

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Representative(s) Fasano offered the following:

Amendment (with title amendment)

On page 1, line 13,

insert:

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

121.4501 Public Employee Optional Retirement Program.--

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

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

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

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

(a) Benefits shall be provided in accordance with s.

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 401(a) of the Internal Revenue Code.

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

5 (c) Benefits shall be payable in accordance with s.
6 121.591.~~the following terms and conditions:~~

7 ~~1. To the extent vested, benefits shall be payable~~
8 ~~only to a participant, or to his or her beneficiaries as~~
9 ~~designated by the participant.~~

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

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

25 ~~4. In the event of a participant's death, moneys~~
26 ~~accumulated by, or on behalf of, the participant, less~~
27 ~~withholding taxes remitted to the Internal Revenue Service,~~
28 ~~shall be distributed to the participant's designated~~
29 ~~beneficiary or beneficiaries, or to the participant's estate,~~
30 ~~as if the participant retired on the date of death, as~~
31 ~~provided in paragraph (e). No other death benefits shall be~~

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 ~~available for survivors of participants under the Public~~
2 ~~Employee Optional Retirement Program, except for such~~
3 ~~benefits, or coverage for such benefits, as are separately~~
4 ~~afforded by the employer, at the employer's discretion.~~

5 ~~(d) Upon receipt by the third-party administrator of a~~
6 ~~properly executed application for distribution of benefits,~~
7 ~~the total accumulated benefit shall be payable to the~~
8 ~~participant, as:~~

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

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

15 ~~3. Periodic distributions, as authorized by the state~~
16 ~~board.~~

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

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

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

27 ~~3. A partial lump-sum payment whereby a portion of the~~
28 ~~accrued benefit is paid to the deceased participant's~~
29 ~~surviving spouse or other designated beneficiaries, less~~
30 ~~withholding taxes remitted to the Internal Revenue Service,~~
31 ~~and the remaining amount is transferred directly to the~~

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 ~~custodian of an individual retirement account or an individual~~
2 ~~retirement annuity, as described in s. 402(c)(9) of the~~
3 ~~Internal Revenue Code, on behalf of the surviving spouse. The~~
4 ~~proportions must be specified by the participant or the~~
5 ~~surviving beneficiary.~~

6
7 ~~This paragraph does not abrogate other applicable provisions~~
8 ~~of state or federal law providing for payment of death~~
9 ~~benefits.~~

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

17 (16) ~~DISABILITY BENEFITS.--For any participant of the~~
18 ~~optional retirement program who becomes totally and~~
19 ~~permanently disabled, benefits shall be paid in accordance~~
20 ~~with s. 121.591 as defined in s. 121.091(4)(b), the~~
21 ~~participant shall be entitled to receive those moneys that~~
22 ~~have accrued in his or her participant account. It is the~~
23 ~~intent of the Legislature to design a disability benefit for~~
24 ~~participants of the optional program similar to those~~
25 ~~disability benefits afforded defined benefit program members.~~
26 ~~The department is directed to study the potential options of~~
27 ~~such coverage, including self-insurance and commercial~~
28 ~~coverage, the alternative methods of administering such~~
29 ~~benefits, and the fiscal impacts on the employees and~~
30 ~~employers, and to make recommendations to the Legislature by~~
31 ~~January 15, 2001.~~

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

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

3 121.571 Contributions.--Contributions to the Public
4 Employee Optional Retirement Program shall be made as follows:

5 (3) CONTRIBUTIONS TO DISABILITY ACCOUNT.--

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

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

17		
18	Dates of Contribution	Employers
19	Rate Changes	
20	Effective July 1, 2002:	<u>0.25%</u> 0.39%
21		

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

24		
25	Dates of Contribution	Employers
26	Rate Changes	
27	Effective July 1, 2002:	<u>1.33%</u> 1.25%
28		

29 (d) Disability contributions for Special Risk
30 Administrative Support Class members of the optional
31 retirement plan are as follows:

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Dates of Contribution	Employers
Rate Changes	
Effective July 1, 2002:	<u>0.45%</u> 0.73%

