

Bill No. HB 1973, 1st Eng.

Amendment No. Barcode 720244

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Garcia moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Part III of chapter 121, Florida Statutes, consisting of sections 121.70, 121.71, 121.72, 121.73, 121.74, 121.75, 121.76, 121.77, and 121.78, Florida Statutes, is created to read:

Part III

Florida Retirement System Contribution Rates

121.70 Legislative purpose and intent.--

(1) This part provides for a uniform system for funding benefits provided under the Florida Retirement System defined benefit program established under part I of this chapter (referred to in this part as the defined benefit program) and under the Public Employee Optional Retirement Program established under part II of this chapter (referred to

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1 in this part as the optional retirement program). The
2 Legislature recognizes and declares that the Florida
3 Retirement System is a single retirement system, consisting of
4 two retirement plans and other nonintegrated programs.
5 Employers participating in the Florida Retirement System
6 collectively shall be responsible for making contributions to
7 support the benefits afforded under both plans. As provided in
8 this part, employers participating in the Florida Retirement
9 System shall make contributions based upon uniform
10 contribution rates determined as a percentage of the total
11 payroll for each class or subclass of Florida Retirement
12 System membership, irrespective of which retirement plan
13 individual employees may elect. This shall be known as a
14 uniform or blended contribution rate system.

15 (2) In establishing a uniform contribution rate
16 system, it is the intent of the Legislature to:

17 (a) Provide greater stability and certainty in
18 financial planning and budgeting for Florida Retirement System
19 employers by eliminating the fiscal instability that would be
20 caused by dual rates coupled with employee-selected plan
21 participation;

22 (b) Provide greater fiscal equity and uniformity for
23 system employers by effectively distributing the financial
24 burden and benefit of short-term system deficits and
25 surpluses, respectively, in proportion to total system
26 payroll; and

27 (c) Allow employees to make their retirement plan
28 selection decisions free of circumstances that may cause
29 employers to favor one plan choice over another.

30 121.71 Uniform rates; process; calculations; levy.--

31 (1) In conducting the system actuarial study required

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1 under s. 121.031, the actuary shall follow all requirements
2 specified thereunder to determine, by Florida Retirement
3 System employee membership class, the dollar contribution
4 amounts necessary for the forthcoming fiscal year for the
5 defined benefit program. In addition, the actuary shall
6 determine, by Florida Retirement System membership class,
7 based on an estimate for the forthcoming fiscal year of the
8 gross compensation of employees participating in the optional
9 retirement program, the dollar contribution amounts necessary
10 to make the allocations required under ss. 121.72 and 121.73.
11 For each employee membership class and subclass, the actuarial
12 study shall establish a uniform rate necessary to fund the
13 benefit obligations under both Florida Retirement System
14 retirement plans, by dividing the sum of total dollars
15 required by the estimated gross compensation of members in
16 both plans.

17 (2) Based on the uniform rates set forth in subsection
18 (3), employers shall make monthly contributions to the
19 Division of Retirement, which shall initially deposit the
20 funds into the Florida Retirement System Contributions
21 Clearing Trust Fund. A change in a contribution rate is
22 effective the first day of the month for which a full month's
23 employer contribution may be made on or after the beginning
24 date of the change.

25 (3) Required employer retirement contribution rates
26 for each membership class and subclass of the Florida
27 Retirement System for both retirement plans are as follows.
28 Rates effective July 1, 2002, reflect an offset to normal
29 employer costs of \$1,237,000,000, resulting from recognition
30 and usage of current available excess assets of the Florida
31 Retirement System Trust Fund as determined pursuant to s.

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<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2002</u>	<u>Percentage of Gross Compensation, Effective July 1, 2003</u>
<u>Regular Class</u>	<u>4.50%</u>	<u>9.87%</u>
<u>Special Risk Class</u>	<u>14.75%</u>	<u>22.89%</u>
<u>Special Risk Administrative Support Class</u>	<u>5.30%</u>	<u>12.58%</u>
<u>Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	<u>8.15%</u>	<u>15.43%</u>
<u>Elected Officers' Class - Justices, Judges</u>	<u>14.60%</u>	<u>20.54%</u>
<u>Elected Officers' Class - County Elected Officers</u>	<u>10.60%</u>	<u>17.52%</u>
<u>Senior Management Class</u>	<u>4.80%</u>	<u>11.68%</u>
<u>DROP</u>	<u>8.00%</u>	<u>11.56%</u>

121.72 Allocations to optional retirement program
participant accounts; percentage amounts.--
(1) The allocations established in subsection (4)
shall fund retirement benefits under the optional retirement
program and shall be transferred monthly by the Division of
Retirement from the Florida Retirement System Contributions

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1 Clearing Trust Fund to the third-party administrator for
 2 deposit in each participating employee's individual account
 3 based on the membership class of the participant.

4 (2) The allocations are stated as a percentage of each
 5 optional retirement program participant's gross compensation
 6 for the calendar month. A change in a contribution percentage
 7 is effective the first day of the month for which a full
 8 month's employer contribution may be made on or after the
 9 beginning date of the change. Contribution percentages may be
 10 modified by general law.

11 (3) Employer and participant contributions to
 12 participant accounts shall be accounted for separately.
 13 Participant contributions may be made only if expressly
 14 authorized by law. Interest and investment earnings on
 15 contributions shall accrue on a tax-deferred basis until
 16 proceeds are distributed.

