

By Senator Sanderson

31-1030-02

1 A bill to be entitled
 2 An act relating to the Florida Retirement
 3 System; amending ss. 121.052, 121.055, 121.071,
 4 F.S.; making the date for payment of retirement
 5 contributions consistent under the
 6 defined-benefit and defined-contribution
 7 programs; amending s. 121.4501, F.S., relating
 8 to the Public Employee Optional Retirement
 9 Program; revising definitions; establishing
 10 dates on which present-value calculations are
 11 based; conforming election provisions for local
 12 government employees to provisions applicable
 13 to other employees; repealing provisions
 14 relating to payment of benefits; amending s.
 15 121.571, F.S., relating to employer
 16 contributions to the Public Employee Optional
 17 Retirement Program; adjusting rates; making the
 18 date for payment of retirement contributions
 19 consistent under the defined-benefit and
 20 defined-contribution programs; creating s.
 21 121.591, F.S., relating to benefits payable
 22 under the Public Employee Optional Retirement
 23 Program; providing for payment of the normal
 24 benefit upon termination; providing for
 25 disability retirement benefits; providing for
 26 transfer of certain funds; specifying
 27 eligibility requirements; providing procedure
 28 and required documentation; providing for
 29 computation of the disability benefit;
 30 providing for reapplication; providing for
 31 membership; providing an option to cancel;

1 providing for reexamination and other matters
 2 relating to recovery from disability; providing
 3 nonadmissible causes of disability; providing
 4 for disability retirement of justices or
 5 judges; providing for payment of death
 6 benefits; providing for spousal notification in
 7 certain cases; updating death benefit
 8 distribution provisions to conform to recent
 9 changes in federal law; providing protection of
 10 benefits from assignment, execution, and other
 11 process; providing a declaration of important
 12 state interest; providing an effective date.

13

14 Be It Enacted by the Legislature of the State of Florida:

15

16 Section 1. Subsection (7) of section 121.052, Florida
 17 Statutes, is amended to read:

18

121.052 Membership class of elected officers.--

19

(7) CONTRIBUTIONS.--

20

(a) The following table states the required retirement
 21 contribution rates for members of the Elected Officers' Class
 22 and their employers in terms of a percentage of the member's
 23 gross compensation. A change in a contribution rate is
 24 effective with the first salary paid on or after the beginning
 25 date of the change. Contributions shall be made or deducted as
 26 may be appropriate for each pay period and are in addition to
 27 the contributions required for social security and the Retiree
 28 Health Insurance Subsidy Trust Fund.

29

30 Dates of Contribution

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Rate Changes	Members	Employers
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1	Effective July 1, 2001		
2	Legislators	0%	15.14%
3	Governor, Lt. Governor, Cabinet		
4	Officers	0%	15.14%
5	State Attorneys, Public Defenders	0%	15.14%
6	Justices, Judges	0%	20.61%
7	County Elected Officers	0%	17.61%

8
9 (b) The employer paying the salary of a member of the
10 Elected Officers' Class shall contribute an amount as
11 specified in this subsection which shall constitute the entire
12 employer retirement contribution with respect to such member.
13 The employer shall also withhold one-half of the entire
14 contribution of the member required for social security
15 coverage.

16 (c) The following table states the required employer
17 contribution on behalf of each member of the Elected Officers'
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 the member. A
21 change in the contribution rate is effective with the first
22 salary paid on or after the beginning date of the change. The
23 retiree health insurance subsidy contribution rate is as
24 follows:

25		
26	Dates of Contribution	Contribution
27	Rate Changes	Rate
28		
29	October 1, 1987, through December 31, 1988	0.24%
30	January 1, 1989, through December 31, 1993	0.48%
31	January 1, 1994, through December 31, 1994	0.56%

1 January 1, 1995, through June 30, 1998 0.66%
2 July 1, 1998, through June 30, 2001 0.94%
3 Effective July 1, 2001 1.11%

4

5 Such contributions are due and payable no later than the 5th
6 working day of the month immediately following the month
7 during which the payroll period ended and shall be deposited
8 by the administrator in the Retiree Health Insurance Subsidy
9 Trust Fund.

10 Section 2. Subsection (3) of section 121.055, Florida
11 Statutes, is amended to read:

12 121.055 Senior Management Service Class.--There is
13 hereby established a separate class of membership within the
14 Florida Retirement System to be known as the "Senior
15 Management Service Class," which shall become effective
16 February 1, 1987.