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

Dates of Contribution	Employers
Rate Changes	
Effective July 1, 2002:	
Legislators	<u>0.41%</u> 0.61%
Governor, Lt. Governor, Cabinet Officers	<u>0.41%</u> 0.61%
State Attorneys, Public Defenders	<u>0.41%</u> 0.61%
Justices, Judges	<u>0.73%</u> 1.45%
County Elected Officers	<u>0.41%</u> 0.86%

(f) Disability contributions for Senior Management Service Class members of the optional retirement plan are as follows:

Dates of Contribution	Employers
Rate Changes	
Effective July 1, 2002:	<u>0.26%</u> 0.50%

Section 3. Section 121.591, Florida Statutes, is created to read:
121.591 Benefits payable under the Public Employee

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 Optional Retirement Program of the Florida Retirement
2 System.--Benefits may not be paid under this section unless
3 the member has terminated employment as provided in s.
4 121.021(39)(a) or is deceased and a proper application has
5 been filed in the manner prescribed by the state board or the
6 department. The state board or the department, as appropriate,
7 may cancel an application for retirement benefits when the
8 member or beneficiary fails to timely provide the information
9 and documents required by this chapter and the rules of the
10 state board and the department. In accordance with their
11 respective responsibilities as provided in this section, the
12 state board and the department shall adopt rules establishing
13 procedures for application for retirement benefits and for the
14 cancellation of such application when the required information
15 or documents are not received.

16 (1) NORMAL BENEFIT.--Under the optional program:
17 (a) Benefits, in the form of vested accumulations as
18 described in s. 121.4501(6), shall be payable under this
19 subsection as follows:

20 1. To the extent vested, benefits shall be payable
21 only to a participant.

22 2. Benefits shall be paid by the third-party
23 administrator or designated approved providers in accordance
24 with the law, the contracts, and any applicable board rule or
25 policy.

26 3. To receive benefits under this subsection, the
27 participant must be terminated from all employment with all
28 Florida Retirement System employers, as provided in s.
29 121.021(39).

30 (b) If a participant elects to receive his or her
31 benefits upon termination of employment, the participant must

hbd06

Bill No. CS/HB 347

Amendment No. (for drafter's use only)

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

7 (c) Upon receipt by the third-party administrator of a
8 properly executed application for distribution of benefits,
9 the total accumulated benefit shall be payable to the
10 participant as:

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

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

18 3. Periodic distributions, as authorized by the state
19 board.

20 (2) DISABILITY RETIREMENT BENEFIT.--Benefits provided
21 under this subsection are payable in lieu of the benefits
22 which would otherwise be payable under the provisions of
23 subsection (1).

24 (a)1. If the participant has no credit under the
25 defined benefit program of the Florida Retirement System or
26 such credit has been nullified as provided under s.
27 121.4501(3)(c), all moneys accumulated in the participant's
28 optional program account, including vested and nonvested
29 accumulations as described in s. 121.4501(6), shall be
30 transferred from such individual account to the Division of
31 Retirement for deposit into the Public Employee Disability

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 Trust Fund; or
 2 2. If the participant is a former member of the
 3 defined benefit program of the Florida Retirement System who
 4 elected to retain the retirement credit he or she had earned
 5 under that program as provided in s. 121.4501(3)(b), a sum
 6 representing the actuarial present value of such credit shall
 7 be transferred by the Division of Retirement from the Florida
 8 Retirement System Trust Fund to the Public Employee Disability
 9 Trust Fund. In addition, all moneys accumulated in the
 10 participant's optional program account, including vested and
 11 nonvested accumulations as described in s. 121.4501(6), shall
 12 be transferred from such individual account to the Division of
 13 Retirement for deposit into the Public Employee Disability
 14 Trust Fund.

15 (b)1. A participant of the optional program who
 16 becomes totally and permanently disabled, as defined in
 17 paragraph (d), after completing 8 years of creditable service,
 18 or a participant who becomes totally and permanently disabled
 19 in the line of duty regardless of his or her length of
 20 service, shall be entitled to a monthly disability benefit as
 21 provided in this subsection.