17 (4) Effective July 1, 2002, allocations from the
 18 Florida Retirement System Contributions Clearing Trust Fund to
 19 optional retirement program participant accounts shall be as
 20 follows:

<u>Membership Class</u>	<u>Percentage of Gross</u>
	<u>Compensation</u>
<u>Regular Class</u>	<u>9.00%</u>
<u>Special Risk Class</u>	<u>20.00%</u>
<u>Special Risk Administrative Support Class</u>	<u>11.35%</u>
<u>Elected Officers' Class -</u>	
<u>Legislators, Governor,</u>	
<u>Lt. Governor, Cabinet Officers,</u>	
<u>State Attorneys, Public Defenders</u>	<u>13.40%</u>
<u>Elected Officers' Class -</u>	

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1	<u>Justices, Judges</u>	<u>18.90%</u>
2	<u>Elected Officers' Class -</u>	
3	<u>County Elected Officers</u>	<u>16.20%</u>
4	<u>Senior Management Service Class</u>	<u>10.95%</u>

6 121.73 Allocations for optional retirement program
 7 participant disability coverage; percentage amounts.--

8 (1) The allocations established in subsection (3)
 9 shall be used to provide disability coverage for participants
 10 in the optional retirement program and shall be transferred
 11 monthly by the Division of Retirement from the Florida
 12 Retirement System Contributions Clearing Trust Fund to the
 13 disability account of the Florida Retirement System Trust
 14 Fund.

15 (2) The allocations are stated as a percentage of each
 16 optional retirement program participant's gross compensation
 17 for the calendar month. A change in a contribution percentage
 18 is effective the first day of the month for which a full
 19 month's employer contribution may be made on or after the
 20 beginning date of the change. Contribution percentages may be
 21 modified by general law.

22 (3) Effective July 1, 2002, allocations from the FRS
 23 Contribution Clearing Fund to provide disability coverage for
 24 participants in the optional retirement program, and to offset
 25 the costs of administering said coverage, shall be as follows:

	<u>Membership Class</u>	<u>Percentage of Gross</u>
		<u>Compensation</u>
29	<u>Regular Class</u>	<u>0.25%</u>
30	<u>Special Risk Class</u>	<u>1.33%</u>
31	<u>Special Risk Administrative Support Class</u>	<u>0.45%</u>

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1	<u>Elected Officers' Class -</u>	
2	<u>Legislators, Governor,</u>	
3	<u>Lt. Governor, Cabinet Officers,</u>	
4	<u>State Attorneys, Public Defenders</u>	<u>0.41%</u>
5	<u>Elected Officers' Class -</u>	
6	<u>Justices, Judges</u>	<u>0.73%</u>
7	<u>Elected Officers' Class -</u>	
8	<u>County Elected Officers</u>	<u>0.41%</u>
9	<u>Senior Management Service Class</u>	<u>0.26%</u>

10

11 121.74 Administrative and educational
 12 expenses.--Effective July 1, 2002, in addition to
 13 contributions required under s. 121.71, employers
 14 participating in the Florida Retirement System shall
 15 contribute an amount equal to 0.15 percent of the payroll
 16 reported for each class or subclass of Florida Retirement
 17 System membership, which amount shall be transferred by the
 18 Division of Retirement from the Florida Retirement System
 19 Contribution Clearing Trust Fund to the State Board of
 20 Administration's Administrative Trust Fund to offset the costs
 21 of administering the optional retirement program and the costs
 22 of providing educational services to participants in the
 23 defined benefit program and the optional retirement program.
 24 Approval of the Trustees of the State Board of Administration
 25 is required prior to the expenditure of these funds. Payments
 26 for third-party administrative or educational expenses shall
 27 be made only pursuant to the terms of the approved contracts
 28 for such services.

29 121.75 Allocation for defined benefit program.--After
 30 making the transfers required pursuant to ss. 121.71, 121.72,
 31 121.73, and 121.74, the monthly balance of funds in the

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1 Florida Retirement System Contributions Clearing Trust Fund
2 shall be transferred to the Florida Retirement System Trust
3 Fund to pay the costs of providing defined benefit program
4 benefits and plan administrative costs under the defined
5 benefit program.

6 121.76 Contributions for social security and for
7 retiree health insurance subsidy.--Contributions required
8 under this part shall be made or deducted, as may be
9 appropriate, for each pay period and are in addition to
10 employer and member contributions required for social security
11 and the Retiree Health Insurance Subsidy Trust Fund as
12 provided under parts I and II of this chapter.

13 121.77 Deductions from participant accounts.--The
14 State Board of Administration may authorize the third-party
15 administrator to deduct reasonable fees and apply appropriate
16 charges to optional retirement program participant accounts.
17 In no event shall administrative and educational expenses
18 exceed the portion of employer contributions earmarked for
19 such expenses under this part, except for reasonable
20 administrative charges assessed against participant accounts
21 of persons for whom no employer contributions are made during
22 the calendar quarter. Investment management fees shall be
23 deducted from participant accounts, pursuant to the terms of
24 the contract between the provider and the board.

25 121.78 Payment and distribution of contributions.--
26 (1) Contributions made pursuant to this part shall be
27 paid by the employer to the Division of Retirement by
28 electronic funds transfer no later than the 5th working day of
29 the month immediately following the month during which the
30 payroll period ended. Accompanying payroll data must be
31 transmitted to the Division concurrent with the

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1 contributions.

2 (2) The division, the State Board of Administration,
3 and the third-party administrator, as applicable, shall ensure
4 that the contributions are distributed to the appropriate
5 trust funds or participant accounts in a timely manner.

