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2 An act relating to retirement; amending s.
3 121.053, F.S.; authorizing elected officers
4 participating in DROP to terminate
5 participation in DROP and enroll in a subclass
6 of the Elected Officers' Class; amending s.
7 121.091, F.S.; increasing the time for
8 participation in the Deferred Retirement Option
9 Program for members of the Elected Officers'
10 Class of the Florida Retirement System;
11 providing that elected officers are not subject
12 to termination limitations; amending s.
13 122.0515, F.S., relating to special risk
14 membership; revising criteria for members
15 inclusion in the Elected Officers' Class;
16 providing requirements for the appointment of
17 the executive director of the State Board of
18 Administration; providing a declaration of an
19 important state interest; providing for a
20 one-time cost-of-living increase for certain
21 retired members of the Florida Retirement
22 System who have service credit earned between
23 September 30, 1978, and January 1, 1993, in the
24 Special Risk Class of the Florida Retirement
25 System; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Paragraph (b) of subsection (1) of section
30 121.053, Florida Statutes, is amended to read:

31

1 121.053 Participation in the Elected Officers' Class
2 for retired members.--
3 (1)
4 (b) Any retired member of the Florida Retirement
5 System, or any existing system as defined in s. 121.021(2),
6 who, on or after July 1, 1990, is serving in, or is elected or
7 appointed to, an elective office covered by the Elected
8 Officers' Class shall be enrolled in the appropriate subclass
9 of the Elected Officers' Class of the Florida Retirement
10 System, and applicable contributions shall be paid into the
11 Florida Retirement System Trust Fund as provided in s.
12 121.052(7). Pursuant thereto:
13 1. Any such retired member shall be eligible to
14 continue to receive retirement benefits as well as
15 compensation for the elected officer service for as long as he
16 or she remains in an elective office covered by the Elected
17 Officers' Class.
18 2. If any such member serves in an elective office
19 covered by the Elected Officers' Class and becomes vested
20 under that class, he or she shall be entitled to receive an
21 additional retirement benefit for such elected officer
22 service.
23 3. Such member shall be entitled to purchase
24 additional retirement credit in the Elected Officers' Class
25 for any postretirement service performed in an elected
26 position eligible for the Elected Officers' Class prior to
27 July 1, 1990, or in the Regular Class for any postretirement
28 service performed in any other regularly established position
29 prior to July 1, 1991, by paying the applicable Elected
30 Officers' Class or Regular Class employee and employer
31 contributions for the period being claimed, plus 4 percent

1 interest compounded annually from the first year of service
2 claimed until July 1, 1975, and 6.5 percent interest
3 compounded thereafter, until full payment is made to the
4 Florida Retirement System Trust Fund. The contribution for
5 postretirement Regular Class service between July 1, 1985, and
6 July 1, 1991, for which the reemployed retiree contribution
7 was paid, shall be the difference between such contribution
8 and the total applicable contribution for the period being
9 claimed, plus interest. The employer of such member may pay
10 the applicable employer contribution in lieu of the member. If
11 a member does not wish to claim credit for all of the
12 postretirement service for which he or she is eligible, the
13 service the member claims must be the most recent service.

14 4. Creditable service for which credit was received,
15 or which remained unclaimed, at retirement may not be claimed
16 or applied toward service credit earned following renewed
17 membership. However, service earned in accordance with the
18 renewed membership provisions in s. 121.122 may be used in
19 conjunction with creditable service earned under this
20 paragraph, provided applicable vesting requirements and other
21 existing statutory conditions required by this chapter are
22 met.

23 5. Any elected officer who is a participating member
24 of DROP may terminate participation at any time during the
25 60-month DROP participation period and elect to enroll in the
26 appropriate subclass of the Elected Officers' Class, including
27 participating in the Senior Management Service Class,
28 effective the first day of the following month.

29 Section 2. Paragraph (b) of subsection (13) of section
30 121.091, Florida Statutes, is amended to read:

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1 121.091 Benefits payable under the system.--Benefits
2 may not be paid under this section unless the member has
3 terminated employment as provided in s. 121.021(39)(a) or
4 begun participation in the Deferred Retirement Option Program
5 as provided in subsection (13), and a proper application has
6 been filed in the manner prescribed by the department. The
7 department may cancel an application for retirement benefits
8 when the member or beneficiary fails to timely provide the
9 information and documents required by this chapter and the
10 department's rules. The department shall adopt rules
11 establishing procedures for application for retirement
12 benefits and for the cancellation of such application when the
13 required information or documents are not received.