22 2. For purposes of this subsection, the 8 years of
 23 creditable service required to vest for regular disability
 24 benefits must be creditable service under the defined benefit
 25 program of the Florida Retirement System or service under the
 26 optional program, subject to the following conditions:

27 a. In the case of present value transfers to a
 28 participant's account under s. 121.4501(3)(c), the period of
 29 service under the defined benefit program represented in the
 30 present value amounts transferred shall only be considered
 31 creditable service for purposes of vesting for disability

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 benefits as long as such funds remain in the participant's
2 accounts under the optional program.

3 b. In the case of contributions made to a
4 participant's accounts under s. 121.4501(5), the period of
5 service under the optional program shall only be considered
6 creditable service for purposes of vesting for disability
7 benefits as long as such funds remain in the participant's
8 accounts under the optional program.

9
10 If a participant terminates employment and takes distribution
11 of such funds as provided in subsection (1), all credit for
12 the service represented by such distributed funds is forfeited
13 for purposes of qualifying for disability benefits under this
14 subsection.

15 (c)1. If the division has received from the employer
16 the required documentation of the participant's termination of
17 employment, the effective retirement date for a participant
18 who applies and is approved for disability retirement shall be
19 established by rule of the division.

20 2. For a participant who is receiving workers'
21 compensation payments, the effective disability retirement
22 date may not precede the date the participant reaches maximum
23 medical improvement, unless the participant terminates
24 employment prior to reaching maximum medical improvement.

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

30 (e) The division, before approving payment of any
31 disability retirement benefit, shall require proof that the

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 participant is totally and permanently disabled as follows:
2 1. Such proof shall include the certification of the
3 participant's total and permanent disability by two licensed
4 physicians in this state and such other evidence of disability
5 as the division may require, including reports from vocational
6 rehabilitation, evaluation, or testing specialists who have
7 evaluated the applicant for employment.
8 2. It shall be documented that:
9 a. The participant's medical condition occurred or
10 became symptomatic during the time the participant was
11 employed in an employee/employer relationship with his or her
12 employer.
13 b. The participant was totally and permanently
14 disabled at the time he or she terminated covered employment.
15 c. The participant has not been employed with any
16 other employer after such termination.
17 3. If the application is for in-line-of-duty
18 disability, in addition to the requirements of subparagraph
19 2., it must be documented by competent medical evidence that
20 the disability was caused by a job-related illness or accident
21 which occurred while the participant was in an
22 employee/employer relationship with his or her employer.
23 4. The unavailability of an employment position that
24 the participant is physically and mentally capable of
25 performing shall not be considered as proof of total and
26 permanent disability.
27 (f) A participant whose application for regular
28 disability retirement has been denied and who has filed an
29 appeal to the State Retirement Commission under s. 121.23 may,
30 if eligible, elect to terminate employment and take
31 distribution of benefits as provided under subsection (1)

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 while he or she is awaiting the decision on the appeal. In
2 that event:

3 1. If disability benefits are later approved as a
4 result of the appeal, to receive the disability benefit
5 payable under this subsection, the participant shall first
6 repay to the division for deposit in the Public Employee
7 Disability Trust Fund the total amount withdrawn under
8 subsection (1), less the amount that would have otherwise been
9 payable as a monthly disability benefit while the appeal was
10 pending if the application had been initially approved.

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

13 (g) Upon the disability retirement of a participant
14 under this subsection, the participant shall receive a monthly
15 benefit that shall begin to accrue on the first day of the
16 month of disability retirement, as approved by the division,
17 and shall be payable on the last day of that month and each
18 month thereafter during his or her lifetime and continued
19 disability.

20 (h) The amount of each monthly payment shall be
21 computed in the same manner as that computed for a normal
22 retirement benefit but shall be based on disability option
23 actuarial equivalency tables and the average monthly
24 compensation and creditable service of the participant as of
25 his or her disability retirement date, subject to the
26 following:

27 1. If the participant's disability occurred in the
28 line of duty, the monthly Option 1 benefit shall be a minimum
29 of:

30 a. Forty-two percent of the participant's average
31 monthly compensation as of the disability retirement date; or

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 b. Sixty-five percent of the participant's average
2 monthly compensation as of the disability retirement date for
3 a participant of the special risk class who retires on or
4 after July 1, 2002.

