section 112.363, Florida Statutes, are amended to read:

8 112.363 Retiree health insurance subsidy.--

9 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
10 SUBSIDY.--

11 (a) A person who is retired under a state-administered
12 retirement system, or a beneficiary who is a spouse or
13 financial dependent entitled to receive benefits under a
14 state-administered retirement system, is eligible for health
15 insurance subsidy payments provided under this section; except
16 that pension recipients under ss. 121.40, 238.07(16)(a), and
17 250.22, recipients of health insurance coverage under s.
18 110.1232, or any other special pension or relief act shall not
19 be eligible for such payments.

20 (b) For purposes of this section, a person is deemed
21 retired from a state-administered retirement system when he or
22 she terminates employment with all employers participating in
23 the Florida Retirement System as described in s. 121.021(39)
24 and:

25 1. For a participant of the Public Employee Optional
26 Retirement Program established under part II of chapter 121,
27 the participant meets the age or service requirements to
28 qualify for normal retirement as set forth in s. 121.021(29).

29 2. For a member of the Florida Retirement System
30 defined benefit program, or any employee who maintains
31 creditable service under both the defined benefit program and

1 the Public Employee Optional Retirement Program, the member
2 begins drawing retirement benefits from the system.

3 (c)1. Effective July 1, 2001, any person retiring on
4 or after such date as a member of the Florida Retirement
5 System, including any participant of the defined contribution
6 program administered pursuant to part II of chapter 121, must
7 have satisfied the vesting requirements for his or her
8 membership class under the Florida Retirement System defined
9 benefit program as administered under part I of chapter 121.

10 2. Notwithstanding the provisions of subparagraph 1.,
11 a person retiring due to disability must either qualify for a
12 regular or in-line-of-duty disability benefit as provided in
13 s. 121.091(4) or qualify for a disability benefit under a
14 disability plan established under part II of chapter 121, as
15 appropriate.

16 (d) Payment of the retiree health insurance subsidy
17 shall be made only after coverage for health insurance for the
18 retiree or beneficiary has been certified in writing to the
19 Department of Management Services. Participation in a former
20 employer's group health insurance program is not a requirement
21 for eligibility under this section.

22 (e) ~~However,~~ Participants in the Senior Management
23 Service Optional Annuity Program as provided in s. 121.055(6)
24 and the State University System Optional Retirement Program as
25 provided in s. 121.35 shall not receive the retiree health
26 insurance subsidy provided in this section. The employer of
27 such participant shall pay the contributions required in
28 subsection (8) to the annuity program provided in s.
29 121.055(6)(d) or s. 121.35(4)(a), as applicable.

30 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.--

31

1 (a) Beginning January 1, 1988, each eligible retiree
2 or a beneficiary who is a spouse or financial dependent
3 thereof shall receive a monthly retiree health insurance
4 subsidy payment equal to the number of years of creditable
5 service, as defined in s. 121.021(17), completed at the time
6 of retirement multiplied by \$1; however, no retiree may
7 receive a subsidy payment of more than \$30 or less than \$10.

8 (b) Beginning January 1, 1989, each eligible retiree
9 or a beneficiary who is a spouse or financial dependent shall
10 receive a monthly retiree health insurance subsidy payment
11 equal to the number of years of creditable service, as defined
12 in s. 121.021(17), completed at the time of retirement
13 multiplied by \$2; however, no retiree may receive a subsidy
14 payment of more than \$60 or less than \$20.

15 (c) Beginning January 1, 1991, each eligible retiree
16 or a beneficiary who is a spouse or financial dependent shall
17 receive a monthly retiree health insurance subsidy payment
18 equal to the number of years of creditable service, as defined
19 in s. 121.021(17), completed at the time of retirement
20 multiplied by \$3; however, no retiree may receive a subsidy
21 payment of more than \$90 or less than \$30.

22 (d) Beginning January 1, 1999, each eligible retiree
23 or, if the retiree is deceased, his or her beneficiary who is
24 receiving a monthly benefit from such retiree's account and
25 who is a spouse, or a person who meets the definition of joint
26 annuitant in s. 121.021(28), shall receive a monthly retiree
27 health insurance subsidy payment equal to the number of years
28 of creditable service, as defined in s. 121.021(17), completed
29 at the time of retirement multiplied by \$5; however, no
30 eligible retiree or such beneficiary may receive a subsidy
31 payment of more than \$150 or less than \$50. If there are

1 multiple beneficiaries, the total payment must not be greater
2 than the payment to which the retiree was entitled.

3 (e)1. Beginning July 1, 2001, each eligible retiree of
4 the defined benefit program of the Florida Retirement System,
5 or, if the retiree is deceased, his or her beneficiary who is
6 receiving a monthly benefit from such retiree's account and
7 who is a spouse, or a person who meets the definition of joint
8 annuitant in s. 121.021(28), shall receive a monthly retiree
9 health insurance subsidy payment equal to the number of years
10 of creditable service, as defined in s. 121.021(17), completed
11 at the time of retirement multiplied by \$5; however, no
12 eligible retiree or such beneficiary may receive a subsidy
13 payment of more than \$150 or less than \$25. If there are
14 multiple beneficiaries, the total payment must not be greater
15 than the payment to which the retiree was entitled.

