

By the Fiscal Responsibility Council and Representative  
Lacasa

1                                   A bill to be entitled  
2           An act relating to the Public Employee Optional  
3           Retirement Program; amending s. 121.4501, F.S.;  
4           providing additional definitions; providing for  
5           payment of benefits pursuant to s. 121.591,  
6           F.S.; amending s. 121.571, F.S.; revising  
7           employer contribution rates to disability  
8           accounts; creating s. 121.591, F.S.; providing  
9           for payment of normal benefits, disability  
10          retirement benefits, and death benefits under  
11          the Public Employee Optional Retirement  
12          Program; providing requirements, criteria,  
13          procedures, and limitations; providing for  
14          disability benefits for certain justices and  
15          judges; limiting application of legal process  
16          to such benefits; providing a declaration of  
17          important state interest; providing an  
18          effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Paragraphs (b) through (j) of subsection  
23           (2) of section 121.4501, Florida Statutes, are redesignated as  
24           paragraphs (d) through (l), respectively, new paragraphs (b)  
25           and (c) are added to said subsection, and subsections (7) and  
26           (16) of said section are amended, to read:

27           121.4501 Public Employee Optional Retirement  
28           Program.--

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

30           (b) "Average monthly compensation" means one-twelfth  
31           of average final compensation as defined in s. 121.021(24).

1           (c) "Covered employment" means employment in a  
2 regularly established position as defined in s. 121.021(52).

3           (7) BENEFITS.--Under the Public Employee Optional  
4 Retirement Program:

5           (a) Benefits shall be provided in accordance with s.  
6 401(a) of the Internal Revenue Code.

7           (b) Benefits shall accrue in individual accounts that  
8 are participant-directed, portable, and funded by employer  
9 contributions and earnings thereon.

10           (c) Benefits shall be payable in accordance with s.  
11 121.591.the following terms and conditions:

12           ~~1. To the extent vested, benefits shall be payable~~  
13 ~~only to a participant, or to his or her beneficiaries as~~  
14 ~~designated by the participant.~~

15           ~~2. Benefits shall be paid by the third-party~~  
16 ~~administrator or designated approved providers in accordance~~  
17 ~~with the law, the contracts, and any applicable board rule or~~  
18 ~~policy.~~

19           ~~3. To begin receiving the benefits, the participant~~  
20 ~~must be terminated from all employment with all Florida~~  
21 ~~Retirement System employers, as provided in s. 121.021(39), or~~  
22 ~~the participant must be deceased. If a participant elects to~~  
23 ~~receive his or her benefits upon termination of employment,~~  
24 ~~the participant must submit a written application to the~~  
25 ~~third-party administrator indicating his or her preferred~~  
26 ~~distribution date and selecting an authorized method of~~  
27 ~~distribution as provided in paragraph (d). The participant may~~  
28 ~~defer receipt of benefits until he or she chooses to make such~~  
29 ~~application, subject to federal requirements.~~

30           ~~4. In the event of a participant's death, moneys~~  
31 ~~accumulated by, or on behalf of, the participant, less~~

1 ~~withholding taxes remitted to the Internal Revenue Service,~~  
2 ~~shall be distributed to the participant's designated~~  
3 ~~beneficiary or beneficiaries, or to the participant's estate,~~  
4 ~~as if the participant retired on the date of death, as~~  
5 ~~provided in paragraph (e). No other death benefits shall be~~  
6 ~~available for survivors of participants under the Public~~  
7 ~~Employee Optional Retirement Program, except for such~~  
8 ~~benefits, or coverage for such benefits, as are separately~~  
9 ~~afforded by the employer, at the employer's discretion.~~

10 ~~(d) Upon receipt by the third-party administrator of a~~  
11 ~~properly executed application for distribution of benefits,~~  
12 ~~the total accumulated benefit shall be payable to the~~  
13 ~~participant, as:~~

14 ~~1. A lump-sum distribution to the participant;~~

15 ~~2. A lump-sum direct rollover distribution whereby all~~  
16 ~~accrued benefits, plus interest and investment earnings, are~~  
17 ~~paid from the participant's account directly to the custodian~~  
18 ~~of an eligible retirement plan, as defined in s. 402(c)(8)(B)~~  
19 ~~of the Internal Revenue Code, on behalf of the participant; or~~