5 2. If the participant's disability occurred other than
6 in the line of duty, the monthly Option 1 benefit shall be a
7 minimum of 25 percent of the participant's average monthly
8 compensation as of the disability retirement date.

9 (i) A participant whose initial application for
10 disability retirement has been denied may reapply for
11 disability benefits. However, such participant's reapplication
12 may be considered only if the participant presents new medical
13 evidence of a medical condition that existed prior to the
14 participant's termination of employment. The division may
15 prescribe by rule procedures for reapplication and for review
16 and approval or disapproval of reapplication.

17 (j) Nothing in this subsection shall be construed to
18 prevent a participant who has been approved for a disability
19 retirement benefit payable under this subsection from electing
20 to receive, in lieu of the benefit payable under this
21 subsection, the benefit payable to him or her under the
22 provisions of subsection (1), provided such election is made
23 prior to the deposit or cashing of a disability retirement
24 warrant or receipt of such warrant by electronic funds
25 transfer in accordance with the participant's authorization of
26 direct deposit of such funds.

27 (k) The division may require periodic reexaminations
28 at the expense of the Public Employee Disability Trust Fund.
29 The division may adopt rules establishing procedures for
30 conducting and review of such reexaminations. If the division
31 finds that a participant who is receiving disability benefits

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 is no longer disabled, the division shall direct that the
2 disability benefits be discontinued and no further benefits
3 shall be payable under this subsection. The decision of the
4 division on this question shall be final and binding. Upon
5 termination of the monthly disability benefit:

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

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

22 b. If the participant fails to return to covered
23 employment within 5 years after recovery, any such moneys held
24 in the suspense account in the Public Employee Disability
25 Trust Fund shall be forfeited.

26 2. If such participant does not reenter covered
27 employment following recovery from disability but had
28 satisfied vesting requirements as of the disability retirement
29 date for any or all of the moneys which had accumulated in his
30 or her accounts under the optional program, the amount
31 representing the remainder of his or her vested accumulation

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 as described under subparagraph 5., if any, shall be
2 transferred from the Public Employee Disability Trust Fund to
3 the Public Employee Optional Retirement Program Trust Fund and
4 shall be payable as provided in subsection (1).

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

15 4. If such participant reenters covered employment as
16 a member of the defined benefit program of the Florida
17 Retirement System, and is continuously employed for a minimum
18 of 1 year of creditable service, he or she may claim as
19 creditable service the months during which he or she was
20 receiving a disability benefit, upon payment of the required
21 contributions as provided in s. 121.091(4)(h)1.d.

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

24 a. The term "remainder of the nonvested accumulation"
25 means all employer contributions deposited on behalf of a
26 participant who had not met the vesting requirement set forth
27 in s. 121.4501(6)(a)1. as of his or her disability retirement
28 date and any transferred present value amount deposited on
29 behalf of a participant who had not met the vesting
30 requirement set forth in s. 121.4501(6)(b)1. as of his or her
31 disability retirement date, plus interest and earnings

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 thereon, less the total amount of disability benefits received
2 by that participant.

3 b. The term "remainder of the vested accumulation"
4 means all employer contributions deposited on behalf of any
5 participant who had met the vesting requirement set forth in
6 s. 121.4501(6)(a)1. as of his or her disability retirement
7 date and any transferred present value amount deposited on
8 behalf of any participant who had met the vesting requirement
9 set forth in s. 121.4501(6)(b)1. as of his or her disability
10 retirement date, plus interest and earnings thereon, less the
11 total amount of disability benefits received by that
12 participant.

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

24 1. Retain the retirement benefits received prior to
25 termination of disability benefits and begin receiving
26 retirement service credit effective upon the date of
27 termination of benefits; or

28 2. Repay, within 12 months after his or her decision
29 to receive service credit, the retirement benefits received
30 for each month of reemployment prior to termination of
31 disability benefits and begin receiving retirement service

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 credit effective upon the date of reemployment. Any such
2 unpaid benefits shall have compound interest of 6.5 percent
3 added each June 30.

4
5 A participant may not receive both retirement service credit
6 for employment and retirement benefits for the same month.