16 Notwithstanding the provisions of this paragraph, the health
17 insurance subsidy amount payable to any person receiving the
18 retiree health insurance subsidy payment on July 1, 2002,
19 shall not be reduced.

20 2. Beginning July 1, 2001, each eligible participant
21 of the Public Employee Optional Retirement Program of the
22 Florida Retirement System who has met the requirements of this
23 section, or, if the participant is deceased, his or her spouse
24 who is the participant's designated beneficiary, shall receive
25 a monthly retiree health insurance subsidy payment equal to
26 the number of years of creditable service, as defined in this
27 subparagraph, completed at the time of retirement, multiplied
28 by \$5; however, no eligible retiree or such beneficiary may
29 receive a subsidy payment of more than \$150 or less than \$30.
30 For purposes of determining a participant's creditable service
31 used to calculate the health insurance subsidy, a

1 participant's years of service credit or fraction thereof
2 shall be based on the participant's work year as defined in s.
3 121.021(54). Credit shall be awarded for a full work year
4 whenever health insurance subsidy contributions have been made
5 as required by law for each month in the participant's work
6 year. In addition, all years of creditable service retained
7 under the Florida Retirement System defined benefit program
8 shall be included as creditable service for purposes of this
9 section.

10 Section 7. Subsection (2) and paragraph (a) of
11 subsection (7) of section 121.0515, Florida Statutes, are
12 amended to read:

13 121.0515 Special risk membership; criteria;
14 designation and removal of classification; credits for past
15 service and prior service; retention of special risk normal
16 retirement date.--

17 (2) CRITERIA.--A member, to be designated as a special
18 risk member, must meet the following criteria:

19 (a) The member must be employed as a law enforcement
20 officer and be certified, or required to be certified, in
21 compliance with s. 943.1395; however, sheriffs and elected
22 police chiefs shall be excluded from meeting the certification
23 requirements of this paragraph. In addition, the member's
24 duties and responsibilities must include the pursuit,
25 apprehension, and arrest of law violators or suspected law
26 violators; or the member must be an active member of a bomb
27 disposal unit whose primary responsibility is the location,
28 handling, and disposal of explosive devices; or the member
29 must be the supervisor or command officer of a member or
30 members who have such responsibilities; provided, however,
31 administrative support personnel, including, but not limited

1 to, those whose primary duties and responsibilities are in
2 accounting, purchasing, legal, and personnel, shall not be
3 included;

4 (b) The member must be employed as a firefighter and
5 be certified, or required to be certified, in compliance with
6 s. 633.35 and be employed solely within the fire department of
7 a local government ~~the employer,~~ or an agency of state
8 government with firefighting responsibilities. In addition,
9 the member's duties and responsibilities must include
10 on-the-scene fighting of fires or direct supervision of
11 firefighting units or aerial firefighting surveillance
12 performed by fixed-wing pilots employed by the Department of
13 Agriculture and Consumer Services, Division of Forestry, or
14 the member must be the supervisor or command officer of a
15 member or members who have such responsibilities; provided,
16 however, administrative support personnel, including, but not
17 limited to, those whose primary duties and responsibilities
18 are in accounting, purchasing, legal, and personnel, shall not
19 be included;

20 (c) The member must be employed as a correctional
21 officer and be certified, or required to be certified, in
22 compliance with s. 943.1395. In addition, the member's
23 primary duties and responsibilities must be the custody, and
24 physical restraint when necessary, of prisoners or inmates
25 within a prison, jail, or other criminal detention facility,
26 or while on work detail outside the facility, or while being
27 transported; or the member must be the supervisor or command
28 officer of a member or members who have such responsibilities;
29 provided, however, administrative support personnel,
30 including, but not limited to, those whose primary duties and
31 responsibilities are in accounting, purchasing, legal, and

1 personnel, shall not be included; however, superintendents and
2 assistant superintendents shall participate in the Special
3 Risk Class; or

4 (d) The member must be employed by a licensed Advance
5 Life Support (ALS) or Basic Life Support (BLS) employer as an
6 emergency medical technician or a paramedic and be certified
7 in compliance with s. 401.27. In addition, the member's
8 primary duties and responsibilities must include on-the-scene
9 emergency medical care. However, administrative support
10 personnel, including, but not limited to, those whose primary
11 responsibilities are in accounting, purchasing, legal, and
12 personnel, shall not be included.