20 ~~3. Periodic distributions, as authorized by the state~~  
21 ~~board.~~

22 ~~(e) Survivor benefits shall be payable as:~~

23 ~~1. A lump-sum distribution payable to the~~  
24 ~~beneficiaries, or to the deceased participant's estate;~~

25 ~~2. An eligible rollover distribution on behalf of the~~  
26 ~~surviving spouse of a deceased participant, whereby all~~  
27 ~~accrued benefits, plus interest and investment earnings, are~~  
28 ~~paid from the deceased participant's account directly to the~~  
29 ~~custodian of an individual retirement account or an individual~~  
30 ~~retirement annuity, as described in s. 402(c)(9) of the~~  
31 ~~Internal Revenue Code, on behalf of the surviving spouse; or~~

1           ~~3. A partial lump-sum payment whereby a portion of the~~  
2 ~~accrued benefit is paid to the deceased participant's~~  
3 ~~surviving spouse or other designated beneficiaries, less~~  
4 ~~withholding taxes remitted to the Internal Revenue Service,~~  
5 ~~and the remaining amount is transferred directly to the~~  
6 ~~custodian of an individual retirement account or an individual~~  
7 ~~retirement annuity, as described in s. 402(c)(9) of the~~  
8 ~~Internal Revenue Code, on behalf of the surviving spouse. The~~  
9 ~~proportions must be specified by the participant or the~~  
10 ~~surviving beneficiary.~~

11  
12 ~~This paragraph does not abrogate other applicable provisions~~  
13 ~~of state or federal law providing for payment of death~~  
14 ~~benefits.~~

15           ~~(f) The benefits payable to any person under the~~  
16 ~~Public Employee Optional Retirement Program, and any~~  
17 ~~contributions accumulated under such program, are not subject~~  
18 ~~to assignment, execution, attachment, or any legal process,~~  
19 ~~except for qualified domestic relations orders by a court of~~  
20 ~~competent jurisdiction, income deduction orders as provided in~~  
21 ~~s. 61.1301, and federal income tax levies.~~

22           (16) DISABILITY BENEFITS.--For any participant of the  
23 optional retirement program who becomes totally and  
24 permanently disabled, benefits shall be paid in accordance  
25 with s. 121.591 as defined in s. 121.091(4)(b), the  
26 ~~participant shall be entitled to receive those moneys that~~  
27 ~~have accrued in his or her participant account. It is the~~  
28 ~~intent of the Legislature to design a disability benefit for~~  
29 ~~participants of the optional program similar to those~~  
30 ~~disability benefits afforded defined benefit program members.~~  
31 ~~The department is directed to study the potential options of~~

1 ~~such coverage, including self-insurance and commercial~~  
2 ~~coverage, the alternative methods of administering such~~  
3 ~~benefits, and the fiscal impacts on the employees and~~  
4 ~~employers, and to make recommendations to the Legislature by~~  
5 ~~January 15, 2001.~~

6 Section 2. Subsection (3) of section 121.571, Florida  
7 Statutes, is amended to read:

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

10 (3) CONTRIBUTIONS TO DISABILITY ACCOUNT.--

11 (a) All contributions made on behalf of a participant  
12 pursuant to this subsection shall be transferred by the  
13 employer to the third-party administrator for deposit in the  
14 Public Employee Disability Trust Fund administered by the  
15 Division of Retirement. Such contributions, less any fees or  
16 charges authorized by the Legislature to offset the costs of  
17 administering the disability component of the optional  
18 retirement program, shall be used to provide disability  
19 coverage for participants in the optional retirement program.

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

22		
23	Dates of Contribution	Employers
24	Rate Changes	
25	Effective July 1, 2002:	<u>0.25%</u> <del>0.39%</del>
26		

27 (c) Disability contributions for Special Risk Class  
28 members of the optional retirement plan are as follows:

29		
30	Dates of Contribution	Employers
31	Rate Changes	

1 Effective July 1, 2002: 1.33%~~1.25%~~  
2  
3 (d) Disability contributions for Special Risk  
4 Administrative Support Class members of the optional  
5 retirement plan are as follows:  
6  
7 Dates of Contribution Employers  
8 Rate Changes  
9 Effective July 1, 2002: 0.45%~~0.73%~~  
10  
11 (e) Disability contributions for Elected Officers'  
12 Class members of the optional retirement plan are as follows:  
13  
14 Dates of Contribution Employers  
15 Rate Changes  
16 Effective July 1, 2002:  
17 Legislators 0.41%~~0.61%~~  
18 Governor, Lt. Governor, 0.41%~~0.61%~~  
19 Cabinet Officers  
20 State Attorneys, Public 0.41%~~0.61%~~  
21 Defenders  
22 Justices, Judges 0.73%~~1.45%~~  
23 County Elected Officers 0.41%~~0.86%~~  
24  
25 (f) Disability contributions for Senior Management  
26 Service Class members of the optional retirement plan are as  
27 follows:  
28  
29 Dates of Contribution Employers  
30 Rate Changes  
31