6 (3)(a) Employer contributions and accompanying payroll
7 data received after the 5th working day of the month shall be
8 considered late. The employer shall be assessed by the
9 Division a penalty of 1 percent of the contributions due for
10 each calendar month or part thereof that the contributions or
11 accompanying payroll data are late. Proceeds from the
12 1-percent assessment against contributions made on behalf of
13 participants of the defined benefit program shall be deposited
14 in the Florida Retirement System Trust Fund, and proceeds from
15 the 1-percent assessment against contributions made on behalf
16 of participants of the optional retirement program shall be
17 transferred to the third party administrator for deposit into
18 participant accounts, as provided in paragraph (b).

19 (b) If contributions made by an employer on behalf of
20 participants of the optional retirement program or
21 accompanying payroll data are not received within the calendar
22 month they are due and if that delinquency results in market
23 losses to participants, the employer shall reimburse each
24 participant's account for market losses resulting from the
25 late contributions. The third-party administrator, hired by
26 the board pursuant to s. 121.4501(8), shall calculate the
27 market losses for each affected participant. When
28 contributions made on behalf of participants of the optional
29 retirement program or accompanying payroll data are not
30 received within the calendar month due, the employer shall
31 also pay the cost of the third-party administrator's

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1 calculation and reconciliation adjustments resulting from the
2 late contributions. The third-party administrator shall notify
3 the employer of the results of the calculations and the total
4 amount due from the employer for such losses and the costs of
5 calculation and reconciliation. The employer shall remit to
6 the Division the amount due within 10 working days after the
7 date of the penalty notice sent by the Division. The Division
8 shall transfer said amount to the third-party administrator,
9 who shall deposit proceeds from the 1-percent assessment and
10 from individual market losses into participant accounts, as
11 appropriate. The board is authorized to adopt rules to
12 implement the provisions regarding late contributions, late
13 submission of payroll data, the process for reimbursing
14 participant accounts for resultant market losses, and the
15 penalties charged to the employers.

16 (c) Delinquency fees may be waived by the division,
17 with regard to defined benefit program contributions, and by
18 the State Board of Administration, with regard to optional
19 retirement program contributions, only when, in the opinion of
20 the division or the board, as appropriate, exceptional
21 circumstances beyond the employer's control prevented
22 remittance by the prescribed due date notwithstanding the
23 employer's good faith efforts to effect delivery. Such a
24 waiver of delinquency may be granted an employer only one time
25 each state fiscal year.

26 Section 2. Subsection (7) of section 121.052, Florida
27 Statutes, is amended to read:

28 121.052 Membership class of elected officers.--

29 (7) CONTRIBUTIONS.--

30 (a) The following table states the required retirement
31 contribution rates for members of the Elected Officers' Class

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1 and their employers in terms of a percentage of the member's
 2 gross compensation. A change in a contribution rate is
 3 effective with the first salary paid on or after the beginning
 4 date of the change. Contributions shall be made or deducted as
 5 may be appropriate for each pay period and are in addition to
 6 the contributions required for social security and the Retiree
 7 Health Insurance Subsidy Trust Fund.

8

9 Dates of Contribution

10 Rate Changes	Members	Employers
11 <u>1. Effective July 1,</u>		
12 <u>2001, through June 30, 2002</u>		
13 Legislators	0%	15.14%
14 Governor, Lt. Governor, Cabinet		
15 Officers	0%	15.14%
16 State Attorneys, Public Defenders	0%	15.14%
17 Justices, Judges	0%	20.61%
18 County Elected Officers	0%	17.61%

19 2. Effective July 1, 2002, the required retirement
 20 contribution rates shall be specified in s. 121.71.

21

22 (b) The employer paying the salary of a member of the
 23 Elected Officers' Class shall contribute an amount as
 24 specified in this subsection or s. 121.71, as appropriate,
 25 which shall constitute the entire employer retirement
 26 contribution with respect to such member. The employer shall
 27 also withhold one-half of the entire contribution of the
 28 member required for social security coverage.

29 (c) The following table states the required employer
 30 contribution on behalf of each member of the Elected Officers'
 31 Class in terms of a percentage of the member's gross

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1 compensation. Such contribution constitutes the entire health
 2 insurance subsidy contribution with respect to each such the
 3 member. A change in the contribution rate is effective with
 4 the first salary paid on or after the beginning date of the
 5 change. The retiree health insurance subsidy contribution rate
 6 is as follows:

8 Dates of Contribution	Contribution
9 Rate Changes	Rate
10	
11 October 1, 1987, through December 31, 1988	0.24%
12 January 1, 1989, through December 31, 1993	0.48%
13 January 1, 1994, through December 31, 1994	0.56%
14 January 1, 1995, through June 30, 1998	0.66%
15 July 1, 1998, through June 30, 2001	0.94%
16 Effective July 1, 2001	1.11%

17
 18 Such contributions shall be deposited by the administrator in
 19 the Retiree Health Insurance Subsidy Trust Fund.

20 Section 3. Subsection (3) of section 121.055, Florida
 21 Statutes, is amended to read:

22 121.055 Senior Management Service Class.--There is
 23 hereby established a separate class of membership within the
 24 Florida Retirement System to be known as the "Senior
 25 Management Service Class," which shall become effective
 26 February 1, 1987.

27 (3)(a) The following table states the required
 28 retirement contribution rates for members of the Senior
 29 Management Service Class and their employers in terms of a
 30 percentage of the member's gross compensation. A change in the
 31 contribution rate is effective with the first salary paid on

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1 or after the beginning date of the change. Contributions
 2 shall be made for each pay period and are in addition to the
 3 contributions required for social security and the Retiree
 4 Health Insurance Subsidy Trust Fund.