13 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT
14 DATE.--

15 (a) A special risk member who is moved or reassigned
16 to a nonspecial risk law enforcement, firefighting,
17 correctional, or emergency medical care administrative support
18 position with the same agency, or who is subsequently employed
19 in such a position with any law enforcement, firefighting,
20 correctional, or emergency medical care agency under the
21 Florida Retirement System, shall participate in the Special
22 Risk Administrative Support Class and shall earn credit for
23 such service at the same percentage rate as that earned by a
24 regular member. Notwithstanding the provisions of subsection
25 (4), service in such an administrative support position shall,
26 for purposes of s. 121.091, apply toward satisfaction of the
27 special risk normal retirement date, as defined in s.
28 121.021(29)(b), provided that, while in such position, the
29 member remains certified as a law enforcement officer,
30 firefighter, correctional officer, emergency medical
31 technician, or paramedic; remains subject to reassignment at

1 any time to a position qualifying for special risk membership;
2 and completes an aggregate of 5 ~~10~~ or more years of service as
3 a designated special risk member prior to retirement.

4 Section 8. Paragraphs (b) and (c) of subsection (12)
5 of section 121.052, Florida Statutes, are amended to read:

6 121.052 Membership class of elected officers.--

7 (12) BENEFITS.--

8 (b) The benefit provisions of s. 121.091(2)-(6), (8),
9 (9), and (11), relating to benefits payable for dual normal
10 retirement ages, early retirement, disability retirement,
11 termination benefits, optional forms of retirement,
12 designation of beneficiaries, employment after retirement, and
13 method of computing actuarial equivalent, respectively, shall
14 also apply to members of the Elected Officers' Class, ~~except~~
15 ~~that only 8 years of creditable service in this class are~~
16 ~~needed to attain the benefits specified in s. 121.091(3) and~~
17 ~~(5)~~. These provisions shall be construed in such manner as to
18 make them compatible with the provisions of this section.

19 (c) The benefit provisions of s. 121.091(7), relating
20 to death benefits, shall apply to members of the Elected
21 Officers' Class and shall be construed in such manner as to
22 make them compatible with the provisions of this section ~~+~~
23 ~~however, only 8 years of creditable service in this class are~~
24 ~~needed to obtain such benefits~~, except that:

25 1. If any elected official dies in office who would
26 have been vested under the Elected Officers' Class, any other
27 class of the Florida Retirement System, or any other
28 state-administered retirement system, if the official had
29 lived to complete his or her term of office, the official's
30 spouse may elect to leave the official's retirement
31 contributions in the retirement trust fund and pay into said

1 fund any required contributions which would have been paid by
2 the officer or the employer had the officer lived to complete
3 the term of office.

4 2. If a deceased member's surviving spouse as
5 described in subparagraph 1. previously received a refund of
6 the member's contributions made to the retirement trust fund,
7 the surviving spouse may pay into the retirement trust fund an
8 amount equal to the deceased member's contributions previously
9 refunded, together with interest at 4 percent compounded
10 annually on the amount of such refunded contributions from the
11 date of refund until July 1, 1975, and at 6.5 percent
12 compounded annually thereafter to the date of payment, plus
13 such additional contributions as may be required under
14 subparagraph 1., in order to become vested, as applicable.

15
16 Upon conclusion of the term of office to which the deceased
17 officer was elected, a spouse who pays into the retirement
18 trust fund such additional or refunded contributions, plus
19 interest, shall be eligible to receive a monthly benefit in
20 the same manner as the surviving spouse of a member who dies
21 after accumulating the required number of years of creditable
22 service as described herein.

23 Section 9. Paragraph (a) of subsection (1) of section
24 121.053, Florida Statutes, is amended to read:

25 121.053 Participation in the Elected Officers' Class
26 for retired members.--

27 (1)(a) Any member who retired under any existing
28 system as defined in s. 121.021(2), and receives a benefit
29 thereof, and who serves in an office covered by the Elected
30 Officers' Class for a period of at least 5 & years, shall be
31 entitled to receive an additional retirement benefit for such

1 elected officer service prior to July 1, 1990, under the
2 Elected Officers' Class of the Florida Retirement System, as
3 follows:

4 1. Upon completion of 5 ~~8~~ or more years of creditable
5 service in an office covered by the Elected Officers' Class,
6 s. 121.052, such member shall notify the administrator of his
7 or her intent to purchase elected officer service prior to
8 July 1, 1990, and shall pay the member contribution applicable
9 for the period being claimed, plus 4 percent interest
10 compounded annually from the first year of service claimed
11 until July 1, 1975, and 6.5 percent interest compounded
12 annually thereafter, until full payment is made to the Florida
13 Retirement System Trust Fund; however, such member may
14 purchase retirement credit under the Elected Officers' Class
15 only for such service as an elected officer.

16 2. Upon payment of the amount specified in
17 subparagraph 1., the employer shall pay into the Florida
18 Retirement System Trust Fund the applicable employer
19 contribution for the period of elected officer service prior
20 to July 1, 1990, being claimed by the member, plus 4 percent
21 interest compounded annually from the first year of service
22 claimed until July 1, 1975, and 6.5 percent interest
23 compounded annually thereafter, until full payment is made to
24 the Florida Retirement System Trust Fund.