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

26

27 Dates of Contribution

28 Rate Changes	Members	Employers
29 Effective July 1, 2001	0%	11.73%

30

31

1 (b) The employer paying the salary of a member of the
2 Senior Management Service Class shall contribute an amount as
3 specified in this section which shall constitute the entire
4 employer retirement contribution with respect to such member.
5 The employer shall also withhold one-half of the entire
6 contribution of the member required for social security
7 coverage.

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

18 Dates of Contribution	Contribution
19 Rate Changes	Rate
20 October 1, 1987, through December 31, 1988	0.24%
21 January 1, 1989, through December 31, 1993	0.48%
22 January 1, 1994, through December 31, 1994	0.56%
23 January 1, 1995, through June 30, 1998	0.66%
24 July 1, 1998, through June 30, 2001	0.94%
25 Effective July 1, 2001	1.11%

26
27 Such contributions are due and payable no later than the 5th
28 working day of the month immediately following the month
29 during which the payroll period ended and shall be deposited
30 by the administrator in the Retiree Health Insurance Subsidy
31 Trust Fund.

1 Section 3. Subsection (5) of section 121.071, Florida
2 Statutes, is amended to read:

3 121.071 Contributions.--Contributions to the system
4 shall be made as follows:

5 (5) Contributions made in accordance with subsections
6 (1), (2), (3), and (4) shall be paid by the employer into the
7 system trust funds in accordance with rules adopted by the
8 administrator pursuant to chapter 120, except as may be
9 otherwise specified in this section.

10 (a)1. Effective October 1, 1978,such contributions
11 are due and payable no later than the 25th day of the month
12 immediately following the month during which the payroll
13 period ended. The department may, by rule, establish a
14 different due date, which shall supersede the date specified
15 herein; however, such due date may not be established earlier
16 than the 20th day of the month immediately following the month
17 during which the payroll period ended.

18 2. Effective July 1, 2002, contributions paid under
19 subsections (1) and (4) are due and payable no later than the
20 5th working day of the month immediately following the month
21 during which the payroll period ended.~~Effective January 1,~~
22 ~~1984, contributions made in accordance with subsection (3)~~
23 ~~shall be paid by the employer into the system trust fund in~~
24 ~~accordance with rules adopted by the administrator pursuant to~~
25 ~~chapter 120. For any payroll period ending any day of the~~
26 ~~month before the 16th day of the month, such contributions are~~
27 ~~due and payable no later than the 20th day of the month; and,~~
28 ~~for any payroll periods ending any day of the month after the~~
29 ~~15th day of the month, such contributions are due and payable~~
30 ~~no later than the 5th day of the next month.~~

31

1 **(b)** Contributions received in the offices of the
2 department after the prescribed date shall be considered
3 delinquent unless, in the opinion of the department,
4 exceptional circumstances beyond an employer's control
5 prevented remittance by the prescribed due date
6 notwithstanding such employer's good faith efforts to effect
7 delivery; and, with respect to retirement contributions due
8 under subsections (1) and (4), each employer shall be assessed
9 a delinquent fee of 1 percent of the contributions due for
10 each calendar month or part thereof that the contributions are
11 delinquent. Such a waiver of the delinquency fee by the
12 department may be granted an employer only one time each
13 fiscal year. Delinquent social security contributions shall be
14 assessed a delinquent fee as authorized by s. 650.05(4). The
15 delinquent fee assessable for an employer's first delinquency
16 after July 1, 1984, shall be as specified in s. 650.05(4),
17 and, beginning with the second delinquency in any fiscal year
18 by the employer subsequent to July 1, 1984, all subsequent
19 delinquency fees shall be assessed against the employer at
20 twice the applicable percentage rate specified in s.
21 650.05(4).

22 Section 4. Subsection (2), paragraph (c) of subsection
23 (3), paragraph (c) of subsection (4), and subsections (7) and
24 (16) of section 121.4501, Florida Statutes, are amended to
25 read:

26 121.4501 Public Employee Optional Retirement
27 Program.--

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

30 (a) "Approved provider" or "provider" means a private
31 sector company that is selected and approved by the state

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

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

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

31

1 (d)~~(b)~~ "Department" means the Department of Management
2 Services.

3 (e)~~(c)~~ "Division" means the Division of Retirement
4 within the Department of Management Services.

5 (f)~~(d)~~ "Eligible employee" means an officer or
6 employee, as defined in s. 121.021(11), who:

7 1. Is a member of, or is eligible for membership in,
8 the Florida Retirement System;

9 2. Participates in, or is eligible to participate in,
10 the Senior Management Service Optional Annuity Program as
11 established under s. 121.055(6); or

12 3. Is eligible to participate in, but does not
13 participate in, the State University System Optional
14 Retirement Program established under s. 121.35 or the State
15 Community College System Optional Retirement Program
16 established under s. 121.051(2)(c).

