

By the Committee on Governmental Oversight and Productivity;
and Senator Garcia

302-1943-01

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; amending s. 122.0515, F.S., relating to
4 special risk membership; revising criteria for
5 members employed as firefighters, emergency
6 medical technicians, or paramedics; adding
7 specified classes of members employed within a
8 correctional or forensic facility or
9 institution; amending s. 121.055, F.S.,
10 relating to the Senior Management Service
11 Class; requiring participation in the class by
12 assistant attorneys general; amending s.
13 121.4501, F.S.; redefining the term "approved
14 provider" for purposes of the Public Employee
15 Optional Retirement Program; revising
16 requirements for transferring a member's
17 optional program account to the defined benefit
18 plan; providing requirements for the State
19 Board of Administration in administering the
20 program; revising requirements for the board in
21 selecting providers of investment products;
22 requiring that providers comply with federal
23 and state securities and insurance laws and
24 rules governing the ethical marketing of
25 investment products; requiring that the board
26 develop procedures for resolving complaints of
27 participants; prohibiting providers from
28 selling or distributing customer lists
29 generated through the optional retirement
30 program; providing effective dates.
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1 Be It Enacted by the Legislature of the State of Florida:

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

5 121.0515 Special risk membership.--

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

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

24 (b) The member must be employed as a firefighter and
25 be certified, or required to be certified, in compliance with
26 s. 633.35 and be employed solely within the fire department of
27 a local government ~~the~~ employer or an agency of state
28 government with firefighting responsibilities. In addition,
29 the member's duties and responsibilities must include
30 on-the-scene fighting of fires, fire prevention, or
31 firefighter training; ~~or~~ direct supervision of firefighting

1 units, fire prevention, or firefighter training; or aerial
2 firefighting surveillance performed by fixed-wing pilots
3 employed by the Division of Forestry of the Department of
4 Agriculture and Consumer Services;or the member must be the
5 supervisor or command officer of a member or members who have
6 such responsibilities; provided, however, administrative
7 support personnel, including, but not limited to, those whose
8 primary duties and responsibilities are in accounting,
9 purchasing, legal, and personnel, shall not be included;
10 (c) The member must be employed as a correctional
11 officer and be certified, or required to be certified, in
12 compliance with s. 943.1395. In addition, the member's
13 primary duties and responsibilities must be the custody, and
14 physical restraint when necessary, of prisoners or inmates
15 within a prison, jail, or other criminal detention facility,
16 or while on work detail outside the facility, or while being
17 transported; or the member must be the supervisor or command
18 officer of a member or members who have such responsibilities;
19 provided, however, administrative support personnel,
20 including, but not limited to, those whose primary duties and
21 responsibilities are in accounting, purchasing, legal, and
22 personnel, shall not be included; however, wardens and
23 assistant wardens, as defined by rule, shall participate in
24 the Special Risk Class;
25 (d) The member must be employed by a licensed Advance
26 Life Support (ALS) or Basic Life Support (BLS) employer as an
27 emergency medical technician or a paramedic and be certified
28 in compliance with s. 401.27. In addition, the member's
29 primary duties and responsibilities must include on-the-scene
30 emergency medical care or direct supervision of emergency
31 medical technicians or paramedics, or the member must be the

1 supervisor or command officer of one or more members who have
2 such responsibility. However, administrative support
3 personnel, including, but not limited to, those whose primary
4 responsibilities are in accounting, purchasing, legal, and
5 personnel, shall not be included;

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

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

- 25 1. Dietitian (class codes 5203 and 5204).
- 26 2. Public health nutrition consultant (class code
27 5224).
- 28 3. Psychological specialist (class codes 5230 and
29 5231).
- 30 4. Psychologist (class code 5234).
- 31 5. Senior psychologist (class codes 5237 and 5238).