1 Effective July 1, 2002: 0.26%~~0.50%~~

2

3 Section 3. Section 121.591, Florida Statutes, is  
4 created to read:

5 121.591 Benefits payable under the Public Employee  
6 Optional Retirement Program of the Florida Retirement  
7 System.--Benefits may not be paid under this section unless  
8 the member has terminated employment as provided in s.  
9 121.021(39)(a) or is deceased and a proper application has  
10 been filed in the manner prescribed by the state board or the  
11 department. The state board or the department, as appropriate,  
12 may cancel an application for retirement benefits when the  
13 member or beneficiary fails to timely provide the information  
14 and documents required by this chapter and the rules of the  
15 state board and the department. In accordance with their  
16 respective responsibilities as provided in this section, the  
17 state board and the department shall adopt rules establishing  
18 procedures for application for retirement benefits and for the  
19 cancellation of such application when the required information  
20 or documents are not received.

21 (1) NORMAL BENEFIT.--Under the optional program:

22 (a) Benefits, in the form of vested accumulations as  
23 described in s. 121.4501(6), shall be payable under this  
24 subsection as follows:

25 1. To the extent vested, benefits shall be payable  
26 only to a participant.

27 2. Benefits shall be paid by the third-party  
28 administrator or designated approved providers in accordance  
29 with the law, the contracts, and any applicable board rule or  
30 policy.

31

1           3. To receive benefits under this subsection, the  
2 participant must be terminated from all employment with all  
3 Florida Retirement System employers, as provided in s.  
4 121.021(39).

5           (b) If a participant elects to receive his or her  
6 benefits upon termination of employment, the participant must  
7 submit a written application to the third-party administrator  
8 indicating his or her preferred distribution date and  
9 selecting an authorized method of distribution as provided in  
10 paragraph (c). The participant may defer receipt of benefits  
11 until he or she chooses to make such application, subject to  
12 federal requirements.

13           (c) Upon receipt by the third-party administrator of a  
14 properly executed application for distribution of benefits,  
15 the total accumulated benefit shall be payable to the  
16 participant as:

17           1. A lump-sum distribution to the participant;

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

24           3. Periodic distributions, as authorized by the state  
25 board.

26           (2) DISABILITY RETIREMENT BENEFIT.--Benefits provided  
27 under this subsection are payable in lieu of the benefits  
28 which would otherwise be payable under the provisions of  
29 subsection (1).

30           (a)1. If the participant has no credit under the  
31 defined benefit program of the Florida Retirement System or



1 such credit has been nullified as provided under s.  
2 121.4501(3)(c), all moneys accumulated in the participant's  
3 optional program account, including vested and nonvested  
4 accumulations as described in s. 121.4501(6), shall be  
5 transferred from such individual account to the Division of  
6 Retirement for deposit into the Public Employee Disability  
7 Trust Fund; or  
8       2. If the participant is a former member of the  
9 defined benefit program of the Florida Retirement System who  
10 elected to retain the retirement credit he or she had earned  
11 under that program as provided in s. 121.4501(3)(b), a sum  
12 representing the actuarial present value of such credit shall  
13 be transferred by the Division of Retirement from the Florida  
14 Retirement System Trust Fund to the Public Employee Disability  
15 Trust Fund. In addition, all moneys accumulated in the  
16 participant's optional program account, including vested and  
17 nonvested accumulations as described in s. 121.4501(6), shall  
18 be transferred from such individual account to the Division of  
19 Retirement for deposit into the Public Employee Disability  
20 Trust Fund.  
21       (b)1. A participant of the optional program who  
22 becomes totally and permanently disabled, as defined in  
23 paragraph (d), after completing 8 years of creditable service,  
24 or a participant who becomes totally and permanently disabled  
25 in the line of duty regardless of his or her length of  
26 service, shall be entitled to a monthly disability benefit as  
27 provided in this subsection.  
28       2. For purposes of this subsection, the 8 years of  
29 creditable service required to vest for regular disability  
30 benefits must be creditable service under the defined benefit  
31

1 program of the Florida Retirement System or service under the  
2 optional program, subject to the following conditions:

3 a. In the case of present value transfers to a  
4 participant's account under s. 121.4501(3)(c), the period of  
5 service under the defined benefit program represented in the  
6 present value amounts transferred shall only be considered  
7 creditable service for purposes of vesting for disability  
8 benefits as long as such funds remain in the participant's  
9 accounts under the optional program.