25 Section 10. Paragraph (i) of subsection (1) and
26 paragraph (b) of subsection (2) of section 121.081, Florida
27 Statutes, are amended to read:

28 121.081 Past service; prior service;
29 contributions.--Conditions under which past service or prior
30 service may be claimed and credited are:

31 (1)

1 (i) An employee of a state agency who was a member of
2 a state-administered retirement system and who was granted
3 educational leave with pay pursuant to a written educational
4 leave-with-pay policy may claim such period of educational
5 leave as past service subject to the following conditions:

6 1. The educational leave must have occurred prior to
7 December 31, 1971;

8 2. The member must have completed at least 5 ~~10~~ years
9 of creditable service excluding the period of the educational
10 leave;

11 3. The employee must have returned to employment with
12 a state agency employer who participated in the retirement
13 system, which return was immediately upon termination of the
14 educational leave, and must have remained on the employer's
15 payroll for at least 1 calendar month following the return to
16 employment;

17 4. The employee must be a member of the Florida
18 Retirement System at the time he or she claims such service;

19 5. Not more than 24 months of creditable service may
20 be claimed for such period of educational leave with pay;

21 6. The service must not be claimed under any other
22 state or federal retirement system; and

23 7. The member must pay to the retirement trust fund
24 for claiming such past-service credit an amount equal to 8
25 percent of his or her gross annual salary immediately prior to
26 the educational leave with pay for each year of past service
27 claimed, plus 4 percent interest thereon compounded annually
28 each June 30 from the first year of service claimed until July
29 1, 1975, and 6.5 percent interest thereafter on the unpaid
30 balance compounded annually each June 30 until paid.

31

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

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

26 Section 11. Paragraph (a) of subsection (1),
27 paragraphs (a), (h), and (j) of subsection (4) of section
28 121.091, Florida Statutes, are amended to read:

29 121.091 Benefits payable under the system.--Benefits
30 may not be paid under this section unless the member has
31 terminated employment as provided in s. 121.021(39)(a) or

1 begun participation in the Deferred Retirement Option Program
2 as provided in subsection (13), and a proper application has
3 been filed in the manner prescribed by the department. The
4 department may cancel an application for retirement benefits
5 when the member or beneficiary fails to timely provide the
6 information and documents required by this chapter and the
7 department's rules. The department shall adopt rules
8 establishing procedures for application for retirement
9 benefits and for the cancellation of such application when the
10 required information or documents are not received.

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

22 (a)1. For creditable years of Regular Class service, A
23 is 1.60 percent of the member's average final compensation, up
24 to the member's normal retirement date. Upon completion of the
25 first year after the normal retirement date, A is 1.63 percent
26 of the member's average final compensation. Following the
27 second year after the normal retirement date, A is 1.65
28 percent of the member's average final compensation. Following
29 the third year after the normal retirement date, and for
30 subsequent years, A is 1.68 percent of the member's average
31 final compensation.

- 1 2. For creditable years of special risk service, ~~A is:~~
2 a. A is 2.00 ~~Two~~ percent of the member's average final
3 compensation for all creditable years prior to October 1,
4 1974;
5 b. A is 3.00 ~~Three~~ percent of the member's average
6 final compensation for all creditable years after September
7 30, 1974, and before October 1, 1978;
8 c. A is 2.00 ~~Two~~ percent of the member's average final
9 compensation for all creditable years after September 30,
10 1978, and before January 1, 1989;
11 d. A is 2.20 ~~Two and two-tenths~~ percent of the
12 member's final monthly compensation for all creditable years
13 after December 31, 1988, and before January 1, 1990;
14 e. A is 2.40 ~~Two and four-tenths~~ percent of the
15 member's average final compensation for all creditable years
16 after December 31, 1989, and before January 1, 1991;
17 f. A is 2.60 ~~Two and six-tenths~~ percent of the
18 member's average final compensation for all creditable years
19 after December 31, 1990, and before January 1, 1992;
20 g. A is 2.80 ~~Two and eight-tenths~~ percent of the
21 member's average final compensation for all creditable years
22 after December 31, 1991, and before January 1, 1993; ~~and~~
23 h. A is 3.00 ~~Three~~ percent of the member's average
24 final compensation for all creditable years after December 31,
25 1992;
26 i. A is 3.00 percent of the member's average final
27 compensation for all creditable years of service after
28 September 30, 1978, and before January 1, 1993, for any
29 special risk member who retires after July 1, 2000;
30 3. For creditable years of Senior Management Service
31 Class service after January 31, 1987, A is 2 percent;

1 4. For creditable years of Elected Officers' Class
2 service as a Supreme Court Justice, district court of appeal
3 judge, circuit judge, or county court judge, A is $3 \frac{1}{3}$
4 percent of the member's average final compensation, and for
5 all other creditable service in such class, A is 3.00 ~~3~~
6 percent of average final compensation;