14 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
15 and subject to the provisions of this section, the Deferred
16 Retirement Option Program, hereinafter referred to as the
17 DROP, is a program under which an eligible member of the
18 Florida Retirement System may elect to participate, deferring
19 receipt of retirement benefits while continuing employment
20 with his or her Florida Retirement System employer. The
21 deferred monthly benefits shall accrue in the System Trust
22 Fund on behalf of the participant, plus interest compounded
23 monthly, for the specified period of the DROP participation,
24 as provided in paragraph (c). Upon termination of employment,
25 the participant shall receive the total DROP benefits and
26 begin to receive the previously determined normal retirement
27 benefits. Participation in the DROP does not guarantee
28 employment for the specified period of DROP.

29 (b) Participation in the DROP.--

30 1. An eligible member may elect to participate in the
31 DROP for a period not to exceed a maximum of 60 calendar

1 months immediately following the date on which the member
2 first reaches his or her normal retirement date or the date to
3 which he or she is eligible to defer his or her election to
4 participate as provided in subparagraph (a)2. However, a
5 member who has reached normal retirement date prior to the
6 effective date of the DROP shall be eligible to participate in
7 the DROP for a period of time not to exceed 60 calendar months
8 immediately following the effective date of the DROP, except a
9 member of the Special Risk Class who has reached normal
10 retirement date prior to the effective date of the DROP and
11 whose total accrued value exceeds 75 percent of average final
12 compensation as of his or her effective date of retirement
13 shall be eligible to participate in the DROP for no more than
14 36 calendar months immediately following the effective date of
15 the DROP.

16 2. Upon deciding to participate in the DROP, the
17 member shall submit, on forms required by the division:
18 a. A written election to participate in the DROP;
19 b. Selection of the DROP participation and termination
20 dates, which satisfy the limitations stated in paragraph (a)
21 and subparagraph 1. Such termination date shall be in a
22 binding letter of resignation with the employer, establishing
23 a deferred termination date. The member may change the
24 termination date within the limitations of subparagraph 1.,
25 but only with the written approval of his or her employer;
26 c. A properly completed DROP application for service
27 retirement as provided in this section; and
28 d. Any other information required by the division.

29 3. The DROP participant shall be a retiree under the
30 Florida Retirement System for all purposes, except for
31 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,

1 121.053, and 121.122. However, participation in the DROP does
2 not alter the participant's employment status and such
3 employee shall not be deemed retired from employment until his
4 or her deferred resignation is effective and termination
5 occurs as provided in s. 121.021(39).

6 4. Elected officers shall be eligible to participate
7 in the DROP subject to the following:

8 a. An elected officer who reaches normal retirement
9 date during a term of office may defer the election to
10 participate in the DROP until the next succeeding term in that
11 office. Such elected officer who exercises this option may
12 participate in the DROP for up to 60 calendar months or a
13 period of no longer than such succeeding term of office,
14 whichever is less.

15 b. An elected or a nonelected participant may run for
16 a term of office while participating in DROP and, if elected,
17 extend the DROP termination date accordingly, except, however,
18 if such additional term of office exceeds the 60-month
19 limitation established in subparagraph 1., and the officer
20 does not resign from office within such 60-month limitation,
21 the retirement and the participant's DROP shall be null and
22 void as provided in sub-subparagraph (c)5.d.

23 c. An elected officer who is dually employed and
24 elects to participate in DROP shall be required to satisfy the
25 definition of termination within the 60-month limitation
26 period as provided in subparagraph 1. for the nonelected
27 position and may continue employment as an elected officer as
28 provided in s. 121.053. The elected officer will be enrolled
29 as a renewed member in the Elected Officers' Class or the
30 Regular Class, as provided in ss. 121.053 and 121.22, on the
31 first day of the month after termination of employment in the

1 nonelected position and termination of DROP. Distribution of
2 the DROP benefits shall be made as provided in paragraph (c).

3 d. An elected officer who is elected or appointed to
4 an elective office is not subject to termination limitations
5 as provided in chapter 121.

6 Section 3. Effective October 1, 2001, subsection (2)
7 of section 121.0515, Florida Statutes, is amended to read:

8 121.0515 Special risk membership.--

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

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

27 (b) The member must be employed as a firefighter and
28 be certified, or required to be certified, in compliance with
29 s. 633.35 and be employed solely within the fire department of
30 a local government ~~the~~ employer or an agency of state
31 government with firefighting responsibilities. In addition,

1 the member's duties and responsibilities must include
2 on-the-scene fighting of fires, fire prevention, or
3 firefighter training;~~or~~ direct supervision of firefighting
4 units, fire prevention, or firefighter training; or aerial
5 firefighting surveillance performed by fixed-wing pilots
6 employed by the Division of Forestry of the Department of
7 Agriculture and Consumer Services;~~or~~ the member must be the
8 supervisor or command officer of a member or members who have
9 such responsibilities; provided, however, administrative
10 support personnel, including, but not limited to, those whose
11 primary duties and responsibilities are in accounting,
12 purchasing, legal, and personnel, shall not be included;