5
 6 Dates of Contribution

7 Rate Changes Members Employers

8 1. Effective July 1, 0% 11.73%
 9 2001, through June 30, 2002

10 2. Effective July 1, 2002, the required retirement
 11 contribution rate shall be as specified in s. 121.71.

12
 13 (b) The employer paying the salary of a member of the
 14 Senior Management Service Class shall contribute an amount as
 15 specified in this section or s. 121.71, as appropriate, which
 16 shall constitute the entire employer retirement contribution
 17 with respect to such member. The employer shall also withhold
 18 one-half of the entire contribution of the member required for
 19 social security coverage.

20 (c) The following table states the required employer
 21 contribution on behalf of each member of the Senior Management
 22 Service Class in terms of a percentage of the member's gross
 23 compensation. Such contribution constitutes the entire health
 24 insurance subsidy contribution with respect to each such the
 25 member. A change in the contribution rate is effective with
 26 the first salary paid on or after the beginning date of the
 27 change. The retiree health insurance subsidy contribution
 28 rate is as follows:

29
 30 Dates of Contribution Contribution
 31 Rate Changes Rate

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1	October 1, 1987, through December 31, 1988	0.24%
2	January 1, 1989, through December 31, 1993	0.48%
3	January 1, 1994, through December 31, 1994	0.56%
4	January 1, 1995, through June 30, 1998	0.66%
5	July 1, 1998, through June 30, 2001	0.94%
6	Effective July 1, 2001	1.11%

7

8 Such contributions shall be deposited by the administrator in
9 the Retiree Health Insurance Subsidy Trust Fund.

10 Section 4. Subsections (1), (2), (3), (4), and (5) of
11 section 121.071, Florida Statutes, are amended to read:

12 121.071 Contributions.--Contributions to the system
13 shall be made as follows:

14 (1) The following tables state the required retirement
15 contribution rates for members of the Regular Class, Special
16 Risk Class, or Special Risk Administrative Support Class and
17 their employers in terms of a percentage of the member's gross
18 compensation. A change in a contribution rate is effective
19 with the first salary paid on or after the beginning date of
20 the change. Contributions shall be made or deducted as may be
21 appropriate for each pay period and are in addition to the
22 contributions required for social security and the Retiree
23 Health Insurance Subsidy Trust Fund.

24 (a)1. Retirement contributions for regular members are
25 as follows:

26

27 Dates of Contribution

28	Rate Changes	Members	Employers
29	Effective July 1, 2001, 30 <u>through June 30, 2002</u>	0%	9.91%

31 2. Effective July 1, 2002, the retirement

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1 contributions for regular members shall be specified in s.
2 121.71.

3
4 (b)1. Retirement contributions for special risk
5 members are as follows:

6
7 Dates of Contribution

8 Rate Changes	Members	Employers
9 Effective July 1,		
10 2001, through June 30, 2002	0%	22.07%

11 2. Effective July 1, 2002, retirement contributions
12 for special risk members shall be specified in s. 121.71.

13
14 (c)1. Retirement contributions for special risk
15 administrative support members are as follows:

16
17 Dates of Contribution

18 Rate Changes	Members	Employers
19 Effective July 1, 2001, through		
20 <u>June 30, 2002</u>	0%	12.55%

21 2. Effective July 1, 2002, retirement contributions
22 for special risk administrative support members shall be
23 specified in s. 121.71.

24
25 (2)(a) Effective January 1, 1975, or October 1, 1975,
26 as applicable, each employer shall accomplish the ~~increased~~
27 contribution required by subsection (1) by a procedure in
28 which no employee's gross salary shall be reduced.

29 (b) Upon termination of employment for any reason
30 other than retirement, a member shall be entitled to a full
31 refund of the contributions he or she has made prior or

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1 subsequent to participation in the noncontributory plan,
 2 subject to the restrictions otherwise provided in this
 3 chapter.

4 (3) The employer paying the salary of a member shall
 5 contribute an amount as specified in this section or s.
 6 121.71, as appropriate, which shall constitute the entire
 7 employer retirement contribution with respect to such member.
 8 The employer shall also withhold one-half of the entire
 9 contribution of the member required for social security
 10 coverage. Contributions for social security by each member
 11 and each employer, in the amount required for social security
 12 coverage as now or hereafter provided by the federal Social
 13 Security Act, shall be in addition to contributions specified
 14 in subsection (1).

15 (4) The following table states the required employer
 16 contribution on behalf of each member of the Regular Class,
 17 Special Risk Class, or Special Risk Administrative Support
 18 Class in terms of a percentage of the member's gross
 19 compensation. Such contribution constitutes the entire health
 20 insurance subsidy contribution with respect to each such ~~the~~
 21 member. A change in the contribution rate is effective with
 22 the first salary paid on or after the beginning date of the
 23 change. The retiree health insurance subsidy contribution rate
 24 is as follows:

Dates of Contribution	Contribution
Rate Changes	Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1993	0.48%
January 1, 1994, through December 31, 1994	0.56%
January 1, 1995, through June 30, 1998	0.66%

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1	July 1, 1998, through June 30, 2001	0.94%
2	Effective July 1, 2001	1.11%