7 (4) DISABILITY RETIREMENT BENEFIT.--

8 (a) Disability retirement; entitlement and effective
9 date.--

10 1. A member who becomes totally and permanently
11 disabled, as defined in paragraph (b), after completing 5
12 years of creditable service, or a member who becomes totally
13 and permanently disabled in the line of duty regardless of
14 service, shall be entitled to a monthly disability benefit~~+~~
15 ~~except that any member with less than 5 years of creditable~~
16 ~~service on July 1, 1980, or any person who becomes a member of~~
17 ~~the Florida Retirement System on or after such date must have~~
18 ~~completed 10 years of creditable service prior to becoming~~
19 ~~totally and permanently disabled in order to receive~~
20 ~~disability retirement benefits for any disability which occurs~~
21 ~~other than in the line of duty. However, if a member employed~~
22 ~~on July 1, 1980, with less than 5 years of creditable service~~
23 ~~as of that date, becomes totally and permanently disabled~~
24 ~~after completing 5 years of creditable service and is found~~
25 ~~not to have attained fully insured status for benefits under~~
26 ~~the federal Social Security Act, such member shall be entitled~~
27 ~~to a monthly disability benefit.~~

28 2. If the division has received from the employer the
29 required documentation of the member's termination of
30 employment, the effective retirement date for a member who
31

1 applies and is approved for disability retirement shall be
2 established by rule of the division.

3 3. For a member who is receiving Workers' Compensation
4 payments, the effective disability retirement date may not
5 precede the date the member reaches Maximum Medical
6 Improvement (MMI), unless the member terminates employment
7 prior to reaching MMI.

8 (h) Recovery from disability.--The administrator may
9 require periodic reexaminations at the expense of the
10 retirement fund. The division may adopt rules establishing
11 procedures for conducting and review of such reexaminations.

12 1. If the administrator finds that a member who is
13 receiving disability benefits is, at any time prior to his or
14 her normal retirement date, no longer disabled, the
15 administrator shall direct that the benefits be discontinued.
16 The decision of the administrator on this question shall be
17 final and binding. If such member:

18 a. Does not reenter the employ of an employer and was
19 not vested as of the disability retirement date, he or she
20 shall be entitled to a refund of the excess, if any, of his or
21 her accumulated contributions over the total disability
22 benefits received up to the date of recovery.

23 b. Does not reenter the employ of an employer, but was
24 vested as of the disability retirement date, he or she may
25 elect to receive:

26 (I) A refund of the excess, if any, of his or her
27 accumulated contributions over the total disability benefits
28 received up to the date of recovery; or

29 (II) A deferred benefit commencing on the last day of
30 the month of the normal retirement date which shall be payable
31 on the last day of the month thereafter during his or her

1 lifetime. The amount of such monthly benefit shall be
2 computed in the same manner as for a normal retirement
3 benefit, in accordance with subsection (1), but shall be based
4 on average monthly compensation and creditable service as of
5 the member's disability retirement date.

6 c. Reenters employment of an employer within 6 months
7 after recovery, the member's service will be deemed to have
8 been continuous, but the period beginning with the first month
9 for which he or she received a disability benefit payment and
10 ending with the date he or she reentered employment will not
11 be considered as creditable service for the purpose of
12 computing benefits except as provided in sub-subparagraph d.
13 As used in this section, the term "accumulated contributions"
14 for such member means the excess of the member's accumulated
15 contributions as of the disability retirement date over the
16 total disability benefits received under paragraph (e).

17 d. Terminates his or her disability benefit, reenters
18 covered employment, and is continuously employed for a minimum
19 of 1 year of creditable service, he or she may claim as
20 creditable service the months during which he or she was
21 receiving a disability benefit, upon payment of the required
22 contributions. Contributions shall equal the total required
23 employee and employer contribution rate applicable during the
24 period the retiree received retirement benefits, multiplied
25 times his or her rate of monthly compensation prior to the
26 commencement of disability retirement for each month of the
27 period claimed, plus 4 percent interest until July 1, 1975,
28 and 6.5 percent interest thereafter, compounded annually each
29 June 30 to the date of payment. If the member does not claim
30 credit for all of the months he or she received disability
31 benefits, the months claimed must be the most recent months of

1 retirement. Such credit for periods of disability, when
2 purchased under the Florida Retirement System, shall apply
3 toward vesting requirements for eligibility to purchase
4 additional credit for other service.

5 2. Both the member receiving disability benefits who
6 reenters employment and the employer employing such disability
7 retiree shall notify the division immediately upon
8 reemployment, and the division shall terminate such member's
9 disability benefits, effective the first day of the month
10 following the month in which notification of recovery is
11 received. If the member is reemployed with a Florida
12 Retirement System employer at the time of benefit termination,
13 and he or she has received disability retirement benefit and
14 salary payments concurrently prior to notifying the division,
15 he or she may elect within 30 days to:

16 a. Retain the retirement benefits received prior to
17 termination of disability benefits and begin receiving
18 retirement service credit effective upon the date of
19 termination of benefits; or

20 b. Repay, within 12 months after his or her decision
21 to receive service credit, the retirement benefits received
22 for each month of reemployment prior to termination of
23 disability benefits and begin receiving retirement service
24 credit effective upon the date of reemployment. Any such
25 unpaid benefits shall have compound interest of 6.5 percent
26 added June 30.

27
28 A member may not receive both retirement service credit for
29 employment and retirement benefits for the same month.