10 b. In the case of contributions made to a  
11 participant's accounts under s. 121.4501(5), the period of  
12 service under the optional program shall only be considered  
13 creditable service for purposes of vesting for disability  
14 benefits as long as such funds remain in the participant's  
15 accounts under the optional program.

16  
17 If a participant terminates employment and takes distribution  
18 of such funds as provided in subsection (1), all credit for  
19 the service represented by such distributed funds is forfeited  
20 for purposes of qualifying for disability benefits under this  
21 subsection.

22 (c)1. If the division has received from the employer  
23 the required documentation of the participant's termination of  
24 employment, the effective retirement date for a participant  
25 who applies and is approved for disability retirement shall be  
26 established by rule of the division.

27 2. For a participant who is receiving workers'  
28 compensation payments, the effective disability retirement  
29 date may not precede the date the participant reaches maximum  
30 medical improvement, unless the participant terminates  
31 employment prior to reaching maximum medical improvement.

1       (d) A participant shall be considered totally and  
2 permanently disabled if, in the opinion of the division, he or  
3 she is prevented by reason of a medically determinable  
4 physical or mental impairment from rendering useful and  
5 efficient service as an officer or employee.

6       (e) The division, before approving payment of any  
7 disability retirement benefit, shall require proof that the  
8 participant is totally and permanently disabled as follows:

9           1. Such proof shall include the certification of the  
10 participant's total and permanent disability by two licensed  
11 physicians in this state and such other evidence of disability  
12 as the division may require, including reports from vocational  
13 rehabilitation, evaluation, or testing specialists who have  
14 evaluated the applicant for employment.

15           2. It shall be documented that:

16           a. The participant's medical condition occurred or  
17 became symptomatic during the time the participant was  
18 employed in an employee/employer relationship with his or her  
19 employer.

20           b. The participant was totally and permanently  
21 disabled at the time he or she terminated covered employment.

22           c. The participant has not been employed with any  
23 other employer after such termination.

24           3. If the application is for in-line-of-duty  
25 disability, in addition to the requirements of subparagraph  
26 2., it must be documented by competent medical evidence that  
27 the disability was caused by a job-related illness or accident  
28 which occurred while the participant was in an  
29 employee/employer relationship with his or her employer.

30           4. The unavailability of an employment position that  
31 the participant is physically and mentally capable of

1 performing shall not be considered as proof of total and  
2 permanent disability.

3 (f) A participant whose application for regular  
4 disability retirement has been denied and who has filed an  
5 appeal to the State Retirement Commission under s. 121.23 may,  
6 if eligible, elect to terminate employment and take  
7 distribution of benefits as provided under subsection (1)  
8 while he or she is awaiting the decision on the appeal. In  
9 that event:

10 1. If disability benefits are later approved as a  
11 result of the appeal, to receive the disability benefit  
12 payable under this subsection, the participant shall first  
13 repay to the division for deposit in the Public Employee  
14 Disability Trust Fund the total amount withdrawn under  
15 subsection (1), less the amount that would have otherwise been  
16 payable as a monthly disability benefit while the appeal was  
17 pending if the application had been initially approved.

18 2. If the appeal is later denied, no further benefits  
19 are payable to the terminated participant.

20 (g) Upon the disability retirement of a participant  
21 under this subsection, the participant shall receive a monthly  
22 benefit that shall begin to accrue on the first day of the  
23 month of disability retirement, as approved by the division,  
24 and shall be payable on the last day of that month and each  
25 month thereafter during his or her lifetime and continued  
26 disability.