17
18 The term does not include any renewed member of the Florida
19 Retirement System, any member participating in the Deferred
20 Retirement Option Program established under s. 121.091(13), or
21 any employee participating in an optional retirement program
22 established under s. 121.051(2)(c) or s. 121.35.

23 (g)~~(e)~~ "Employer" means an employer, as defined in s.
24 121.021(10), of an eligible employee.

25 (h)~~(f)~~ "Participant" means an eligible employee who
26 elects to participate in the Public Employee Optional
27 Retirement Program and enrolls in such optional program as
28 provided in subsection (4).

29 (i)~~(g)~~ "Public Employee Optional Retirement Program,"
30 "optional program," or "optional retirement program" means the

31

1 alternative defined contribution retirement program
2 established under this section.

3 (j)~~(h)~~ "State board" or "board" means the State Board
4 of Administration.

5 (k)~~(i)~~ "Trustees" means Trustees of the State Board of
6 Administration.

7 (l)~~(j)~~ "Vested" or "vesting" means the guarantee that
8 a participant is eligible to receive a retirement benefit upon
9 completion of the required years of service under the Public
10 Employee Optional Retirement Program.

11 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.--

12 (c)1. Notwithstanding paragraph (b), each eligible
13 employee who elects to participate in the Public Employee
14 Optional Retirement Program and establishes one or more
15 individual participant accounts under the optional program may
16 elect to transfer to the optional program a sum representing
17 the present value of the employee's accumulated benefit
18 obligation under the defined benefit retirement program of the
19 Florida Retirement System. Upon such transfer, all service
20 credit previously earned under the defined benefit program of
21 the Florida Retirement System shall be nullified for purposes
22 of entitlement to a future benefit under the defined benefit
23 program of the Florida Retirement System. A participant is
24 precluded from transferring the accumulated benefit obligation
25 balance from the defined benefit program upon the expiration
26 of the period afforded to enroll in the optional program.

27 2. For purposes of this subsection, the present value
28 of the member's accumulated benefit obligation is based upon
29 the member's estimated creditable service and estimated
30 average final compensation under the defined benefit program,
31 subject to recomputation under subparagraph 3. For state

1 employees enrolling under subparagraph (4)(a)1., initial
2 estimates will be based upon creditable service and average
3 final compensation as of midnight on June 30, 2002; for
4 district school board employees enrolling under subparagraph
5 (4)(b)1., initial estimates will be based upon creditable
6 service and average final compensation as of midnight on
7 September 30, 2002; and for local government employees
8 enrolling under subparagraph (4)(c)1., initial estimates will
9 be based upon creditable service and average final
10 compensation as of midnight on December 31, 2002. The dates
11 respectively specified shall be construed as the "estimate
12 date" for these employees. For employees who are hired after
13 the election window has opened for their particular employee
14 group and who elect to enroll in the optional program under
15 subparagraph (4)(a)2., subparagraph (4)(b)2., or subparagraph
16 (4)(c)2., the actuarial present value of the employee's
17 accumulated benefit obligation shall be transferred to the
18 participant's optional program account. Such value will be
19 based upon the participant's actual creditable service and
20 actual average final compensation as of midnight on the last
21 day of the month before the employee's enrollment in the
22 optional program, which date shall be construed as the
23 "estimate date" for such employees.~~of the day prior to the~~
24 ~~opening of the election window for the employee.~~The actuarial
25 present value of the employee's accumulated benefit obligation
26 shall be based on the following:
27 a. The discount rate and other relevant actuarial
28 assumptions used to value the Florida Retirement System Trust
29 Fund at the time the amount to be transferred is determined,
30 consistent with the factors provided in sub-subparagraphs b.
31 and c.

1 b. A benefit commencement age, based on the member's
2 estimated creditable service as of the estimate date ~~midnight~~
3 ~~on May 31, 2002~~. The benefit commencement age shall be the
4 younger of the following, but shall not be younger than the
5 member's age as of the estimate date ~~midnight on May 31, 2002~~:

6 (I) Age 62; or

7 (II) The age the member would attain if the member
8 completed 30 years of service with an employer, assuming the
9 member worked continuously from the estimate date ~~May 31,~~
10 ~~2002~~, and disregarding any vesting requirement that would
11 otherwise apply under the defined benefit program of the
12 Florida Retirement System.