30 3. If, after recovery of disability and reentry into
31 covered employment, the member again becomes disabled and is

1 again approved for disability retirement, the Option 1 monthly
2 retirement benefit shall not be less than the Option 1 monthly
3 benefit calculated at the time of the previous disability,
4 plus any cost of living increases up to the time the
5 disability benefit was terminated upon his or her reentry into
6 covered employment.

7 (j) Disability retirement of justice or judge by order
8 of Supreme Court.--

9 1. If a member is a justice of the Supreme Court,
10 judge of a district court of appeal, circuit judge, or judge
11 of a county court who has served for 5 ~~10~~ years or more as an
12 elected constitutional judicial officer, including service as
13 a judicial officer in any court abolished pursuant to Art. V
14 of the State Constitution, and who is retired for disability
15 by order of the Supreme Court upon recommendation of the
16 Judicial Qualifications Commission pursuant to the provisions
17 of Art. V of the State Constitution, the member's Option 1
18 monthly benefit as provided in subparagraph (6)(a)1. shall not
19 be less than two-thirds of his or her monthly compensation as
20 of the member's disability retirement date. Such a member may
21 alternatively elect to receive a disability retirement benefit
22 under any other option as provided in paragraph (6)(a).

23 2. Should any justice or judge who is a member of the
24 Florida Retirement System be retired for disability by order
25 of the Supreme Court upon recommendation of the Judicial
26 Qualifications Commission pursuant to the provisions of Art. V
27 of the State Constitution, then all contributions to his or
28 her account and all contributions made on his or her behalf by
29 the employer shall be transferred to and deposited in the
30 General Revenue Fund of the state, and there is hereby
31 appropriated annually out of the General Revenue Fund, to be

1 paid into the Florida Retirement System Fund, an amount
2 necessary to pay the benefits of all justices and judges
3 retired from the Florida Retirement System pursuant to Art. V
4 of the State Constitution.

5 Section 12. Paragraph (b) of subsection (1) of section
6 121.1115, Florida Statutes, is amended to read:

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

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

20 (b) The member must have completed a minimum of 5 ~~10~~
21 years of creditable service under the Florida Retirement
22 System, excluding out-of-state service and in-state service
23 claimed and purchased under s. 121.1122.

24 Section 13. Paragraph (a) of subsection (2) of section
25 121.1122, Florida Statutes, is amended to read:

26 121.1122 Purchase of retirement credit for in-state
27 public service and in-state service in accredited nonpublic
28 schools and colleges, including charter schools and charter
29 technical career centers.--Effective January 1, 1998, a member
30 of the Florida Retirement System may purchase creditable
31

1 service for periods of certain public or nonpublic employment
2 performed in this state, as provided in this section.

3 (2) LIMITATIONS AND CONDITIONS.--

4 (a) A member is not eligible to receive credit for
5 in-state service under this section until he or she has
6 completed 5 ~~10~~ years of creditable service under the Florida
7 Retirement System, excluding service purchased under this
8 section and out-of-state service claimed and purchased under
9 s. 121.1115.

10 Section 14. Subsection (1) of section 121.121, Florida
11 Statutes, is amended to read:

12 121.121 Authorized leaves of absence.--

13 (1) A member may purchase creditable service for up to
14 2 work years of authorized leaves of absence if:

15 (a) The member has completed a minimum of 5 ~~10~~ years
16 of creditable service, excluding periods for which a leave of
17 absence was authorized;

18 (b) The leave of absence is authorized in writing by
19 the employer of the member and approved by the administrator;

20 (c) The member returns to active employment performing
21 service with a Florida Retirement System employer in a
22 regularly established position immediately upon termination of
23 the leave of absence and remains on the employer's payroll for
24 1 calendar month, except that a member who retires on
25 disability while on a medical leave of absence shall not be
26 required to return to employment. A member whose work year is
27 less than 12 months and whose leave of absence terminates
28 between school years is eligible to receive credit for the
29 leave of absence as long as he or she returns to the
30 employment of his or her employer at the beginning of the next

31

1 school year and remains on the employer's payroll for 1
2 calendar month; and

3 (d) The member makes the required contributions for
4 service credit during the leave of absence, which shall be 8
5 percent until January 1, 1975, and 9 percent thereafter of his
6 or her rate of monthly compensation in effect immediately
7 prior to the commencement of such leave for each month of such
8 period, plus 4 percent interest until July 1, 1975, and 6.5
9 percent interest thereafter on such contributions, compounded
10 annually each June 30 from the due date of the contribution to
11 date of payment. Effective July 1, 1980, any leave of absence
12 purchased pursuant to this section shall be at the
13 contribution rates specified in s. 121.071 in effect at the
14 time the leave is granted for the class of membership from
15 which the leave of absence was granted; however, any member
16 who purchased leave-of-absence credit prior to July 1, 1980,
17 for a leave of absence from a position in a class other than
18 the regular membership class, may pay the appropriate
19 additional contributions plus compound interest thereon and
20 receive creditable service for such leave of absence in the
21 membership class from which the member was granted the leave
22 of absence.