13 (c) The member must be employed as a correctional
14 officer and be certified, or required to be certified, in
15 compliance with s. 943.1395. In addition, the member's
16 primary duties and responsibilities must be the custody, and
17 physical restraint when necessary, of prisoners or inmates
18 within a prison, jail, or other criminal detention facility,
19 or while on work detail outside the facility, or while being
20 transported; or the member must be the supervisor or command
21 officer of a member or members who have such responsibilities;
22 provided, however, administrative support personnel,
23 including, but not limited to, those whose primary duties and
24 responsibilities are in accounting, purchasing, legal, and
25 personnel, shall not be included; however, wardens and
26 assistant wardens, as defined by rule, shall participate in
27 the Special Risk Class;

28 (d) The member must be employed by a licensed Advance
29 Life Support (ALS) or Basic Life Support (BLS) employer as an
30 emergency medical technician or a paramedic and be certified
31 in compliance with s. 401.27. In addition, the member's

1 primary duties and responsibilities must include on-the-scene
2 emergency medical care or direct supervision of emergency
3 medical technicians or paramedics, or the member must be the
4 supervisor or command officer of one or more members who have
5 such responsibility. However, administrative support
6 personnel, including, but not limited to, those whose primary
7 responsibilities are in accounting, purchasing, legal, and
8 personnel, shall not be included;

9 (e) The member must be employed as a community-based
10 correctional probation officer and be certified, or required
11 to be certified, in compliance with s. 943.1395. In addition,
12 the member's primary duties and responsibilities must be the
13 supervised custody, surveillance, control, investigation, and
14 counseling of assigned inmates, probationers, parolees, or
15 community controllees within the community; or the member must
16 be the supervisor of a member or members who have such
17 responsibilities. Administrative support personnel, including,
18 but not limited to, those whose primary duties and
19 responsibilities are in accounting, purchasing, legal
20 services, and personnel management, shall not be included;
21 however, probation and parole circuit and deputy circuit
22 administrators shall participate in the Special Risk Class; or

23 (f) The member must be employed in one of the
24 following classes and must spend at least 75 percent of his or
25 her time performing duties which involve contact with patients
26 or inmates in a correctional or forensic facility or
27 institution:

- 28 1. Dietitian (class codes 5203 and 5204).
- 29 2. Public health nutrition consultant (class code
30 5224).

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- 1 3. Psychological specialist (class codes 5230 and
- 2 5231).
- 3 4. Psychologist (class code 5234).
- 4 5. Senior psychologist (class codes 5237 and 5238).
- 5 6. Regional mental health consultant (class code
- 6 5240).
- 7 7. Psychological Services Director--DCF (class code
- 8 5242).
- 9 8. Pharmacist (class codes 5245 and 5246).
- 10 9. Senior pharmacist (class codes 5248 and 5249).
- 11 10. Dentist (class code 5266).
- 12 11. Senior dentist (class code 5269).
- 13 12. Registered nurse (class codes 5290 and 5291).
- 14 13. Senior registered nurse (class codes 5292 and
- 15 5293).
- 16 14. Registered nurse specialist (class codes 5294 and
- 17 5295).
- 18 15. Clinical associate (class codes 5298 and 5299).
- 19 16. Advanced registered nurse practitioner (class
- 20 codes 5297 and 5300).
- 21 17. Advanced registered nurse practitioner specialist
- 22 (class codes 5304 and 5305).
- 23 18. Registered nurse supervisor (class codes 5306 and
- 24 5307).
- 25 19. Senior registered nurse supervisor (class codes
- 26 5308 and 5309).
- 27 20. Registered nursing consultant (class codes 5312
- 28 and 5313).
- 29 21. Quality management program supervisor (class code
- 30 5314).
- 31

1 22. Executive nursing director (class codes 5320 and
2 5321).

3 23. Speech and hearing therapist (class code 5406); or

4 24. Pharmacy manager (class code 5251).

5 Section 4. Effective October 1, 2001, subsection (1)
6 of section 121.055, Florida Statutes, is 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)(a) Participation in the Senior Management Service
13 Class shall be limited to and compulsory for any member of the
14 Florida Retirement System who holds a position in the Senior
15 Management Service of the State of Florida, established by
16 part III of chapter 110, unless such member elects, within the
17 time specified herein, to participate in the Senior Management
18 Service Optional Annuity Program as established in subsection
19 (6).

20 (b)1. Except as provided in subparagraph 2., effective
21 January 1, 1990, participation in the Senior Management
22 Service Class shall be compulsory for the president of each
23 community college, the manager of each participating city or
24 county, and all appointed district school superintendents.
25 Effective January 1, 1994, additional positions may be
26 designated for inclusion in the Senior Management Service
27 Class of the Florida Retirement System, provided that:

28 a. Positions to be included in the class shall be
29 designated by the local agency employer. Notice of intent to
30 designate positions for inclusion in the class shall be
31 published once a week for 2 consecutive weeks in a newspaper

1 of general circulation published in the county or counties
2 affected, as provided in chapter 50.