- 1 6. Regional mental health consultant (class code
- 2 5240).
- 3 7. Psychological Services Director--DCF (class code
- 4 5242).
- 5 8. Pharmacist (class codes 5245 and 5246).
- 6 9. Senior pharmacist (class codes 5248 and 5249).
- 7 10. Dentist (class code 5266).
- 8 11. Senior dentist (class code 5269).
- 9 12. Registered nurse (class codes 5290 and 5291).
- 10 13. Senior registered nurse (class codes 5292 and
- 11 5293).
- 12 14. Registered nurse specialist (class codes 5294 and
- 13 5295).
- 14 15. Clinical associate (class codes 5298 and 5299).
- 15 16. Advanced registered nurse practitioner (class
- 16 codes 5297 and 5300).
- 17 17. Advanced registered nurse practitioner specialist
- 18 (class codes 5304 and 5305).
- 19 18. Registered nurse supervisor (class codes 5306 and
- 20 5307).
- 21 19. Senior registered nurse supervisor (class codes
- 22 5308 and 5309).
- 23 20. Registered nursing consultant (class codes 5312
- 24 and 5313).
- 25 21. Quality management program supervisor (class code
- 26 5314).
- 27 22. Executive nursing director (class codes 5320 and
- 28 5321).
- 29 23. Speech and hearing therapist (class code 5406); or
- 30 24. Pharmacy manager (class code 5251).
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1 25. Unit treatment and rehabilitation director-F/C
2 (class code 5805).
3 26. Unit treatment and rehabilitation senior
4 supervisor I-F/C (class code 5793).
5 27. Unit treatment and rehabilitation supervisor
6 II-F/C (class code 5796).
7 28. Unit treatment and rehabilitation specialist-F/C
8 (class code 5791).
9 29. Unit treatment and rehabilitation supervisor I-F/C
10 (class code 5786).
11 30. Unit treatment and rehabilitation director (class
12 code 5779).
13 31. Unit treatment and rehabilitation senior
14 supervisor I (class code 5777).
15 32. Unit treatment and rehabilitation senior
16 supervisor II (class code 5778).
17 33. Unit treatment and rehabilitation senior
18 supervisor III (class code 5780).
19 34. Unit treatment and rehabilitation senior
20 supervisor III-F/C (class code 5799).
21 35. Unit treatment and rehabilitation specialist
22 (class code 5776).
23 36. Unit treatment and rehabilitation supervisor I
24 (class code 5710).
25 Section 2. Effective October 1, 2001, subsection (1)
26 of section 121.055, Florida Statutes, is amended to read:
27 121.055 Senior Management Service Class.--There is
28 hereby established a separate class of membership within the
29 Florida Retirement System to be known as the "Senior
30 Management Service Class," which shall become effective
31 February 1, 1987.

1 (1)(a) Participation in the Senior Management Service
2 Class shall be limited to and compulsory for any member of the
3 Florida Retirement System who holds a position in the Senior
4 Management Service of the State of Florida, established by
5 part III of chapter 110, unless such member elects, within the
6 time specified herein, to participate in the Senior Management
7 Service Optional Annuity Program as established in subsection
8 (6).

9 (b)1. Except as provided in subparagraph 2., effective
10 January 1, 1990, participation in the Senior Management
11 Service Class shall be compulsory for the president of each
12 community college, the manager of each participating city or
13 county, and all appointed district school superintendents.
14 Effective January 1, 1994, additional positions may be
15 designated for inclusion in the Senior Management Service
16 Class of the Florida Retirement System, provided that:

17 a. Positions to be included in the class shall be
18 designated by the local agency employer. Notice of intent to
19 designate positions for inclusion in the class shall be
20 published once a week for 2 consecutive weeks in a newspaper
21 of general circulation published in the county or counties
22 affected, as provided in chapter 50.

23 b. Up to 10 nonelective full-time positions may be
24 designated for each local agency employer reporting to the
25 Department of Management Services; for local agencies with 100
26 or more regularly established positions, additional
27 nonelective full-time positions may be designated, not to
28 exceed 1 percent of the regularly established positions within
29 the agency.

30 c. Each position added to the class must be a
31 managerial or policymaking position filled by an employee who

1 is not subject to continuing contract and serves at the
2 pleasure of the local agency employer without civil service
3 protection, and who:

4 (I) Heads an organizational unit; or

5 (II) Has responsibility to effect or recommend
6 personnel, budget, expenditure, or policy decisions in his or
7 her areas of responsibility.

8 2. In lieu of participation in the Senior Management
9 Service Class, members of the Senior Management Service Class
10 pursuant to the provisions of subparagraph 1. may withdraw
11 from the Florida Retirement System altogether. The decision to
12 withdraw from the Florida Retirement System shall be
13 irrevocable for as long as the employee holds such a position.
14 Any service creditable under the Senior Management Service
15 Class shall be retained after the member withdraws from the
16 Florida Retirement System; however, additional service credit
17 in the Senior Management Service Class shall not be earned
18 after such withdrawal. Such members shall not be eligible to
19 participate in the Senior Management Service Optional Annuity
20 Program.