3

4 Such contributions shall be deposited by the administrator in
5 the Retiree Health Insurance Subsidy Trust Fund.

6 (5) Contributions made in accordance with subsections
7 (1), (2), (3), and (4), and s. 121.71 shall be paid by the
8 employer into the system trust funds in accordance with rules
9 adopted by the administrator pursuant to chapter 120. Such
10 ~~contributions are due and payable no later than the 25th day~~
11 ~~of the month immediately following the month during which the~~
12 ~~payroll period ended. The department may, by rule, establish a~~
13 ~~different due date, which shall supersede the date specified~~
14 ~~herein; however, such due date may not be established earlier~~
15 ~~than the 20th day of the month immediately following the month~~
16 ~~during which the payroll period ended. Effective January 1,~~
17 ~~1984, contributions made in accordance with subsection (3)~~
18 ~~shall be paid by the employer into the system trust fund in~~
19 ~~accordance with rules adopted by the administrator pursuant to~~
20 ~~chapter 120. For any payroll period ending any day of the~~
21 ~~month before the 16th day of the month, such contributions are~~
22 ~~due and payable no later than the 20th day of the month; and,~~
23 ~~for any payroll periods ending any day of the month after the~~
24 ~~15th day of the month, such contributions are due and payable~~
25 ~~no later than the 5th day of the next month. Contributions~~
26 ~~received in the offices of the department after the prescribed~~
27 ~~date shall be considered delinquent unless, in the opinion of~~
28 ~~the department, exceptional circumstances beyond an employer's~~
29 ~~control prevented remittance by the prescribed due date~~
30 ~~notwithstanding such employer's good faith efforts to effect~~
31 ~~delivery; and, with respect to retirement contributions due~~

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1 ~~under subsections (1) and (4), each employer shall be assessed~~
2 ~~a delinquent fee of 1 percent of the contributions due for~~
3 ~~each calendar month or part thereof that the contributions are~~
4 ~~delinquent. Such a waiver of the delinquency fee by the~~
5 ~~department may be granted an employer only one time each~~
6 ~~fiscal year. Delinquent social security contributions shall be~~
7 ~~assessed a delinquent fee as authorized by s. 650.05(4). The~~
8 ~~delinquent fee assessable for an employer's first delinquency~~
9 ~~after July 1, 1984, shall be as specified in s. 650.05(4),~~
10 ~~and, beginning with the second delinquency in any fiscal year~~
11 ~~by the employer subsequent to July 1, 1984, all subsequent~~
12 ~~delinquency fees shall be assessed against the employer at~~
13 ~~twice the applicable percentage rate specified in s.~~
14 ~~650.05(4).~~

15 Section 5. Effective July 1, 2002, paragraph (i) of
16 subsection (13) of section 121.091, Florida Statutes, is
17 amended to read:

18 121.091 Benefits payable under the system.--Benefits
19 may not be paid under this section unless the member has
20 terminated employment as provided in s. 121.021(39)(a) or
21 begun participation in the Deferred Retirement Option Program
22 as provided in subsection (13), and a proper application has
23 been filed in the manner prescribed by the department. The
24 department may cancel an application for retirement benefits
25 when the member or beneficiary fails to timely provide the
26 information and documents required by this chapter and the
27 department's rules. The department shall adopt rules
28 establishing procedures for application for retirement
29 benefits and for the cancellation of such application when the
30 required information or documents are not received.

31 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,

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1 and subject to the provisions of this section, the Deferred
2 Retirement Option Program, hereinafter referred to as the
3 DROP, is a program under which an eligible member of the
4 Florida Retirement System may elect to participate, deferring
5 receipt of retirement benefits while continuing employment
6 with his or her Florida Retirement System employer. The
7 deferred monthly benefits shall accrue in the System Trust
8 Fund on behalf of the participant, plus interest compounded
9 monthly, for the specified period of the DROP participation,
10 as provided in paragraph (c). Upon termination of employment,
11 the participant shall receive the total DROP benefits and
12 begin to receive the previously determined normal retirement
13 benefits. Participation in the DROP does not guarantee
14 employment for the specified period of DROP.

15 (i) Contributions.--

16 1. All employers paying the salary of a DROP
17 participant filling a regularly established position shall
18 contribute 8.0 ~~11.56~~ percent of such participant's gross
19 compensation for the period of July 1, 2002, through June 30,
20 2003, and 11.56 percent of such compensation thereafter, which
21 shall constitute the entire employer DROP contribution with
22 respect to such participant. Such contributions, payable to
23 the System Trust Fund in the same manner as required in s.
24 121.071, shall be made as appropriate for each pay period and
25 are in addition to contributions required for social security
26 and the Retiree Health Insurance Subsidy Trust Fund. Such
27 employer, social security, and health insurance subsidy
28 contributions are not included in the DROP.

29 2. The employer shall, in addition to subparagraph 1.,
30 also withhold one-half of the entire social security
31 contribution required for the participant. Contributions for

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1 social security by each participant and each employer, in the
2 amount required for social security coverage as now or
3 hereafter provided by the federal Social Security Act, shall
4 be in addition to contributions specified in subparagraph 1.

5 3. All employers paying the salary of a DROP
6 participant filling a regularly established position shall
7 contribute the percent of such participant's gross
8 compensation required in s. 121.071(4), which shall constitute
9 the employer's health insurance subsidy contribution with
10 respect to such participant. Such contributions shall be
11 deposited by the administrator in the Retiree Health Insurance
12 Subsidy Trust Fund.

13 Section 6. Subsections (1), (5), and (15) of section
14 121.4501, Florida Statutes, is amended to read:

15 121.4501 Public Employee Optional Retirement
16 Program.--

17 (1) The Trustees of the State Board of Administration
18 shall establish an optional defined contribution retirement
19 program for members of the Florida Retirement System under
20 which retirement benefits will be provided for eligible
21 employees who elect to participate in the program. The
22 benefits to be provided for or on behalf of participants in
23 such optional retirement program shall be provided through
24 employee-directed investments, in accordance with s. 401(a) of
25 the Internal Revenue Code and its related regulations. The
26 employers shall contribute, as provided in this section s.
27 121.71, and s. 121.571, to the Public Employee Optional
28 Retirement Program Trust Fund toward the funding of such
29 optional benefits.