27 (h) The amount of each monthly payment shall be  
28 computed in the same manner as that computed for a normal  
29 retirement benefit but shall be based on disability option  
30 actuarial equivalency tables and the average monthly  
31 compensation and creditable service of the participant as of

1 his or her disability retirement date, subject to the  
2 following:  
3 1. If the participant's disability occurred in the  
4 line of duty, the monthly Option 1 benefit shall be a minimum  
5 of:  
6 a. Forty-two percent of the participant's average  
7 monthly compensation as of the disability retirement date; or  
8 b. Sixty-five percent of the participant's average  
9 monthly compensation as of the disability retirement date for  
10 a participant of the special risk class who retires on or  
11 after July 1, 2002.  
12 2. If the participant's disability occurred other than  
13 in the line of duty, the monthly Option 1 benefit shall be a  
14 minimum of 25 percent of the participant's average monthly  
15 compensation as of the disability retirement date.  
16 (i) A participant whose initial application for  
17 disability retirement has been denied may reapply for  
18 disability benefits. However, such participant's reapplication  
19 may be considered only if the participant presents new medical  
20 evidence of a medical condition that existed prior to the  
21 participant's termination of employment. The division may  
22 prescribe by rule procedures for reapplication and for review  
23 and approval or disapproval of reapplication.  
24 (j) Nothing in this subsection shall be construed to  
25 prevent a participant who has been approved for a disability  
26 retirement benefit payable under this subsection from electing  
27 to receive, in lieu of the benefit payable under this  
28 subsection, the benefit payable to him or her under the  
29 provisions of subsection (1), provided such election is made  
30 prior to the deposit or cashing of a disability retirement  
31 warrant or receipt of such warrant by electronic funds

1 transfer in accordance with the participant's authorization of  
2 direct deposit of such funds.

3 (k) The division may require periodic reexaminations  
4 at the expense of the Public Employee Disability Trust Fund.  
5 The division may adopt rules establishing procedures for  
6 conducting and review of such reexaminations. If the division  
7 finds that a participant who is receiving disability benefits  
8 is no longer disabled, the division shall direct that the  
9 disability benefits be discontinued and no further benefits  
10 shall be payable under this subsection. The decision of the  
11 division on this question shall be final and binding. Upon  
12 termination of the monthly disability benefit:

13 1. If such participant does not reenter covered  
14 employment following recovery from disability and had not  
15 satisfied the vesting requirement as of the disability  
16 retirement date for any or all of the moneys which had  
17 accumulated in his or her participant accounts, the remainder  
18 of the nonvested accumulation as described under subparagraph  
19 5., if any, shall be held in a suspense account in the Public  
20 Employee Disability Trust Fund.

21 a. If the participant returns to covered employment as  
22 an eligible employee as defined in s. 121.4501(2) within 5  
23 years after the date of recovery, the division shall transfer  
24 any such moneys held in the suspense account, plus interest  
25 calculated at an effective annual rate of 6 percent, to the  
26 State Board of Administration for deposit in the participant's  
27 individual account under the optional program, as directed by  
28 the participant.

29 b. If the participant fails to return to covered  
30 employment within 5 years after recovery, any such moneys held  
31

1 in the suspense account in the Public Employee Disability  
2 Trust Fund shall be forfeited.

3 2. If such participant does not reenter covered  
4 employment following recovery from disability but had  
5 satisfied vesting requirements as of the disability retirement  
6 date for any or all of the moneys which had accumulated in his  
7 or her accounts under the optional program, the amount  
8 representing the remainder of his or her vested accumulation  
9 as described under subparagraph 5., if any, shall be  
10 transferred from the Public Employee Disability Trust Fund to  
11 the Public Employee Optional Retirement Program Trust Fund and  
12 shall be payable as provided in subsection (1).

13 3. If such participant returns to covered employment  
14 following recovery from disability as a participant in the  
15 optional program, the amount representing the remainder of his  
16 or her nonvested accumulation or the remainder of his or her  
17 vested accumulation as described under subparagraph 5., if  
18 any, shall be transferred from the Public Employee Disability  
19 Trust Fund to the third-party administrator for deposit in the  
20 participant's individual investment accounts as directed by  
21 the participant. Vested accumulations shall be accounted for  
22 separately from nonvested accumulations.

23 4. If such participant reenters covered employment as  
24 a member of the defined benefit program of the Florida  
25 Retirement System, and is continuously employed for a minimum  
26 of 1 year of creditable service, he or she may claim as  
27 creditable service the months during which he or she was  
28 receiving a disability benefit, upon payment of the required  
29 contributions as provided in s. 121.091(4)(h)1.d.