21 (c)1. Effective January 1, 1990, participation in the
22 Senior Management Service Class shall be compulsory for up to
23 75 nonelective positions at the level of committee staff
24 director or higher or equivalent managerial or policymaking
25 positions within the House of Representatives, as selected by
26 the Speaker of the House of Representatives, up to 50
27 nonelective positions at the level of committee staff director
28 or higher or equivalent managerial or policymaking positions
29 within the Senate, as selected by the President of the Senate,
30 all staff directors of joint committees and service offices of
31 the Legislature, the Auditor General and up to 9 managerial or

1 policymaking positions within his or her office as selected by
2 the Auditor General, and the executive director of the
3 Commission on Ethics.

4 2. Participation in this class shall be compulsory,
5 except as provided in subparagraph 3., for any legislative
6 employee who holds a position designated for coverage in the
7 Senior Management Service Class, and such participation shall
8 continue until the employee terminates employment in a covered
9 position.

10 3. In lieu of participation in the Senior Management
11 Service Class, at the discretion of the President of the
12 Senate and the Speaker of the House of Representatives, such
13 members may participate in the Senior Management Service
14 Optional Annuity Program as established in subsection (6).

15 (d) Effective January 1, 1991, participation in the
16 Senior Management Service Class shall be compulsory for any
17 member of the Florida Retirement System in a position that has
18 been designated eligible for inclusion in the Executive
19 Service of the State University System or who holds a position
20 as president of a state university, unless such member elects,
21 pursuant to s. 121.35, to participate in the optional
22 retirement program.

23 (e) Effective January 1, 1991, participation in the
24 Senior Management Service Class shall be compulsory for the
25 number of senior managers who have policymaking authority with
26 the State Board of Administration, as determined by the
27 Governor, Treasurer, and Comptroller acting as the State Board
28 of Administration, unless such member elects to participate in
29 the Senior Management Service Optional Annuity Program as
30 established in subsection (6) in lieu of participation in the
31 Senior Management Service Class. Such election shall be made

1 in writing and filed with the division and the personnel
2 officer of the State Board of Administration within 90 days
3 after becoming eligible for membership in the Senior
4 Management Service Class.

5 (f) Effective July 1, 1997:

6 1. Any elected state officer eligible for membership
7 in the Elected Officers' Class under s. 121.052(2)(a), (b), or
8 (c) who elects membership in the Senior Management Service
9 Class under s. 121.052(3)(c) may, within 6 months after
10 assuming office or within 6 months after this act becomes a
11 law for serving elected state officers, elect to participate
12 in the Senior Management Service Optional Annuity Program, as
13 provided in subsection (6), in lieu of membership in the
14 Senior Management Service Class.

15 2. Any elected county officer eligible for membership
16 in the Elected Officers' Class under s. 121.052(2)(d) who
17 elects membership in the Senior Management Service Class under
18 s. 121.052(3)(c) may, within 6 months after assuming office,
19 or within 6 months after this act becomes a law for serving
20 elected county officers, elect to participate in a lifetime
21 monthly annuity program, as provided in subparagraph (b)2., in
22 lieu of membership in the Senior Management Service Class.

23 (g) Effective July 1, 1996, participation in the
24 Senior Management Service Class shall be compulsory for any
25 member of the Florida Retirement System employed with the
26 Department of Military Affairs in the positions of the
27 Adjutant General, Assistant Adjutant General-Army, Assistant
28 Adjutant General-Air, State Quartermaster, Director of
29 Military Personnel, Director of Administration, and additional
30 directors as designated by the agency head, not to exceed a
31 total of 10 positions. In lieu of participation in the Senior

1 Management Service Class, such members may participate in the
2 Senior Management Service Optional Annuity Program as
3 established in subsection (6).