13 c. For members of the Special Risk Class and for
14 members of the Special Risk Administrative Support Class
15 entitled to retain special risk normal retirement date, the
16 benefit commencement age shall be the younger of the
17 following, but shall not be younger than the member's age as
18 of the estimate date ~~midnight on May 31, 2002~~:

19 (I) Age 55; or

20 (II) The age the member would attain if the member
21 completed 25 years of service with an employer, assuming the
22 member worked continuously from the estimate date ~~May 31,~~
23 ~~2002~~, and disregarding any vesting requirement that would
24 otherwise apply under the defined benefit program of the
25 Florida Retirement System.

26 d. The calculation shall disregard vesting
27 requirements and early retirement reduction factors that would
28 otherwise apply under the defined benefit retirement program.

29 3. For each participant who elects to transfer moneys
30 from the defined benefit program to his or her account in the
31 optional program, the division shall recompute the amount

1 transferred under subparagraph 2. not later than 60 days after
2 the actual transfer of funds based upon the participant's
3 actual creditable service and actual final average
4 compensation as of the initial date of participation in the
5 optional program. If the recomputed amount differs from the
6 amount transferred under subparagraph 2. by \$10 or more, the
7 division shall:

8 a. Transfer, or cause to be transferred, from the
9 Florida Retirement System Trust Fund to the participant's
10 account in the optional program the excess, if any, of the
11 recomputed amount over the previously transferred amount
12 together with interest from the initial date of transfer to
13 the date of transfer under this subparagraph, based upon 8
14 percent effective annual interest, compounded annually.

15 b. Transfer, or cause to be transferred, from the
16 participant's account to the Florida Retirement System Trust
17 Fund the excess, if any, of the previously transferred amount
18 over the recomputed amount, together with interest from the
19 initial date of transfer to the date of transfer under this
20 subparagraph, based upon 6 percent effective annual interest,
21 compounded annually, pro rata based on the participant's
22 allocation plan.

23 4. As directed by the participant, the board shall
24 transfer or cause to be transferred the appropriate amounts to
25 the designated accounts. The board shall establish transfer
26 procedures by rule, but the actual transfer shall not be later
27 than 30 days after the effective date of the member's
28 participation in the optional program. Transfers are not
29 commissionable or subject to other fees and may be in the form
30 of securities or cash as determined by the state board. Such
31

1 securities shall be valued as of the date of receipt in the
2 participant's account.

3 5. If the board or the division receives notification
4 from the United States Internal Revenue Service that this
5 paragraph or any portion of this paragraph will cause the
6 retirement system, or a portion thereof, to be disqualified
7 for tax purposes under the Internal Revenue Code, then the
8 portion that will cause the disqualification does not apply.
9 Upon such notice, the state board and the division shall
10 notify the presiding officers of the Legislature.

11 (4) PARTICIPATION; ENROLLMENT.--

12 (c)1. With respect to an eligible employee who is
13 employed in a regularly established position on December 1,
14 2002, by a local employer:

15 a. Any such employee may elect to participate in the
16 Public Employee Optional Retirement Program in lieu of
17 retaining his or her membership in the defined benefit program
18 of the Florida Retirement System. The election must be made in
19 writing or by electronic means and must be filed with the
20 department and the personnel officer of the employer within 90
21 days after December 1, 2002, or, in the case of an active
22 employee who is on a leave of absence on December 1, 2002,
23 within 90 days after the conclusion of the leave of absence.
24 This election is irrevocable, except as provided in paragraph
25 (e). Upon making such election, the employee shall be enrolled
26 as a participant of the Public Employee Optional Retirement
27 Program, the employee's membership in the Florida Retirement
28 System shall be governed by the provisions of this part, and
29 the employee's membership in the defined benefit program of
30 the Florida Retirement System shall terminate. The employee's
31 enrollment in the Public Employee Optional Retirement Program

1 shall be effective the first day of the month for which a full
2 month's employer contribution is made to the optional program.

3 b. Any such employee who fails to elect to participate
4 in the Public Employee Optional Retirement Program within the
5 prescribed 90 days is deemed to have elected to retain
6 membership in the defined benefit program of the Florida
7 Retirement System, and the employee's option to elect to
8 participate in the optional program is forfeited.