23 Section 15. Effective July 1, 2000, in order to fund
24 the normal cost for changes in vesting requirements and the
25 computation of average final compensation and Public Employee
26 Optional Retirement Program under the Florida Retirement
27 System, as provided in this act:

28 (1) The contribution rates that apply to the Regular
29 Class of the Florida Retirement System shall be increased by
30 1.37 percentage points;

31

1 (2) The contribution rates that apply to the Special
2 Risk Class of the Florida Retirement System shall be increased
3 by 1.98 percentage points;

4 (3) The contribution rates that apply to the Special
5 Risk Administrative Support Class of the Florida Retirement
6 System shall be increased by 1.01 percentage points;

7 (4) The contribution rates that apply to the Judicial
8 sub-class of the Elected Officers' Class of the Florida
9 Retirement System shall be increased by 1.66 percentage
10 points;

11 (5) The contribution rates that apply to the
12 legislative-attorney-Cabinet sub-class of the Elected
13 Officers' Class of the Florida Retirement System shall be
14 increased by 1.72 percentage points;

15 (6) The contribution rates that apply to the County
16 Officers' sub-class of the Elected Officers' Class of the
17 Florida Retirement System shall be increased by 1.31
18 percentage points; and

19 (7) The contribution rates that apply to the Senior
20 Management Service Class of the Florida Retirement System
21 shall be increased by 0.96 percentage points.

22
23 These increases shall be in addition to all other changes to
24 such contribution rates which may be enacted into law to take
25 effect on that date. The Division of Statutory Revision is
26 directed to adjust the contribution rates set forth in
27 sections 121.052, 121.055, and 121.071, Florida Statutes.

28 Section 16. It is the intent of the Legislature that
29 the net unfunded actuarial past-service liability attributable
30 to the upgrading of special risk service between October 1,
31 1978, and January 1, 1993, and to changes in the vesting

1 requirements and the computation of average final compensation
2 under the Florida Retirement System, as provided in this act,
3 shall be funded by a one-time lump-sum payment from the
4 actuarial surplus of the Florida Retirement System Trust Fund.

5 Section 17. It is the intent of the Legislature that
6 the increased actuarial past-service liability attributable to
7 the 1999 actuarial experience study conducted by the system
8 actuaries for the 2000-2001 fiscal year shall be funded by a
9 one-time lump-sum payment from the actuarial surplus of the
10 Florida Retirement System Trust Fund. The retirement
11 contribution rates for subsequent years shall be adjusted with
12 the next actuarial valuation of the Florida Retirement System.

13 Section 18. Effective July 1, 2000, and each year
14 thereafter, the Department of Management Services and the
15 consulting actuaries for the Florida Retirement System are
16 directed to annually recognize and determine the amount of any
17 actuarial surplus that may exist in the Florida Retirement
18 System Trust Fund. Where such actuarial surplus exists, the
19 actuaries shall calculate, as a percent of payroll, the
20 reduction that could be made in the retirement contribution
21 rate for each class and subclass in the Florida Retirement
22 System by applying the amount available for rate reduction as
23 provided in section 121.031(3)(a)6., Florida Statutes, toward
24 the normal cost funding requirements for the system and shall
25 certify such reduced rates to the Department of Management
26 Services for recommendation to the Executive Office of the
27 Governor and the Legislature. If actuarial surplus is
28 unavailable in any year for rate reduction as described in
29 this section, the consulting actuaries for the Florida
30 Retirement System shall certify to the Department of
31 Management Services the payroll contribution rate required for

1 each class and subclass of the Florida Retirement System in
2 order to effect and maintain funding for the Florida
3 Retirement System on a sound actuarial basis in compliance
4 with Section 14 of Article X of the State Constitution and
5 part VII of chapter 112, Florida Statutes.

6 Section 19. To implement the provisions of this act
7 for fiscal year 2000-2001, effective July 1, 2000:

8 (1) The contribution rates that apply to the Regular
9 Class of the Florida Retirement System shall be reduced by
10 3.37 percentage points.

11 (2) The contribution rates that apply to the Special
12 Risk Class of the Florida Retirement System shall be reduced
13 by 3.64 percentage points.

14 (3) The contribution rates that apply to the Special
15 Risk Administrative Support Class of the Florida Retirement
16 System shall be reduced by 4.39 percentage points.

17 (4) The contribution rates that apply to the Judicial
18 sub-class of the Elected Officers' Class of the Florida
19 Retirement System shall be reduced by 7.32 percentage points.

20 (5) The contribution rates that apply to the
21 legislative-attorney-Cabinet subclass of the Elected Officers'
22 Class of the Florida Retirement System shall be reduced by
23 5.19 percentage points.

24 (6) The contribution rates that apply to the County
25 Officers' sub-class of the Elected Officers' Class of the
26 Florida Retirement System shall be reduced by 6.03 percentage
27 points.

28 (7) The contribution rates that apply to the Senior
29 Management Service Class of the Florida Retirement System
30 shall be reduced by 4.15 percentage points.