4 (h)1. Except as provided in subparagraph 3., effective
5 January 1, 1994, participation in the Senior Management
6 Service Class shall be compulsory for the State Courts
7 Administrator and the Deputy State Courts Administrators, the
8 Clerk of the Supreme Court, the Marshal of the Supreme Court,
9 the Executive Director of the Justice Administrative
10 Commission, the Capital Collateral Regional Counsels, the
11 clerks of the district courts of appeals, the marshals of the
12 district courts of appeals, and the trial court administrator
13 in each judicial circuit. Effective January 1, 1994,
14 additional positions in the offices of the state attorney and
15 public defender in each judicial circuit may be designated for
16 inclusion in the Senior Management Service Class of the
17 Florida Retirement System, provided that:

18 a. Positions to be included in the class shall be
19 designated by the state attorney or public defender, as
20 appropriate. Notice of intent to designate positions for
21 inclusion in the class shall be published once a week for 2
22 consecutive weeks in a newspaper of general circulation
23 published in the county or counties affected, as provided in
24 chapter 50.

25 b. One nonelective full-time position may be
26 designated for each state attorney and public defender
27 reporting to the Department of Management Services; for
28 agencies with 200 or more regularly established positions
29 under the state attorney or public defender, additional
30 nonelective full-time positions may be designated, not to
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1 exceed 0.5 percent of the regularly established positions
2 within the agency.

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

7 (I) Heads an organizational unit; or

8 (II) Has responsibility to effect or recommend
9 personnel, budget, expenditure, or policy decisions in his or
10 her areas of responsibility.

11 2. Participation in this class shall be compulsory,
12 except as provided in subparagraph 3., for any judicial
13 employee who holds a position designated for coverage in the
14 Senior Management Service Class, and such participation shall
15 continue until the employee terminates employment in a covered
16 position. Effective January 1, 2001, participation in this
17 class is compulsory for assistant state attorneys, assistant
18 statewide prosecutors, assistant public defenders, and
19 assistant capital collateral regional counsels. Effective
20 January 1, 2002, participation in this class is compulsory for
21 assistant attorneys general.

22 3. In lieu of participation in the Senior Management
23 Service Class, such members, excluding assistant state
24 attorneys, assistant public defenders, assistant statewide
25 prosecutors, assistant attorneys general, and assistant
26 capital collateral regional counsels, may participate in the
27 Senior Management Service Optional Annuity Program as
28 established in subsection (6).

29 (i)1. Except as provided in subparagraph 2., effective
30 July 1, 1999, participation in the Senior Management Service
31 Class is compulsory for any member of the Florida Retirement

1 System who is employed as a judge of compensation claims with
2 the Office of the Judges of Compensation Claims within the
3 Department of Labor and Employment Security.

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

8 (j) Except as may otherwise be provided, any member of
9 the Senior Management Service Class may purchase additional
10 retirement credit in such class for creditable service within
11 the purview of the Senior Management Service Class retroactive
12 to February 1, 1987, and may upgrade retirement credit for
13 such service, to the extent of 2 percent of the member's
14 average monthly compensation as specified in paragraph (4)(d)
15 for such service. Contributions for upgrading the additional
16 Senior Management Service credit pursuant to this paragraph
17 shall be equal to the difference in the contributions paid and
18 the Senior Management Service Class contribution rate as a
19 percentage of gross salary in effect for the period being
20 claimed, plus interest thereon at the rate of 6.5 percent a
21 year, compounded annually until the date of payment. This
22 service credit may be purchased by the employer on behalf of
23 the member.

24 Section 3. Subsection (1), paragraph (a) of subsection
25 (2), paragraph (e) of subsection (4), paragraph (b) of
26 subsection (8), and paragraphs (a) and (b) of subsection (9)
27 of section 121.4501, Florida Statutes, are amended, and
28 paragraph (f) is added to subsection (9) of that section, to
29 read:

30 121.4501 Public Employee Optional Retirement
31 Program.--

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

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

14 (a) "Approved provider" or "provider" means a private
15 sector company that is selected and approved by the state
16 board to offer one or more investment products or services to
17 the Public Employee Optional Retirement Program. The term
18 includes a bundled provider that offers participants a range
19 of individually allocated or unallocated investment products
20 and may offer a range of administrative and customer services,
21 which may include accounting and administration of individual
22 participant benefits and contributions; individual participant
23 recordkeeping; asset purchase, control, and safekeeping;
24 direct execution of the participant's instructions as to asset
25 and contribution allocation; calculation of daily net asset
26 values; direct access to participant account information;
27 periodic reporting to participants, at least quarterly, on
28 account balances and transactions; direct advice and guidance
29 on its investments options; a broad array of distribution
30 options; and asset allocation.Private sector companies

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1 include investment management companies, insurance companies,
2 depositories, and mutual fund companies.