3 b. Up to 10 nonelective full-time positions may be
4 designated for each local agency employer reporting to the
5 Department of Management Services; for local agencies with 100
6 or more regularly established positions, additional
7 nonelective full-time positions may be designated, not to
8 exceed 1 percent of the regularly established positions within
9 the agency.

10 c. Each position added to the class must be a
11 managerial or policymaking position filled by an employee who
12 is not subject to continuing contract and serves at the
13 pleasure of the local agency employer without civil service
14 protection, and who:

15 (I) Heads an organizational unit; or

16 (II) Has responsibility to effect or recommend
17 personnel, budget, expenditure, or policy decisions in his or
18 her areas of responsibility.

19 2. In lieu of participation in the Senior Management
20 Service Class, members of the Senior Management Service Class
21 pursuant to the provisions of subparagraph 1. may withdraw
22 from the Florida Retirement System altogether. The decision to
23 withdraw from the Florida Retirement System shall be
24 irrevocable for as long as the employee holds such a position.
25 Any service creditable under the Senior Management Service
26 Class shall be retained after the member withdraws from the
27 Florida Retirement System; however, additional service credit
28 in the Senior Management Service Class shall not be earned
29 after such withdrawal. Such members shall not be eligible to
30 participate in the Senior Management Service Optional Annuity
31 Program.

1 (c)1. Effective January 1, 1990, participation in the
2 Senior Management Service Class shall be compulsory for up to
3 75 nonelective positions at the level of committee staff
4 director or higher or equivalent managerial or policymaking
5 positions within the House of Representatives, as selected by
6 the Speaker of the House of Representatives, up to 50
7 nonelective positions at the level of committee staff director
8 or higher or equivalent managerial or policymaking positions
9 within the Senate, as selected by the President of the Senate,
10 all staff directors of joint committees and service offices of
11 the Legislature, the Auditor General and up to 9 managerial or
12 policymaking positions within his or her office as selected by
13 the Auditor General, and the executive director of the
14 Commission on Ethics.

15 2. Participation in this class shall be compulsory,
16 except as provided in subparagraph 3., for any legislative
17 employee who holds a position designated for coverage in the
18 Senior Management Service Class, and such participation shall
19 continue until the employee terminates employment in a covered
20 position.

21 3. In lieu of participation in the Senior Management
22 Service Class, at the discretion of the President of the
23 Senate and the Speaker of the House of Representatives, such
24 members may participate in the Senior Management Service
25 Optional Annuity Program as established in subsection (6).

26 (d) Effective January 1, 1991, participation in the
27 Senior Management Service Class shall be compulsory for any
28 member of the Florida Retirement System in a position that has
29 been designated eligible for inclusion in the Executive
30 Service of the State University System or who holds a position
31 as president of a state university, unless such member elects,

1 pursuant to s. 121.35, to participate in the optional
2 retirement program.

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

16 (f) Effective July 1, 1997:

17 1. Any elected state officer eligible for membership
18 in the Elected Officers' Class under s. 121.052(2)(a), (b), or
19 (c) who elects membership in the Senior Management Service
20 Class under s. 121.052(3)(c) may, within 6 months after
21 assuming office or within 6 months after this act becomes a
22 law for serving elected state officers, elect to participate
23 in the Senior Management Service Optional Annuity Program, as
24 provided in subsection (6), in lieu of membership in the
25 Senior Management Service Class.

26 2. Any elected county officer eligible for membership
27 in the Elected Officers' Class under s. 121.052(2)(d) who
28 elects membership in the Senior Management Service Class under
29 s. 121.052(3)(c) may, within 6 months after assuming office,
30 or within 6 months after this act becomes a law for serving
31 elected county officers, elect to participate in a lifetime

1 monthly annuity program, as provided in subparagraph (b)2., in
2 lieu of membership in the Senior Management Service Class.

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

15 (h)1. Except as provided in subparagraph 3., effective
16 January 1, 1994, participation in the Senior Management
17 Service Class shall be compulsory for the State Courts
18 Administrator and the Deputy State Courts Administrators, the
19 Clerk of the Supreme Court, the Marshal of the Supreme Court,
20 the Executive Director of the Justice Administrative
21 Commission, the Capital Collateral Regional Counsels, the
22 clerks of the district courts of appeals, the marshals of the
23 district courts of appeals, and the trial court administrator
24 in each judicial circuit. Effective January 1, 1994,
25 additional positions in the offices of the state attorney and
26 public defender in each judicial circuit may be designated for
27 inclusion in the Senior Management Service Class of the
28 Florida Retirement System, provided that:

29 a. Positions to be included in the class shall be
30 designated by the state attorney or public defender, as
31 appropriate. Notice of intent to designate positions for

1 inclusion in the class shall be published once a week for 2
2 consecutive weeks in a newspaper of general circulation
3 published in the county or counties affected, as provided in
4 chapter 50.