30 (5) CONTRIBUTIONS.--

31 (a) Each employer shall contribute on behalf of each

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1 participant in the Public Employee Optional Retirement
2 Program, as provided in part III of this chapter ~~an amount~~
3 ~~based on a percentage of the employee's monthly compensation~~
4 ~~as set forth in s. 121.571.~~ The state board, acting as plan
5 fiduciary, shall ensure that all plan assets are held in a
6 trust, pursuant to s. 401 of the Internal Revenue Code. ~~The~~
7 ~~employer shall forward all contributions under this program to~~
8 ~~the third-party administrator.~~ The fiduciary shall ensure that
9 said contributions are allocated as follows:

10 1. The portion earmarked for participant accounts
11 shall be used to purchase interests in the appropriate
12 investment vehicles for the accounts of each participant as
13 specified by the participant, or in accordance with paragraph
14 (4)(d).

15 2. The portion earmarked for administrative and
16 educational expenses shall be transferred to the board.

17 3. The portion earmarked for disability benefits shall
18 be transferred to the department.

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

26 (15) STATEMENT OF FIDUCIARY STANDARDS AND
27 RESPONSIBILITIES.--

28 (a) Investment of optional defined contribution
29 retirement plan assets shall be made for the sole interest and
30 exclusive purpose of providing benefits to plan participants
31 and beneficiaries and defraying reasonable expenses of

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1 administering the plan. The program's assets are to be
2 invested, on behalf of the program participants, with the
3 care, skill, and diligence that a prudent person acting in a
4 like manner would undertake. The performance of the investment
5 duties set forth in this paragraph shall comply with the
6 fiduciary standards set forth in the Employee Retirement
7 Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C).
8 In case of conflict with other provisions of law authorizing
9 investments, the investment and fiduciary standards set forth
10 in this subsection shall prevail.

11 (b) If a participant or beneficiary of the Public
12 Employee Optional Retirement Program exercises control over
13 the assets in his or her account, as determined by reference
14 to regulations of the United States Department of Labor under
15 s. 404(c) of the Employee Retirement Income Security Act of
16 1974 and all applicable laws governing the operation of the
17 program, no program fiduciary shall be liable for any loss to
18 a participant's or beneficiary's account which results from
19 such participant's or beneficiary's exercise of control.

20 (c) Subparagraph (8)(b)4. and paragraph (15)(b)
21 incorporate the federal law concept of participant control,
22 established by regulations of the U.S. Department of Labor
23 under section 404(c) of the Employee Retirement Income
24 Security Act of 1974 (ERISA). The purpose of this paragraph
25 is to assist employers and the State Board of Administration
26 in maintaining compliance with section 404(c), while avoiding
27 unnecessary costs and eroding participant benefits under the
28 Public Employee Optional Retirement Program. Pursuant to 29
29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(1)(viii), the State Board of
30 Administration or its designated agents shall deliver to
31 participants of the Public Employee Optional Retirement

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1 Program a copy of the prospectus most recently provided to the
2 plan, or shall provide such participants an opportunity to
3 obtain this information, except that:

4 1. The requirement to deliver a prospectus shall be
5 deemed to be satisfied by delivery of a fund profile that
6 contains the information that would be included in a summary
7 prospectus as described by Rule 498 under the Securities Act
8 of 1933, 17 C.F.R. s. 230.498. When the transaction fees,
9 expense information or other information provided by a mutual
10 fund in the prospectus does not reflect terms negotiated by
11 the State Board of Administration or its designated agents,
12 the aforementioned requirement is deemed to be satisfied by
13 delivery of a separate document described by Rule 498
14 substituting accurate information; and

15 2. Delivery shall be deemed to have been effected if
16 delivery is through electronic means and the following
17 standards are satisfied:

18 a. Electronically-delivered documents are prepared and
19 provided consistent with style, format, and content
20 requirements applicable to printed documents;

21 b. Each participant is provided timely and adequate
22 notice of the documents that are to be delivered and their
23 significance thereof, and of the participant's right to obtain
24 a paper copy of such documents free of charge;

25 c.(I) Participants have adequate access to the
26 electronic documents, at locations such as their worksites or
27 public facilities, and have the ability to convert the
28 documents to paper free of charge by the State Board of
29 Administration, and the Board or its designated agents take
30 appropriate and reasonable measures to ensure that the system
31 for furnishing electronic documents results in actual receipt,

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1 or

2 (II) Participants have provided consent to receive
3 information in electronic format, which consent may be
4 revoked; and

5 d. The State Board of Administration, or its
6 designated agent, actually provides paper copies of the
7 documents free of charge, upon request.

8 Section 7. Section 121.571, Florida Statutes, is
9 amended to read:

10 (Substantial rewording of section. See

11 s. 121.571, F.S., for present text.)

12 121.571 Contributions.--Contributions to the Public
13 Employee Optional Retirement Program shall be made as follows:

14 (1) NONCONTRIBUTORY PLAN.--Each employer shall
15 accomplish the contributions required by s. 121.71 by a
16 procedure in which no employee's gross salary shall be
17 reduced.

18 (2) CONTRIBUTION RATES GENERALLY.--Contributions to
19 fund the retirement and disability benefits provided under
20 this part shall be based on the uniform contribution rates
21 established by s. 121.71 and on the membership class or
22 subclass of the participant. Such contributions shall be
23 allocated as provided in ss. 121.72 and 121.73.