3 (4) PARTICIPATION; ENROLLMENT.--

4 (e) After the period during which an eligible employee
5 had the choice to elect the defined benefit program or the
6 Public Employee Optional Retirement Program, the employee
7 shall have one opportunity, that is, a second election ~~at the~~
8 ~~employee's discretion~~, to choose to move from the defined
9 benefit program to the Public Employee Optional Retirement
10 Program or from the Public Employee Optional Retirement
11 Program to the defined benefit program. This paragraph shall
12 be contingent upon approval from the Internal Revenue Service
13 for including the choice described herein within the programs
14 offered by the Florida Retirement System.

15 1. If the employee chooses to move to the Public
16 Employee Optional Retirement Program, the applicable
17 provisions of this section shall govern the transfer.

18 2. If the employee chooses to move from the Public
19 Employee Optional Retirement Program to the defined benefit
20 program, the employee must transfer from his or her optional
21 program ~~Public Employee Optional Retirement Program~~ account
22 and from other employee moneys as necessary, a sum
23 representing all contributions that would have been made to
24 the defined benefit plan for that employee and the actual
25 return that would have been earned on those contributions had
26 they been invested in the defined benefit program. If, at the
27 time of a member's election to transfer to the defined benefit
28 program, the member's optional program account does not
29 contain the total amount required to be transferred to the
30 defined benefit program, the member must pay the remaining
31 balance. If the member's optional program account contains

1 more than the amount required to be transferred to the defined
2 benefit program, such additional amount shall remain in the
3 member's optional program account.

4 (8) ADMINISTRATION OF PROGRAM.--

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

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

1 recordkeeping; asset purchase, control, and safekeeping;
2 direct execution of the participant's instructions as to asset
3 and contribution allocation; calculation of daily net asset
4 values; direct access to participant account information; or
5 periodic reporting to participants, at least quarterly, on
6 account balances and transactions.

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 offers nine ~~who offer~~
13 ~~multiple investment options and related services products~~ when
14 such an approach is determined by the board to afford value to
15 the participants otherwise not available through individual
16 investment products. Each approved bundled provider may offer
17 investment options that provide participants with the
18 opportunity to invest in each of the following asset classes,
19 to be composed of individual options that represent either a
20 single asset class or a combination thereof: money markets,
21 United States fixed income, United States equities, and
22 foreign stock.The board shall review and manage all
23 educational materials, contract terms, fee schedules, and
24 other aspects of the approved provider relationships to ensure
25 that no provider is unduly favored or penalized by virtue of
26 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 shall 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 applicable federal and state securities and insurance laws and
8 regulations, as well as the applicable rules and guidelines of
9 the National Association of Securities Dealers which govern
10 the ethical marketing of investment products. In furtherance
11 of this mandate, an approved provider must agree in its
12 contract with the board to establish and maintain a compliance
13 education and monitoring system to supervise the activities of
14 all personnel who directly communicate with individual
15 participants and recommend investment products, which system
16 is consistent with rules of the National Association of
17 Security 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 regulatory 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.

31

1 Section 4. Except as otherwise expressly provided in
2 this act, this act shall take effect upon becoming a law.

3
4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 SB 872

7 The Committee Substitute replaces the shell bill with a
8 significant revision of retirement statutes. It moves
9 designated firefighting supervisory and aviation personnel
10 from the Regular Class to the Special Risk Class of the
11 Florida Retirement System(FRS). Assistant attorneys general in
12 the Department of Legal Affairs are moved into the Senior
13 Management Class. Designated unit treatment and
14 rehabilitation specialist positions in the state hospital
15 system are also placed in the Special Risk Retirement Class.
16 The bill, in its revised form, also changes parts of the newly
17 created optional retirement program in the FRS scheduled for
18 implementation in 2002. These changes permit greater
19 participation by provider companies and recognize variable as
20 well as guaranteed products for inclusion; clarify the amount
21 in a member's account required to be paid when switching back
22 to the defined benefit plan; specify the scope of permitted
23 customer service relationships an approved provider company
24 may have with a participant; permit the imposition of
25 reasonable fees for certain products with high liquidity
26 characteristics; and provide for incorporation of
27 industry-based quality assurance guidelines on provider
28 company and personnel relationships in addition to standards
29 imposed by federal and state law.
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