5 b. One nonelective full-time position may be
6 designated for each state attorney and public defender
7 reporting to the Department of Management Services; for
8 agencies with 200 or more regularly established positions
9 under the state attorney or public defender, additional
10 nonelective full-time positions may be designated, not to
11 exceed 0.5 percent of the regularly established positions
12 within the agency.

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

17 (I) Heads an organizational unit; or

18 (II) Has responsibility to effect or recommend
19 personnel, budget, expenditure, or policy decisions in his or
20 her areas of responsibility.

21 2. Participation in this class shall be compulsory,
22 except as provided in subparagraph 3., for any judicial
23 employee who holds a position designated for coverage in the
24 Senior Management Service Class, and such participation shall
25 continue until the employee terminates employment in a covered
26 position. Effective January 1, 2001, participation in this
27 class is compulsory for assistant state attorneys, assistant
28 statewide prosecutors, assistant public defenders, and
29 assistant capital collateral regional counsels. Effective
30 January 1, 2002, participation in this class is compulsory for
31 assistant attorneys general.

1 3. In lieu of participation in the Senior Management
2 Service Class, such members, excluding assistant state
3 attorneys, assistant public defenders, assistant statewide
4 prosecutors, assistant attorneys general, and assistant
5 capital collateral regional counsels, may participate in the
6 Senior Management Service Optional Annuity Program as
7 established in subsection (6).

8 (i)1. Except as provided in subparagraph 2., effective
9 July 1, 1999, participation in the Senior Management Service
10 Class is compulsory for any member of the Florida Retirement
11 System who is employed as a judge of compensation claims with
12 the Office of the Judges of Compensation Claims within the
13 Department of Labor and Employment Security.

14 2. In lieu of participating in the Senior Management
15 Service Class, a judge of compensation claims may participate
16 in the Senior Management Service Optional Annuity Program
17 established under subsection (6).

18 (j) Except as may otherwise be provided, any member of
19 the Senior Management Service Class may purchase additional
20 retirement credit in such class for creditable service within
21 the purview of the Senior Management Service Class retroactive
22 to February 1, 1987, and may upgrade retirement credit for
23 such service, to the extent of 2 percent of the member's
24 average monthly compensation as specified in paragraph (4)(d)
25 for such service. Contributions for upgrading the additional
26 Senior Management Service credit pursuant to this paragraph
27 shall be equal to the difference in the contributions paid and
28 the Senior Management Service Class contribution rate as a
29 percentage of gross salary in effect for the period being
30 claimed, plus interest thereon at the rate of 6.5 percent a
31 year, compounded annually until the date of payment. This

1 service credit may be purchased by the employer on behalf of
2 the member.

3 Section 5. Subsection (1), paragraph (a) of subsection
4 (2), paragraph (e) of subsection (4), paragraph (b) of
5 subsection (8), and paragraphs (a) and (b) of subsection (9)
6 of section 121.4501, Florida Statutes, are amended, and
7 paragraph (f) is added to subsection (9) of that section, to
8 read:

9 121.4501 Public Employee Optional Retirement
10 Program.--

11 (1) The Trustees of the State Board of Administration
12 shall establish an optional defined contribution retirement
13 program for members of the Florida Retirement System under
14 which retirement benefits will be provided for eligible
15 employees who elect to participate in the program. The
16 benefits to be provided for or on behalf of participants in
17 such optional retirement program shall be provided through
18 employee-directed investments, in accordance with s. 401(a) of
19 the Internal Revenue Code and its related regulations. The
20 employers shall contribute, as provided in this section and s.
21 121.571, to the Public Employee Optional Retirement Program
22 Trust Fund toward the funding of such optional benefits.

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

24 (a) "Approved provider" or "provider" means a private
25 sector company that is selected and approved by the state
26 board to offer one or more investment products or services to
27 the Public Employee Optional Retirement Program. The term
28 includes a bundled provider that offers participants a range
29 of individually allocated or unallocated investment products
30 and may offer a range of administrative and customer services,
31 which may include accounting and administration of individual

1 participant benefits and contributions; individual participant
2 recordkeeping; asset purchase, control, and safekeeping;
3 direct execution of the participant's instructions as to asset
4 and contribution allocation; calculation of daily net asset
5 values; direct access to participant account information;
6 periodic reporting to participants, at least quarterly, on
7 account balances and transactions; guidance, advice, and
8 allocation services directly relating to its own investment
9 options or products, but only if the bundled provider complies
10 with the standard of care of s. 404(a)(1)(A-B) of the Employee
11 Retirement Income Security Act of 1974 (ERISA) and if
12 providing such guidance, advice, or allocation services does
13 not constitute a prohibited transaction under s. 4975(c)(1) of
14 the Internal Revenue Code or s. 406 of ERISA, notwithstanding
15 that such prohibited transaction provisions do not apply to
16 the optional retirement program; a broad array of distribution
17 options; asset allocation; and retirement counseling and
18 education.Private sector companies include investment
19 management companies, insurance companies, depositories, and
20 mutual fund companies.