24 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
25 RETIREE HEALTH INSURANCE SUBSIDY.--Contributions required
26 under this section shall be in addition to employer and member
27 contributions required for social security and the Retiree
28 Health Insurance Subsidy Trust Fund as provided in ss.
29 112.363, 121.052, 121.055, and 121.071, as appropriate.

30 Section 8. Section 11 of chapter 2001-235, Laws of
31 Florida, is amended to read:

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1 Section 11. It is the intent of the Legislature that
2 the costs attributable to the additional cost-of-living
3 increase for special risk retirees and Deferred Retirement
4 Option Program participants as provided under section 2 shall
5 be funded by recognition of excess actuarial assets, amortized
6 over 30 years with the payments assumed to remain relatively
7 stable when expressed as a percentage of payroll. For fiscal
8 year 2001-2002, the payment shall be \$9.3 million. For fiscal
9 year 2002-2003, the payment shall be \$15.1~~\$19~~ million, and,
10 thereafter, payments shall increase by 5 percent per year. If
11 insufficient funds are available to fund this additional cost
12 through recognition of excess actuarial assets in fiscal year
13 2002-2003 and any year thereafter, and there remains an
14 unfunded actuarial liability attributable to the one-time
15 cost-of-living increase provided under section 2, the payroll
16 contribution rate for the Special Risk Class of the Florida
17 Retirement System shall be increased by .93 percent effective
18 July 1 of that year, unless the Legislature provides an
19 alternative funding mechanism before that date.

20 Section 9. Section 23 of chapter 2000-169, Laws of
21 Florida, is hereby repealed.

22 Section 10. The contribution rates proposed in this
23 act shall be in addition to all other changes to such
24 contribution rates which may be enacted into law to take
25 effect on July 1, 2002. The Division of Statutory Revision is
26 directed to adjust the contribution rates set forth herein
27 accordingly.

28 Section 11. The Legislature finds that a proper and
29 legitimate state purpose is served when employees, officers,
30 retirees of the state and its political subdivisions, and the
31 dependents, survivors, and beneficiaries of such employees,

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1 officers, and retirees, are extended the basic protections
2 afforded by governmental retirement systems that provide fair
3 and adequate benefits and that are managed, administered, and
4 funded in an actuarially sound manner, as required by Section
5 14, Article X of the State Constitution and part VII of
6 chapter 112, Florida Statutes. Therefore, the Legislature
7 hereby determines and declares that the provisions of this act
8 fulfill an important state interest.

9 Section 12. Paragraph (h) of subsection (1),
10 subsection (3), and paragraph (c) of subsection (6) of section
11 121.055, Florida Statutes, as amended by chapter 2001-262,
12 Laws of Florida, are amended to read:

13 121.055 Senior Management Service Class.--There is
14 hereby established a separate class of membership within the
15 Florida Retirement System to be known as the "Senior
16 Management Service Class," which shall become effective
17 February 1, 1987.

18 (1)

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

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1 Management Service Class of the Florida Retirement System,
2 provided that:

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

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

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

22 (I) Heads an organizational unit; or

23 (II) Has responsibility to effect or recommend
24 personnel, budget, expenditure, or policy decisions in his or
25 her areas of responsibility.

26 2. Participation in this class shall be compulsory,
27 except as provided in subparagraph 3., for any judicial
28 employee who holds a position designated for coverage in the
29 Senior Management Service Class, and such participation shall
30 continue until the employee terminates employment in a covered
31 position. Effective January 1, 2001, participation in this

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1 class is compulsory for assistant state attorneys, assistant
 2 statewide prosecutors, assistant public defenders, and
 3 assistant capital collateral regional counsels. Effective
 4 January 1, 2002, participation in this class is compulsory for
 5 assistant attorneys general.

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

13 (3)(a) The following table states the required
 14 retirement contribution rates for members of the Senior
 15 Management Service Class and their employers in terms of a
 16 percentage of the member's gross compensation. A change in the
 17 contribution rate is effective with the first salary paid on
 18 or after the beginning date of the change. Contributions
 19 shall be made for each pay period and are in addition to the
 20 contributions required for social security and the Retiree
 21 Health Insurance Subsidy Trust Fund.

22

23 Dates of Contribution

24 Rate Changes	Members	Employers
25 Effective July 1, 2001	0%	11.73%

26

27 (b) The employer paying the salary of a member of the
 28 Senior Management Service Class shall contribute an amount as
 29 specified in this section which shall constitute the entire
 30 employer retirement contribution with respect to such member.
 31 The employer shall also withhold one-half of the entire

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1 contribution of the member required for social security
2 coverage.

3 (c) The following table states the required employer
4 contribution on behalf of each member of the Senior Management
5 Service Class in terms of a percentage of the member's gross
6 compensation. Such contribution constitutes the entire health
7 insurance subsidy contribution with respect to the member. A
8 change in the contribution rate is effective with the first
9 salary paid on or after the beginning date of the change. The
10 retiree health insurance subsidy contribution rate is as
11 follows:

13 Dates of Contribution	Contribution
14 Rate Changes	Rate
15 October 1, 1987, through December 31, 1988	0.24%
16 January 1, 1989, through December 31, 1993	0.48%
17 January 1, 1994, through December 31, 1994	0.56%
18 January 1, 1995, through June 30, 1998	0.66%
19 July 1, 1998, through June 30, 2001	0.94%
20 Effective July 1, 2001	1.11%

21
22 Such contributions and accompanying payroll data are due and
23 payable no later than the 5th working day of the month
24 immediately following the month during which the payroll
25 period ended and shall be deposited by the administrator in
26 the Retiree Health Insurance Subsidy Trust Fund.