30 5. As used in reference to funds deposited in the  
31 Public Employee Disability Trust Fund under paragraph (a):

1           a. The term "remainder of the nonvested accumulation"  
2 means all employer contributions deposited on behalf of a  
3 participant who had not met the vesting requirement set forth  
4 in s. 121.4501(6)(a)1. as of his or her disability retirement  
5 date and any transferred present value amount deposited on  
6 behalf of a participant who had not met the vesting  
7 requirement set forth in s. 121.4501(6)(b)1. as of his or her  
8 disability retirement date, plus interest and earnings  
9 thereon, less the total amount of disability benefits received  
10 by that participant.

11           b. The term "remainder of the vested accumulation"  
12 means all employer contributions deposited on behalf of any  
13 participant who had met the vesting requirement set forth in  
14 s. 121.4501(6)(a)1. as of his or her disability retirement  
15 date and any transferred present value amount deposited on  
16 behalf of any participant who had met the vesting requirement  
17 set forth in s. 121.4501(6)(b)1. as of his or her disability  
18 retirement date, plus interest and earnings thereon, less the  
19 total amount of disability benefits received by that  
20 participant.

21           (1) Both the participant receiving disability benefits  
22 who reenters employment and the employer employing such  
23 disability retiree shall notify the division immediately upon  
24 reemployment and the division shall terminate such  
25 participant's disability benefits, effective upon the first  
26 day of the month following the month in which notification of  
27 recovery is received. If the participant is reemployed with a  
28 Florida Retirement System employer at the time of benefit  
29 termination and he or she has received disability retirement  
30 benefit and salary payments concurrently prior to notifying  
31 the division, he or she may elect within 30 days to:



1           1. Retain the retirement benefits received prior to  
2 termination of disability benefits and begin receiving  
3 retirement service credit effective upon the date of  
4 termination of benefits; or

5           2. Repay, within 12 months after his or her decision  
6 to receive service credit, the retirement benefits received  
7 for each month of reemployment prior to termination of  
8 disability benefits and begin receiving retirement service  
9 credit effective upon the date of reemployment. Any such  
10 unpaid benefits shall have compound interest of 6.5 percent  
11 added each June 30.

12  
13 A participant may not receive both retirement service credit  
14 for employment and retirement benefits for the same month.

15           (m) If, after recovery from disability and reentry  
16 into covered employment, the participant again becomes  
17 disabled and is again approved for disability retirement, the  
18 Option 1 monthly retirement benefit shall not be less than the  
19 Option 1 monthly benefit calculated at the time of the  
20 previous disability, plus any cost-of-living increases payable  
21 up to the time the disability benefit was terminated upon his  
22 or her reentry into covered employment.

23           (n) A participant shall not be entitled to receive any  
24 disability retirement benefit if the disability is a result  
25 of:

26           1. Injury or disease sustained by the participant  
27 while willfully participating in a riot, civil insurrection,  
28 or other act of violence or while committing a felony;

29           2. Injury or disease sustained by the participant  
30 after his or her employment has terminated; or

31           3. Intentional, self-inflicted injury.

1           (o)1. If a participant is a justice of the Supreme  
2 Court, judge of a district court of appeal, circuit judge, or  
3 judge of a county court who has served for 6 years or more as  
4 an elected constitutional judicial officer, including service  
5 as a judicial officer in any court abolished pursuant to Art.  
6 V of the State Constitution, and who is retired for disability  
7 by order of the Supreme Court upon recommendation of the  
8 Judicial Qualifications Commission pursuant to the provisions  
9 of Art. V of the State Constitution, the participant's Option  
10 1 monthly disability benefit amount as provided in s.  
11 121.091(6)(a)1. shall be two-thirds of his or her monthly  
12 compensation as of the participant's disability retirement  
13 date. Such a participant may alternatively elect to receive an  
14 actuarially adjusted disability retirement benefit under any  
15 other option as provided in s. 121.091(6)(a), or to receive  
16 the normal benefit payable under the optional program as set  
17 forth under subsection (1).

18           2. If any justice or judge who is a participant of the  
19 optional program is retired for disability by order of the  
20 Supreme Court upon recommendation of the Judicial  
21 Qualifications Commission pursuant to the provisions of Art. V  
22 of the State Constitution and elects to receive a monthly  
23 disability benefit under the provisions of this paragraph:

24           a. Any present value amount which was transferred to  
25 his or her program account and all employer contributions made  
26 to such account on his or her behalf, plus interest and  
27 earnings thereon, shall be transferred to and deposited in the  
28 Public Employee Disability Trust Fund.