9 2. With respect to employees who become eligible to
10 participate in the Public Employee Optional Retirement Program
11 by reason of employment in a regularly established position
12 with a local employer commencing after December 1, 2002:

13 a. Any such employee shall, by default, be enrolled in
14 the defined benefit retirement program of the Florida
15 Retirement System at the commencement of employment, and may,
16 within 180 days after employment commences, elect to
17 participate in the Public Employee Optional Retirement
18 Program. The employee's election must be made in writing or by
19 electronic means and must be filed with the personnel officer
20 of the employer. The election to participate in the optional
21 program is irrevocable, except as provided in paragraph (e).

22 b. If the employee files such election before the
23 initial payroll is submitted for the employee, enrollment in
24 the Public Employee Optional Retirement Program shall be
25 effective on the first day of employment.

26 c. If the employee files such election within 180 days
27 after employment commences, but after the initial payroll is
28 submitted for the employee, enrollment in the optional program
29 shall be effective on the first day of the month for which a
30 full month's employer contribution is made to the optional
31 program.

1 d. Any such employee who fails to elect to participate
2 in the Public Employee Optional Retirement Program within the
3 prescribed 180 days is deemed to have elected to retain
4 membership in the defined benefit program of the Florida
5 Retirement System, and the employee's option to elect to
6 participate in the optional program is forfeited.

7 3. For purposes of this paragraph, "local employer"
8 means any employer not included in paragraph (a) or paragraph
9 (b).

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

12 (a) Benefits shall be provided in accordance with s.
13 401(a) of the Internal Revenue Code.

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

17 (c) Benefits shall be payable in accordance with the
18 provisions of s. 121.591.~~following terms and conditions:~~

19 ~~1. To the extent vested, benefits shall be payable~~
20 ~~only to a participant, or to his or her beneficiaries as~~
21 ~~designated by the 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 begin receiving the benefits, the participant~~
27 ~~must be terminated from all employment with all Florida~~
28 ~~Retirement System employers, as provided in s. 121.021(39), or~~
29 ~~the participant must be deceased. If a participant elects to~~
30 ~~receive his or her benefits upon termination of employment,~~
31 ~~the participant must submit a written application to the~~

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

6 ~~4. In the event of a participant's death, moneys~~
7 ~~accumulated by, or on behalf of, the participant, less~~
8 ~~withholding taxes remitted to the Internal Revenue Service,~~
9 ~~shall be distributed to the participant's designated~~
10 ~~beneficiary or beneficiaries, or to the participant's estate,~~
11 ~~as if the participant retired on the date of death, as~~
12 ~~provided in paragraph (e). No other death benefits shall be~~
13 ~~available for survivors of participants under the Public~~
14 ~~Employee Optional Retirement Program, except for such~~
15 ~~benefits, or coverage for such benefits, as are separately~~
16 ~~afforded by the employer, at the employer's discretion.~~

17 ~~(d) 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 to the~~
20 ~~participant, as:~~

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

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

27 ~~3. Periodic distributions, as authorized by the state~~
28 ~~board.~~

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

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

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

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

18
19 ~~This paragraph does not abrogate other applicable provisions~~
20 ~~of state or federal law providing for payment of death~~
21 ~~benefits.~~

22 ~~(f) The benefits payable to any person under the~~
23 ~~Public Employee Optional Retirement Program, and any~~
24 ~~contributions accumulated under such program, are not subject~~
25 ~~to assignment, execution, attachment, or any legal process,~~
26 ~~except for qualified domestic relations orders by a court of~~
27 ~~competent jurisdiction, income deduction orders as provided in~~
28 ~~s. 61.1301, and federal income tax levies.~~

29 (16) DISABILITY BENEFITS.--For any participant of the
30 optional retirement program who becomes totally and
31 permanently disabled, benefits shall be paid in accordance

1 ~~with the provisions of s. 121.591 as defined in s.~~
2 ~~121.091(4)(b), the participant shall be entitled to receive~~
3 ~~those moneys that have accrued in his or her participant~~
4 ~~account. It is the intent of the Legislature to design a~~
5 ~~disability benefit for participants of the optional program~~
6 ~~similar to those disability benefits afforded defined benefit~~
7 ~~program members. The department is directed to study the~~
8 ~~potential options of such coverage, including self-insurance~~
9 ~~and commercial coverage, the alternative methods of~~
10 ~~administering such benefits, and the fiscal impacts on the~~
11 ~~employees and employers, and to make recommendations to the~~
12 ~~Legislature by January 15, 2001.~~

13 Section 5. Subsections (3) and (7) of section 121.571,
14 Florida Statutes, are amended to read:

15 121.571 Contributions.--Contributions to the Public
16 Employee Optional Retirement Program shall be made as follows:

17 (3) CONTRIBUTIONS TO DISABILITY ACCOUNT.--

18 (a) All contributions made on behalf of a participant
19 pursuant to this subsection shall be transferred by the
20 employer to the third-party administrator for deposit in the
21 disability account of the Florida Retirement System Public
22 ~~Employee Disability~~ Trust Fund administered by the Division of
23 Retirement. Such contributions, less any fees or charges
24 authorized by the Legislature to offset the costs of
25 administering the disability component of the optional
26 retirement program, shall be separately accounted for and
27 shall be used to provide disability coverage for participants
28 in the optional retirement program.