21 (4) PARTICIPATION; ENROLLMENT.--

22 (e) After the period during which an eligible employee
23 had the choice to elect the defined benefit program or the
24 Public Employee Optional Retirement Program, the employee
25 shall have one opportunity, at the employee's discretion, to
26 choose to move from the defined benefit program to the Public
27 Employee Optional Retirement Program or from the Public
28 Employee Optional Retirement Program to the defined benefit
29 program. This paragraph shall be contingent upon approval from
30 the Internal Revenue Service for including the choice
31

1 described herein within the programs offered by the Florida
2 Retirement System.

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 and from
9 other employee moneys as necessary, a sum representing the
10 present value of that employee's accumulated benefit
11 obligation immediately following the time of such movement,
12 determined assuming that attained service equals the sum of
13 service in the defined benefit program and service in the
14 Public Employee Optional Retirement Program ~~all contributions~~
15 ~~that would have been made to the defined benefit plan for that~~
16 ~~employee and the actual return that would have been earned on~~
17 ~~those contributions had they been invested in the defined~~
18 ~~benefit program.~~ Benefit commencement occurs on the first date
19 the employee would become eligible for unreduced benefits,
20 using the discount rate and other relevant actuarial
21 assumptions that were used to value the Florida Retirement
22 System defined benefit plan liabilities in the most recent
23 actuarial valuation. For any employee who, at the time of the
24 second election, already maintains an accrued benefit amount
25 in the defined benefit plan, the then-present value of such
26 accrued benefit shall be deemed part of the required transfer
27 amount described in this subparagraph. The division shall
28 ensure that the transfer sum is prepared using a formula and
29 methodology certified by an enrolled actuary.

30 3. Notwithstanding subparagraph 2., an employee who
31 chooses to move to the defined benefit program and who became

1 eligible to participate in the Public Employee Optional
2 Retirement Program by reason of employment in a regularly
3 established position with a state employer after June 1, 2002;
4 a district school board employer after September 1, 2002; or a
5 local employer after December 1, 2002, must transfer from his
6 or her Public Employee Optional Retirement Program account
7 and, from other employee moneys as necessary, a sum
8 representing that employee's actuarial accrued liability.
9 4. Employees' ability to transfer from the Florida
10 Retirement System defined benefit program to the Public
11 Employee Optional Retirement Program pursuant to paragraphs
12 (a) through (d), and the ability for current employees to have
13 an option to later transfer back into the defined benefit
14 program under subparagraph 2., shall be deemed a significant
15 system amendment. Pursuant to s. 121.031(4), any such
16 resulting unfunded liability arising from actual original
17 transfers from the defined benefit program to the optional
18 program shall be amortized within 30 plan years as a separate
19 unfunded actuarial base independent of the reserve
20 stabilization mechanism defined in s. 121.031(3)(f). For the
21 first 25 years, no direct amortization payment shall be
22 calculated for this base. During this 25-year period, such
23 separate base shall be used to offset the impact of employees
24 exercising their second program election under this paragraph.
25 It is the legislative intent that the actuarial funded status
26 of the Florida Retirement System defined benefit plan is
27 neither beneficially nor adversely impacted by such second
28 program elections in any significant manner, after due
29 recognition of the separate unfunded actuarial base. Following
30 this initial 25-year period, any remaining balance of the
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1 original separate base shall be amortized over the remaining 5
2 years of the required 30-year amortization period.

3 (8) ADMINISTRATION OF PROGRAM.--

4 (b)1. The state board shall select and contract with
5 one third-party administrator to provide administrative
6 services if those services cannot be competitively and
7 contractually provided by the Division of Retirement within
8 the Department of Management Services. With the approval of
9 the state board, the third-party administrator may subcontract
10 with other organizations or individuals to provide components
11 of the administrative services. As a cost of administration,
12 the board may compensate any such contractor for its services,
13 in accordance with the terms of the contract, as is deemed
14 necessary or proper by the board. The third-party
15 administrator may not be an approved provider or be affiliated
16 with an approved provider.

17 2. These administrative services may include, but are
18 not limited to, enrollment of eligible employees, collection
19 of employer contributions, disbursement of such contributions
20 to approved providers in accordance with the allocation
21 directions of participants; services relating to consolidated
22 billing; individual and collective recordkeeping and
23 accounting; asset purchase, control, and safekeeping; and
24 direct disbursement of funds to and from the third-party
25 administrator, the division, the board, employers,
26 participants, approved providers, and beneficiaries. This
27 section does not prevent or prohibit a bundled provider from
28 providing any administrative or customer service, including
29 accounting and administration of individual participant
30 benefits and contributions; individual participant
31 recordkeeping; asset purchase, control, and safekeeping;

1 direct execution of the participant's instructions as to asset
2 and contribution allocation; calculation of daily net asset
3 values; direct access to participant account information; or
4 periodic reporting to participants, at least quarterly, on
5 account balances and transactions, if these services are
6 authorized by the board as part of the contract.