27 (6)

28 (c) Participation.--

29 1. Any eligible employee who is employed on or before
30 February 1, 1987, may elect to participate in the optional
31 annuity program in lieu of participation in the Senior

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1 Management Service Class. Such election shall be made in
2 writing and filed with the department and the personnel
3 officer of the employer on or before May 1, 1987. Any
4 eligible employee who is employed on or before February 1,
5 1987, and who fails to make an election to participate in the
6 optional annuity program by May 1, 1987, shall be deemed to
7 have elected membership in the Senior Management Service
8 Class.

9 2. Any employee who becomes eligible to participate in
10 the optional annuity program by reason of initial employment
11 commencing after February 1, 1987, may, within 90 days after
12 the date of commencement of employment, elect to participate
13 in the optional annuity program. Such election shall be made
14 in writing and filed with the personnel officer of the
15 employer. Any eligible employee who does not within 90 days
16 after commencement of such employment elect to participate in
17 the optional annuity program shall be deemed to have elected
18 membership in the Senior Management Service Class.

19 3. A person who is appointed to a position in the
20 Senior Management Service Class and who is a member of an
21 existing retirement system or the Special Risk or Special Risk
22 Administrative Support Classes of the Florida Retirement
23 System may elect to remain in such system or class in lieu of
24 participation in the Senior Management Service Class or
25 optional annuity program. Such election shall be made in
26 writing and filed with the department and the personnel
27 officer of the employer within 90 days of such appointment.
28 Any eligible employee who fails to make an election to
29 participate in the existing system, the Special Risk Class of
30 the Florida Retirement System, the Special Risk Administrative
31 Support Class of the Florida Retirement System, or the

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1 optional annuity program shall be deemed to have elected
2 membership in the Senior Management Service Class.

3 4. Except as provided in subparagraph 5., an
4 employee's election to participate in the optional annuity
5 program is irrevocable as long as such employee continues to
6 be employed in an eligible position and continues to meet the
7 eligibility requirements set forth in this paragraph.

8 5. Effective from July 1, 2002, through September 30,
9 2002, any active employee in a regularly established position
10 who has elected to participate in the Senior Management
11 Service Optional Annuity Program has one opportunity to choose
12 to move from the Senior Management Service Optional Annuity
13 Program to the Florida Retirement System defined benefit
14 program.

15 a. The election must be made in writing and must be
16 filed with the department and the personnel officer of the
17 employer before October 1, 2002, or, in the case of an active
18 employee who is on a leave of absence on July 1, 2002, within
19 90 days after the conclusion of the leave of absence. This
20 election is irrevocable.

21 b. The employee will receive service credit under the
22 defined benefit program of the Florida Retirement System equal
23 to his or her years of service under the Senior Management
24 Service Optional Annuity Program. The cost for such credit
25 shall be an amount representing the present value of that
26 employee's accumulated benefit obligation for the affected
27 period of service.

28 c. The employee must transfer the total accumulated
29 employer contributions and earnings on deposit in his or her
30 Senior Management Service Optional Annuity Program account. If
31 the transferred amount is not sufficient to pay the amount

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1 due, the employee must pay a sum representing the remainder of
2 the amount due. In no case may the employee retain any
3 employer contributions or earnings thereon from the Senior
4 Management Service Optional Annuity Program account.

5 Section 13. Except as otherwise provided herein, this
6 act shall take effect June 1, 2002.

7
8

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

10 And the title is amended as follows:

11 Delete everything before the enacting clause

12

13 and insert:

14 An act relating to the Florida Retirement
15 System; creating part III of chapter 121, F.S.,
16 consisting of ss. 121.70, 121.71, 121.72,
17 121.73, 121.74, 121.75, 121.76, 121.77, 121.78,
18 F.S.; providing legislative purpose and intent
19 to establish a uniform contribution rate system
20 for the Florida Retirement System; providing
21 for establishment of uniform rates; providing
22 allocations to Public Employee Optional
23 Retirement Program accounts; providing for
24 allocations to provide disability coverage for
25 Public Employee Optional Retirement Program
26 participants; providing administrative and
27 educational expenses; providing for transfer of
28 remaining balance to Florida Retirement System
29 Trust Fund to fund the benefit costs under the
30 Florida Retirement System Pension Plan and
31 administrative costs authorized under part I of

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1 chapter 121, F.S.; providing for contributions
2 for Social Security and for the retiree health
3 insurance subsidy; granting the State Board of
4 Administration authority to allow the
5 third-party administrator to make deductions
6 from participant accounts; providing for
7 payment and distribution of contributions;
8 amending ss. 121.052, 121.055, 121.071,
9 121.571, F.S., to conform to the uniform
10 contribution rate system; amending s. 121.091,
11 F.S.; reducing contribution rates for DROP
12 payroll; amending s. 121.4501, F.S.; conforming
13 references; providing guidance to assist
14 employers and the State Board of Administration
15 in maintaining compliance with section 404(c)
16 of ERISA; providing a directive to statute
17 editors; amending section 11 of chapter
18 2001-235, Laws of Florida, to revise annual
19 payment amount to cover the cost for the
20 special January 2002 benefit increase provided
21 for certain retirees and DROP participants;
22 repealing section 23 of chapter 2000-169, Laws
23 of Florida, relating to contribution rate
24 increases scheduled to take effect on July 1,
25 2002, which are redundant; providing
26 legislative intent regarding other rate
27 changes; providing a declaration of important
28 state interest; revising provisions governing
29 contributions to the Senior Management Service
30 Optional Annuity Program; providing an
31 effective date.