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

31

1 Dates of Contribution Employers
2 Rate Changes
3 Effective July 1, 2002: 0.25%~~0.39%~~
4
5 (c) Disability contributions for Special Risk Class
6 members of the optional retirement plan are as follows:
7
8 Dates of Contribution Employers
9 Rate Changes
10 Effective July 1, 2002: 1.33%~~1.25%~~
11
12 (d) Disability contributions for Special Risk
13 Administrative Support Class members of the optional
14 retirement plan are as follows:
15
16 Dates of Contribution Employers
17 Rate Changes
18 Effective July 1, 2002: 0.45%~~0.73%~~
19
20 (e) Disability contributions for Elected Officers'
21 Class members of the optional retirement plan are as follows:
22
23 Dates of Contribution Employers
24 Rate Changes
25 Effective July 1, 2002:
26 Legislators 0.41%~~0.61%~~
27 Governor, Lt. Governor, 0.41%~~0.61%~~
28 Cabinet Officers
29 State Attorneys, Public 0.41%~~0.61%~~
30 Defenders
31 Justices, Judges 0.73%~~1.45%~~

1 County Elected Officers 0.41%~~0.86%~~

2

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

6

7 Dates of Contribution Employers

8 Rate Changes

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

10 (7) PAYMENT AND DISTRIBUTION OF

11 CONTRIBUTIONS.--Contributions made pursuant to this section
12 shall be paid by the employer to the third-party administrator
13 by electronic funds transfer no later than the 5th working day
14 of the month immediately following the month during which the
15 payroll period ended. The board and the third-party
16 administrator shall ensure that the contributions are
17 distributed to the appropriate trust funds or participant
18 accounts in a timely manner.

19 Section 6. Section 121.591, Florida Statutes, is
20 created to read:

21 121.591 Benefits payable under the Public Employee
22 Optional Retirement Program of the Florida Retirement
23 System.--Benefits may not be paid under this section unless
24 the member has terminated employment as provided in s.
25 121.021(39)(a) or is deceased and a proper application has
26 been filed in the manner prescribed by the state board or the
27 department. The state board or department, as appropriate, may
28 cancel an application for retirement benefits when the member
29 or beneficiary fails to timely provide the information and
30 documents required by this chapter and the rules of the state
31 board and the department. In accordance with their respective

1 responsibilities as provided herein, the State Board of
2 Administration and the Department of Management Services shall
3 adopt rules establishing procedures for application for
4 retirement benefits and for the cancellation of such
5 application when the required information or documents are not
6 received.

7 (1) NORMAL BENEFIT.--Under the Public Employee
8 Optional Retirement Program:

9 (a) Benefits in the form of vested accumulations as
10 described in s. 121.4501(6) shall be payable under this
11 subsection in accordance with the following terms and
12 conditions:

13 1. To the extent vested, benefits shall be payable
14 only to a participant.

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

19 3. To receive benefits under this subsection, the
20 participant must be terminated from all employment with all
21 Florida Retirement System employers, as provided in s.
22 121.021(39).

23 (b) If a participant elects to receive his or her
24 benefits upon termination of employment, the participant must
25 submit a written application to the third-party administrator
26 indicating his or her preferred distribution date and
27 selecting an authorized method of distribution as provided in
28 paragraph (c). The participant may defer receipt of benefits
29 until he or she chooses to make such application, subject to
30 federal requirements.

31

1 (c) Upon receipt by the third-party administrator of a
2 properly executed application for distribution of benefits,
3 the total accumulated benefit shall be payable to the
4 participant, as:

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

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

11 3. Periodic distributions, as authorized by the state
12 board.