7 3. The state board shall select and contract with one
8 or more organizations to provide educational services. With
9 approval of the board, the organizations may subcontract with
10 other organizations or individuals to provide components of
11 the educational services. As a cost of administration, the
12 board may compensate any such contractor for its services in
13 accordance with the terms of the contract, as is deemed
14 necessary or proper by the board. The education organization
15 may not be an approved provider or be affiliated with an
16 approved provider.

17 4. Educational services shall be designed by the board
18 and department to assist employers, eligible employees,
19 participants, and beneficiaries in order to maintain
20 compliance with United States Department of Labor regulations
21 under s. 404(c) of the Employee Retirement Income Security Act
22 of 1974 and to assist employees in their choice of defined
23 benefit or defined contribution retirement alternatives.
24 Educational services include, but are not limited to,
25 disseminating educational materials; providing retirement
26 planning education; explaining the differences between the
27 defined benefit retirement plan and the defined contribution
28 retirement plan; and offering financial planning guidance on
29 matters such as investment diversification, investment risks,
30 investment costs, and asset allocation. An approved provider
31 may also provide educational information, including retirement

1 planning and investment allocation information concerning its
2 products and services.

3 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE
4 REVIEW.--

5 (a) The board shall develop policy and procedures for
6 selecting, evaluating, and monitoring the performance of
7 approved providers and investment products to which employees
8 may direct retirement contributions under the program. In
9 accordance with such policy and procedures, the board shall
10 designate and contract for a number of investment products as
11 determined by the board. The board shall also select one or
12 more bundled providers each of whom may offer multiple ~~who~~
13 ~~offer multiple~~ investment options and related services
14 ~~products~~ when such an approach is determined by the board to
15 afford value to the participants otherwise not available
16 through individual investment products. Each approved bundled
17 provider may offer investment options that provide
18 participants with the opportunity to invest in each of the
19 following asset classes, to be composed of individual options
20 that represent either a single asset class or a combination
21 thereof: money markets, United States fixed income, United
22 States equities, and foreign stock.The board shall review and
23 manage all educational materials, contract terms, fee
24 schedules, and other aspects of the approved provider
25 relationships to ensure that no provider is unduly favored or
26 penalized by virtue of its status within the plan.

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

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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 and may include a
4 guaranteed account as well as investment products, such as
5 individually allocated guaranteed and variable annuities,
6 which meet the requirements of this subsection and combine the
7 ability to accumulate investment returns with the option of
8 receiving lifetime income consistent with the long-term
9 retirement security of a pension plan and similar to the
10 lifetime-income benefit provided by the Florida Retirement
11 System.

12 2. Investment options or products offered by the group
13 of approved providers may include mutual funds, group annuity
14 contracts, individual retirement annuities, interests in
15 trusts, collective trusts, separate accounts, and other such
16 financial instruments, and may include products that give
17 participants the option of committing their contributions for
18 an extended time period in an effort to obtain returns higher
19 than those that could be obtained from investment products
20 offering full liquidity.

21 3. The board shall not contract with any provider that
22 imposes a front-end, back-end, contingent, or deferred sales
23 charge, or any other fee that limits or restricts the ability
24 of participants to select any investment product available in
25 the optional program. This prohibition does not apply to fees
26 or charges that are imposed on withdrawals from products that
27 give participants the option of committing their contributions
28 for an extended time period in an effort to obtain returns
29 higher than those that could be obtained from investment
30 products offering full liquidity, provided that the product in
31 question, net of all fees and charges, produces material

1 benefits relative to other comparable products in the program
2 offering full liquidity.

3 4. Fees or charges for insurance features, such as
4 mortality and expense-risk charges, must be reasonable
5 relative to the benefits provided.

6 (f)1. An approved provider shall comply with all
7 federal and state securities and insurance laws and
8 regulations applicable to the provider, as well as the
9 applicable rules and guidelines of the National Association of
10 Securities Dealers which govern the ethical marketing of
11 investment products. In furtherance of this mandate, an
12 approved provider must agree in its contract with the board to
13 establish and maintain a compliance education and monitoring
14 system to supervise the activities of all personnel who
15 directly communicate with individual participants and
16 recommend investment products, which system is consistent with
17 rules of the National Association of Securities Dealers.

18 2. Approved provider personnel who directly
19 communicate with individual participants and who recommend
20 investment products shall make an independent and unbiased
21 determination as to whether an investment product is suitable
22 for a particular participant.

23 3. The board shall develop procedures to receive and
24 resolve participant complaints against a provider or approved
25 provider personnel, and, when appropriate, refer such
26 complaints to the appropriate agency.