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1 These changes shall be in addition to all other changes to
2 such contribution rates which may be enacted into law to take
3 effect on that date. The Division of Statutory Revision is
4 directed to adjust the contribution rates set forth in
5 sections 121.052, 121.055, and 121.071, Florida Statutes.

6 Section 20. Paragraph (a) of subsection (3) of section
7 121.031, Florida Statutes, is amended to read:

8 121.031 Administration of system; appropriation;
9 oaths; actuarial studies; public records.--

10 (3) The administrator shall cause an actuarial study
11 of the system to be made at least once every 2 years and shall
12 report the results of such study to the Legislature by
13 February 1 prior to the next legislative session.

14 (a) The study shall, at a minimum, conform to the
15 requirements of s. 112.63, with the following exceptions and
16 additions:

17 1. The valuation of plan assets shall be based on a
18 5-year averaging methodology such as that specified in the
19 United States Department of Treasury Regulations, 26 C.F.R. s.
20 1.412(c)(2)-1, or a similar accepted approach designed to
21 attenuate fluctuations in asset values.

22 2. The study shall include a narrative explaining the
23 changes in the covered group over the period between actuarial
24 valuations and the impact of those changes on actuarial
25 results.

26 3. When substantial changes in actuarial assumptions
27 have been made, the study shall reflect the results of an
28 actuarial assumption as of the current date based on the
29 assumptions utilized in the prior actuarial report.

30 4. The study shall include an analysis of the changes
31 in actuarial valuation results by the factors generating those

1 changes. Such analysis shall reconcile the current actuarial
2 valuation results with those results from the prior valuation.

3 5. The study shall include measures of funding status
4 and funding progress designed to facilitate the assessment of
5 trends over several actuarial valuations with respect to the
6 overall solvency of the system. Such measures shall be adopted
7 by the division and shall be used consistently in all
8 actuarial valuations performed on the system.

9 6.a. To implement the stabilization reserve, effective
10 January 1, 2000, and applicable each year thereafter, the
11 actuarial surplus will be assigned to stabilization surplus as
12 follows: 100 percent of actuarial surplus up to 5 percent of
13 actuarial liabilities, plus 50 percent of any remaining
14 surplus up to 5 percent actuarial liabilities and 25 percent
15 of any remaining actuarial surplus up to 5 percent of
16 actuarial liabilities. The maximum stabilization surplus shall
17 be 8.75 percent of actuarial liabilities. For fiscal year
18 2000-2001, a special allocation of \$2,668,763,000 of any
19 actuarial surplus remaining after the assignment to
20 stabilization surplus shall be made to the Florida Retirement
21 System for funding of benefit improvements. Any remaining
22 actuarial surplus shall be deemed available surplus, to be
23 used as provided in sub-subparagraph b. If unfunded
24 liabilities are created by adverse experience, the
25 stabilization reserve will be used either to offset those
26 liabilities or to amortize those liabilities in accordance
27 with regular valuation procedures.

28 b. Available surplus shall be used as follows:
29 (I) Twenty percent of available surplus shall be
30 assigned to each Florida Retirement System membership class in
31 the proportion that the actuarial surplus of that class bears

1 to the total actuarial surplus. The remaining 80 percent of
2 available surplus that remains shall roll over to the next
3 valuation date.

4 (II) The Legislature may, through legislative act,
5 assign some or all of the available surplus allocated to any
6 Florida Retirement System membership class as a one-time
7 lump-sum payment to fund actuarial liabilities created by
8 benefit improvements. Any remaining portion of available
9 surplus assigned to a membership class shall be used to reduce
10 the next fiscal year system normal cost requirements.

11 Section 21. The following sums are appropriated from
12 recurring General Revenue Fund for fiscal year 2000-2001. The
13 sum of \$921,000 is appropriated to the Justice Administrative
14 Commission for the purpose of paying the costs associated with
15 adding assistant state attorneys to the Senior Management
16 Service Class in the Florida Retirement System. The sum of
17 \$605,000 is appropriated to the Justice Administrative
18 Commission for the purpose of paying the costs associated with
19 adding assistant public defenders to the Senior Management
20 Service Class in the Florida Retirement System. The sum of
21 \$24,000 is appropriated to the Department of Legal Affairs,
22 Office of Statewide Prosecutor for the purpose of paying the
23 costs associated with adding assistant statewide prosecutors
24 to the Senior Management Service Class in the Florida
25 Retirement System.

26 Section 22. Except as otherwise provided in this act,
27 this act shall take effect July 1, 2000, and the Public
28 Employee Optional Retirement Program created by this act shall
29 be contingent upon:

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1 (1) The Department of Management Services receiving a
2 favorable determination letter and a favorable private-letter
3 ruling from the Internal Revenue Service by May 1, 2002.

4 (2) The State Board of Administration having selected
5 and contracted with the third-party administrator.

6 (3) The third-party administrator having successfully
7 established data links with the employers participating in the
8 Florida Retirement System.

9 (4) The education component of the Public Employee
10 Optional Retirement Program having been available for at least
11 90 days.

12 (5) A diversified portfolio of financial instruments
13 having become available to participants of the Public Employee
14 Optional Retirement Program.

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