13 (2) DISABILITY RETIREMENT BENEFIT.--Benefits provided
14 under this subsection are payable in lieu of the benefits
15 which would otherwise be payable under the provisions of
16 subsection (1). Such benefits shall be funded entirely from
17 employer contributions made under s. 121.571, transferred
18 participant funds accumulated pursuant to paragraph (a), and
19 interest and earnings thereon. Pursuant thereto:

20 (a) Transfer of funds.--To qualify to receive monthly
21 disability benefits under this subsection:

22 1. All moneys accumulated in the participant's Public
23 Employee Optional Retirement Program account, including vested
24 and nonvested accumulations as described in s. 121.4501(6),
25 shall be transferred from such individual account to the
26 Division of Retirement for deposit in the disability account
27 of the Florida Retirement System Trust Fund. Such moneys shall
28 be separately accounted for.

29 2. If the participant has retained retirement credit
30 he or she had earned under the defined benefit program of the
31 Florida Retirement System as provided in s. 121.4501(3)(b), a

1 sum representing the actuarial present value of such credit
2 within the Florida Retirement System Trust Fund shall be
3 reassigned by the Division of Retirement from the defined
4 benefit program to the disability program as implemented under
5 this subsection and shall be deposited in the disability
6 account of the Florida Retirement System Trust Fund. Such
7 moneys shall be separately accounted for.

8 (b) Disability retirement; entitlement.--

9 1. A participant of the Public Employee Optional
10 Retirement Program who becomes totally and permanently
11 disabled, as defined in s. 121.091(4)(b), after completing 8
12 years of creditable service, or a participant who becomes
13 totally and permanently disabled in the line of duty
14 regardless of his or her length of service, shall be entitled
15 to a monthly disability benefit as provided in this paragraph.

16 2. In order for service to apply toward the 8 years of
17 service required to vest for regular disability benefits, or
18 toward the creditable service used in calculating a
19 service-based benefit as provided for under paragraph (g), the
20 service must be creditable service as described below:

21 a. The participant's period of service under the
22 Public Employee Optional Retirement Program will be considered
23 creditable service, except as provided in sub-subparagraph d.

24 b. If the participant has elected to retain credit for
25 his or her service under the defined benefit program of the
26 Florida Retirement System as provided under s. 121.4501(3)(b),
27 all such service will be considered creditable service.

28 c. If the participant has elected to transfer to his
29 or her participant account a sum representing the present
30 value of his or her retirement credit under the defined
31 benefit program as provided under s. 121.4501(3)(c), the

1 period of service under the defined benefit program
2 represented in the present value amounts transferred will be
3 considered credible service for purposes of vesting for
4 disability benefits, except as provided in sub-subparagraph d.

5 d. Whenever a participant has terminated employment
6 and has taken distribution of his or her funds as provided in
7 subsection (1), all creditable service represented by such
8 distributed funds is forfeited for purposes of this
9 subsection.

10 (c) Disability retirement effective date.--The
11 effective retirement date for a participant who applies and is
12 approved for disability retirement shall be established as
13 provided under s. 121.091(4)(a)2. and 3.

14 (d) Total and permanent disability.--A participant
15 shall be considered totally and permanently disabled if, in
16 the opinion of the division, he or she is prevented, by reason
17 of a medically determinable physical or mental impairment,
18 from rendering useful and efficient service as an officer or
19 employee.

20 (e) Proof of disability.--The division, before
21 approving payment of any disability retirement benefit, shall
22 require proof that the participant is totally and permanently
23 disabled in the same manner as provided for members of the
24 defined benefit program of the Florida Retirement System under
25 s. 121.091(4)(c).

26 (f) Disability retirement benefit.--Upon the
27 disability retirement of a participant under this subsection,
28 the participant shall receive a monthly benefit that shall
29 begin to accrue on the first day of the month of disability
30 retirement, as approved by the division, and shall be payable
31 on the last day of that month and each month thereafter during

1 his or her lifetime and continued disability. All disability
2 benefits payable to such member shall be paid out of the
3 disability account of the Florida Retirement System Trust Fund
4 established under this subsection.

5 (g) Computation of disability retirement benefit.--The
6 amount of each monthly payment shall be calculated in the same
7 manner as provided for members of the defined benefit program
8 of the Florida Retirement System under s. 121.091(4)(f). For
9 such purpose, creditable service under both the defined
10 benefit program and the Public Employee Optional Retirement
11 Program of the Florida Retirement System shall be applicable
12 as provided under paragraph (b).

13 (h) Reapplication.--A participant whose initial
14 application for disability retirement has been denied may
15 reapply for disability benefits in the same manner, and under
16 the same conditions, as provided for members of the defined
17 benefit program of the Florida Retirement System under s.
18 121.091(4)(g).

19 (i) Membership.--Upon approval of an application for
20 disability benefits under this subsection, the applicant shall
21 be transferred to the defined benefit program of the Florida
22 Retirement System, effective upon his or her disability
23 retirement effective date.