27 4. Approved providers may not sell or in any way
28 distribute any customer list or participant identification
29 information generated through their offering of products or
30 services through the optional retirement program.

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1 Section 6. Subsection (9) is added to section
2 121.0515, Florida Statutes, to read:

3 121.0515 Special risk membership.--

4 (9) CREDIT FOR UPGRADED SERVICE.--Any member of the
5 Special Risk Class who has earned creditable service in
6 another membership class of the Florida Retirement System as
7 an emergency medical technician or paramedic, which service is
8 within the purview of the Special Risk Class, may purchase
9 additional retirement credit to upgrade such service to
10 Special Risk Class service, to the extent of the percentages
11 of the member's average final compensation provided in s.
12 121.091(1)(a)2. Contributions for upgrading such service to
13 Special Risk Class credit under this subsection shall be equal
14 to the difference in the contributions paid and the Special
15 Risk Class contribution rate as a percentage of gross salary
16 in effect for the period being claimed, plus interest thereon
17 at the rate of 6.5 percent a year, compounded annually until
18 the date of payment. This service credit may be purchased by
19 the employer on behalf of the member.

20 Section 7. It is the intent of the Legislature that
21 any additional cost attributable to the upgrade in the
22 retirement benefits for emergency medical technicians and
23 paramedics above the contributions paid in accordance with
24 section 4 of this act shall be funded by recognition of the
25 necessary amount from the excess actuarial assets of the
26 Florida Retirement System Trust Fund.

27 Section 8. Paragraph (e) of subsection (3) of section
28 121.052, Florida Statutes, is amended to read:

29 121.052 Membership class of elected officers.--

30 (3) PARTICIPATION AND WITHDRAWAL,
31 GENERALLY.--Effective July 1, 1990, participation in the

1 Elected Officers' Class shall be compulsory for elected
2 officers listed in paragraphs (2)(a)-(d) and (f) assuming
3 office on or after said date, unless the elected officer
4 elects membership in another class or withdraws from the
5 Florida Retirement System as provided in paragraphs
6 (3)(a)-(d):

7 (e) Effective July 1, 2001 ~~1997~~, the governing body of
8 a municipality or special district may, by majority vote,
9 elect to designate all its elected positions for inclusion in
10 the Elected Officers' Class. Such election shall be made
11 between July 1, 2001 ~~1997~~, and December 31, 2001 ~~1997~~, and
12 shall be irrevocable. The designation of such positions shall
13 be effective the first day of the month following receipt by
14 the department of the ordinance or resolution passed by the
15 governing body.

16 Section 9. The appointment of the executive director
17 of the State Board of Administration shall be subject to the
18 approval by a majority vote of the Board of Trustees of the
19 State Board of Administration and the Governor must vote on
20 the prevailing side. Such appointment must be reaffirmed in
21 the same manner by the Board of Trustees on an annual basis.

22 Section 10. For those members with creditable service
23 in the Florida Retirement System Special Risk Class who have
24 retirement service credit in the Special Risk Class after
25 September 30, 1978, and before January 1, 1993, and who
26 retired or entered the Deferred Retirement Option Program of
27 the Florida Retirement System prior to July 1, 2000, such
28 members, or their beneficiaries if the member is deceased,
29 shall receive a one-time special cost-of-living increase on
30 January 1, 2002, equal to 12 percent of their gross retirement
31 benefit. Such increase shall be in addition to the normal

1 cost-of-living increase provided to such members on July 1,
2 2001.

3 Section 11. It is the intent of the Legislature that
4 the costs attributable to the additional cost-of-living
5 increase for special risk retirees and Deferred Retirement
6 Option Program participants as provided under section 2 shall
7 be funded by recognition of excess actuarial assets, amortized
8 over 30 years with the payments assumed to remain relatively
9 stable when expressed as a percentage of payroll. For fiscal
10 year 2001-2002, the payment shall be \$9.3 million. For fiscal
11 year 2002-2003, the payment shall be \$19 million, and,
12 thereafter, payments shall increase by 5 percent per year. If
13 insufficient funds are available to fund this additional cost
14 through recognition of excess actuarial assets in fiscal year
15 2002-2003 and any year thereafter, and there remains an
16 unfunded actuarial liability attributable to the one-time
17 cost-of-living increase provided under section 2, the payroll
18 contribution rate for the Special Risk Class of the Florida
19 Retirement System shall be increased by .93 percent effective
20 July 1 of that year, unless the Legislature provides an
21 alternative funding mechanism before that date.

22 Section 12. The Legislature finds that a proper and
23 legitimate state purpose is served when employees and retirees
24 of the state and 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 and that are managed, administered, and funded in an
29 actuarially sound manner, as required by Section 14, Article
30 X, of the State Constitution and part VII of chapter 112,

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

3 Section 13. This act shall take effect July 1, 2001.
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