29           b. The monthly benefits payable under this paragraph  
30 for any affected justice or judge retired from the Florida  
31

1 Retirement System pursuant to Art. V of the State Constitution  
2 shall be paid from the Public Employee Disability Trust Fund.

3 (3) DEATH BENEFITS.--Under the optional program:

4 (a) Survivor benefits shall be payable in accordance  
5 with the following terms and conditions:

6 1. To the extent vested, benefits shall be payable  
7 only to a participant's beneficiary or beneficiaries as  
8 designated by the participant.

9 2. Benefits shall be paid by the third-party  
10 administrator or designated approved providers in accordance  
11 with the law, the contracts, and any applicable board rule or  
12 policy.

13 3. To receive benefits under this subsection, the  
14 participant must be deceased.

15 (b) In the event of a participant's death, all vested  
16 accumulations as described in s. 121.4501(6), less withholding  
17 taxes remitted to the Internal Revenue Service, shall be  
18 distributed, as provided in paragraph (c), to the  
19 participant's designated beneficiary or beneficiaries, or to  
20 the participant's estate, as if the participant retired on the  
21 date of death. No other death benefits shall be available for  
22 survivors of participants under the optional program, except  
23 for such benefits, or coverage for such benefits, as are  
24 otherwise provided by law or are separately afforded by the  
25 employer, at the employer's discretion.

26 (c) Upon receipt by the third-party administrator of a  
27 properly executed application for distribution of benefits,  
28 the total accumulated benefit shall be payable by the  
29 third-party administrator to the participant's surviving  
30 beneficiary or beneficiaries as:

31

1           1. A lump-sum distribution payable to the beneficiary  
2 or beneficiaries or to the deceased participant's estate;

3           2. An eligible rollover distribution on behalf of the  
4 surviving spouse of a deceased participant, whereby all  
5 accrued benefits, plus interest and investment earnings, are  
6 paid from the deceased participant's account directly to the  
7 custodian of an individual retirement account or an individual  
8 retirement annuity, as described in s. 402(c)(9) of the  
9 Internal Revenue Code, on behalf of the surviving spouse; or

10           3. A partial lump-sum payment whereby a portion of the  
11 accrued benefit is paid to the deceased participant's  
12 surviving spouse or other designated beneficiaries, less  
13 withholding taxes remitted to the Internal Revenue Service,  
14 and the remaining amount is transferred directly to the  
15 custodian of an individual retirement account or an individual  
16 retirement annuity, as described in s. 402(c)(9) of the  
17 Internal Revenue Code, on behalf of the surviving spouse. The  
18 proportions must be specified by the participant or the  
19 surviving beneficiary.

20  
21 This paragraph does not abrogate other applicable provisions  
22 of state or federal law providing for payment of death  
23 benefits.

24           (4) LIMITATION ON LEGAL PROCESS.--The benefits payable  
25 to any person under the optional program and any contributions  
26 accumulated under such program are not subject to assignment,  
27 execution, attachment, or any legal process, except for  
28 qualified domestic relations orders by a court of competent  
29 jurisdiction, income deduction orders as provided in s.  
30 61.1301, and federal income tax levies.

31

1           Section 4. The Legislature finds that a proper and  
2 legitimate state purpose is served when employees and retirees  
3 of the state and of its political subdivisions, and the  
4 dependents, survivors, and beneficiaries of such employees and  
5 retirees, are extended the basic protections afforded by  
6 governmental retirement systems that provide fair and adequate  
7 benefits that are managed, administered, and funded in an  
8 actuarially sound manner, as required by section 14, Article X  
9 of the State Constitution and part VII of chapter 112, Florida  
10 Statutes. Therefore, the Legislature determines and declares  
11 that this act fulfills an important state interest.

12           Section 5. This act shall take effect July 1, 2001.

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14           \*\*\*\*\*

15           HOUSE SUMMARY

16           Revises required employer contribution rates to  
17           disability accounts under the Public Employee Optional  
18           Retirement Program of the Florida Retirement System.  
19           Creates a specific provision for payment of normal  
20           benefits, disability retirement benefits, and death  
21           benefits under the Public Employee Optional Retirement  
22           Program. Provides for disability retirement of justices  
23           or judges by order of the Supreme Court. Limits  
24           application of legal process to normal, disability  
25           retirement, and death benefits.

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