7 (m) If, after recovery from disability and reentry
8 into covered employment, the participant again becomes
9 disabled and is again approved for disability retirement, the
10 Option 1 monthly retirement benefit shall not be less than the
11 Option 1 monthly benefit calculated at the time of the
12 previous disability, plus any cost-of-living increases payable
13 up to the time the disability benefit was terminated upon his
14 or her reentry into covered employment.

15 (n) A participant shall not be entitled to receive any
16 disability retirement benefit if the disability is a result
17 of:

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

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

23 3. Intentional, self-inflicted injury.

24 (o)1. If a participant is a justice of the Supreme
25 Court, judge of a district court of appeal, circuit judge, or
26 judge of a county court who has served for 6 years or more as
27 an elected constitutional judicial officer, including service
28 as a judicial officer in any court abolished pursuant to Art.
29 V of the State Constitution, and who is retired for disability
30 by order of the Supreme Court upon recommendation of the
31 Judicial Qualifications Commission pursuant to the provisions

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 of Art. V of the State Constitution, the participant's Option
 2 1 monthly disability benefit amount as provided in s.
 3 121.091(6)(a)1. shall be two-thirds of his or her monthly
 4 compensation as of the participant's disability retirement
 5 date. Such a participant may alternatively elect to receive an
 6 actuarially adjusted disability retirement benefit under any
 7 other option as provided in s. 121.091(6)(a), or to receive
 8 the normal benefit payable under the optional program as set
 9 forth under subsection (1).

10 2. If any justice or judge who is a participant of the
 11 optional program is retired for disability by order of the
 12 Supreme Court upon recommendation of the Judicial
 13 Qualifications Commission pursuant to the provisions of Art. V
 14 of the State Constitution and elects to receive a monthly
 15 disability benefit under the provisions of this paragraph:

16 a. Any present value amount which was transferred to
 17 his or her program account and all employer contributions made
 18 to such account on his or her behalf, plus interest and
 19 earnings thereon, shall be transferred to and deposited in the
 20 Public Employee Disability Trust Fund.

21 b. The monthly benefits payable under this paragraph
 22 for any affected justice or judge retired from the Florida
 23 Retirement System pursuant to Art. V of the State Constitution
 24 shall be paid from the Public Employee Disability Trust Fund.

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

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

28 1. To the extent vested, benefits shall be payable
 29 only to a participant's beneficiary or beneficiaries as
 30 designated by the participant.

31 2. Benefits shall be paid by the third-party

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 administrator or designated approved providers in accordance
2 with the law, the contracts, and any applicable board rule or
3 policy.

4 3. To receive benefits under this subsection, the
5 participant must be deceased.

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

17 (c) Upon receipt by the third-party administrator of a
18 properly executed application for distribution of benefits,
19 the total accumulated benefit shall be payable by the
20 third-party administrator to the participant's surviving
21 beneficiary or beneficiaries as:

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

24 2. An eligible rollover distribution on behalf of the
25 surviving spouse of a deceased participant, whereby all
26 accrued benefits, plus interest and investment earnings, are
27 paid from the deceased participant's account 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; or

31 3. A partial lump-sum payment whereby a portion of the

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

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

10

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

14 (4) LIMITATION ON LEGAL PROCESS.--The benefits payable
15 to any person under the optional program and any contributions
16 accumulated under such program are not subject to assignment,
17 execution, attachment, or any legal process, except for
18 qualified domestic relations orders by a court of competent
19 jurisdiction, income deduction orders as provided in s.
20 61.1301, and federal income tax levies.

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

hbd06

Bill No. CS/HB 347

Amendment No. ____ (for drafter's use only)

1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 3, after Program;

4

5 insert:

6 amending s. 121.4501, F.S.; providing
7 additional definitions; providing for payment
8 of benefits pursuant to s. 121.591, F.S.;

9 amending s. 121.571, F.S.; revising employer
10 contribution rates to disability accounts;
11 creating s. 121.591, F.S.; providing for
12 payment of normal benefits, disability
13 retirement benefits, and death benefits under
14 the Public Employee Optional Retirement
15 Program; providing requirements, criteria,
16 procedures, and limitations; providing for
17 disability benefits for certain justices and
18 judges; limiting application of legal process
19 to such benefits; providing a declaration of
20 important state interest;

21
22
23
24
25
26
27
28
29
30
31