24 (j) Option to cancel.--Any participant whose
25 application for disability benefits is approved may cancel his
26 or her application for disability benefits, provided that the
27 cancellation request is received by the division before a
28 disability retirement warrant has been deposited, cashed, or
29 received by direct deposit. Upon such cancellation:

30 1. The participant's transfer to the defined benefit
31 program under paragraph (i) shall be nullified;

1 2. The participant shall be retroactively reinstated
2 in the Public Employee Optional Retirement Program without
3 hiatus;

4 3. All funds transferred to the Florida Retirement
5 System Trust Fund under paragraph (a) shall be returned to the
6 participant account from which such funds were drawn; and

7 4. The participant may elect to receive the benefit
8 payable under the provisions of subsection (1) in lieu of
9 disability benefits as provided under this subsection.

10 (k) Recovery from disability.--

11 1. The division may require periodic reexaminations at
12 the expense of the disability program account of the Florida
13 Retirement System Trust Fund. Except as otherwise provided in
14 subparagraph 2., the requirements, procedures, and
15 restrictions relating to the conduct and review of such
16 reexaminations, discontinuation or termination of benefits,
17 reentry into employment, disability retirement after reentry
18 into covered employment, and all other matters relating to
19 recovery from disability shall be the same as are set forth
20 under s. 121.091(4)(h).

21 2. Upon recovery from disability, any recipient of
22 disability retirement benefits under this subsection shall be
23 a compulsory member of the Public Employee Optional Retirement
24 Program of the Florida Retirement System. The net difference
25 between the recipient's original account balance transferred
26 to the Florida Retirement System Trust Fund under paragraph
27 (a) and total disability benefits paid to such recipient, if
28 any, shall be determined as provided in sub-subparagraph a.

29 a. An amount equal to the total benefits paid shall be
30 subtracted from that portion of the transferred account
31 balance consisting of vested accumulations as described under

1 s. 121.4501(6), if any, and an amount equal to the remainder
2 of benefit amounts paid, if any, shall then be subtracted from
3 any remaining portion consisting of nonvested accumulations as
4 described under s. 121.4501(6).

5 b. Amounts subtracted under sub-subparagraph a. shall
6 be retained within the disability account of the Florida
7 Retirement System Trust Fund. Any remaining account balance
8 shall be transferred to the third-party administrator for
9 disposition as provided under sub-subparagraph c. or
10 sub-subparagraph d., as appropriate.

11 c. If the recipient returns to covered employment,
12 transferred amounts shall be deposited in an individual
13 account under the Public Employee Optional Retirement Program,
14 as directed by the participant. Vested and nonvested amounts
15 shall be separately accounted for as provided in s.
16 121.4501(6).

17 d. If the recipient fails to return to covered
18 employment upon recovery from disability:

19 (I) Any remaining vested amount shall be deposited in
20 an individual account under the Public Employee Optional
21 Retirement Program, as directed by the participant, and shall
22 be payable as provided in subsection (1).

23 (II) Any remaining nonvested amount shall be held in a
24 suspense account and shall be forfeitable after 5 years as
25 provided in s. 121.4501(6).

26 3. If present value was reassigned from the defined
27 benefit program to the disability program of the Florida
28 Retirement System as provided under subparagraph (a)2., the
29 full present value amount shall be returned to the defined
30 benefit account within the Florida Retirement System Trust
31 Fund and the affected individual's associated retirement

1 credit under the defined benefit program shall be reinstated
2 in full. Any benefit based upon such credit shall be
3 calculated as provided in s. 121.091(4)(h)1.

4 (l) Nonadmissible causes of disability.--A participant
5 shall not be entitled to receive a disability retirement
6 benefit if the disability results from any injury or disease
7 sustained or inflicted as described in s. 121.091(4)(i).

8 (m) Disability retirement of justice or judge by order
9 of Supreme Court.--

10 1. For any participating justice or judge who is
11 retired for disability pursuant to the provisions of Art. V of
12 the State Constitution as described in s. 121.091(4)(j), the
13 participant's monthly disability benefit amount shall be
14 calculated as provided in s. 121.091(4)(j), except that he or
15 she may alternatively elect to receive the normal benefit
16 payable under subsection (1).

17 2. For any such justice or judge who elects to receive
18 a monthly disability benefit under the provisions of this
19 paragraph:

20 a. With respect to retirement credit retained under
21 the defined benefit program of the Florida Retirement System
22 as permitted under s. 121.4501(3)(b), all employee or employer
23 contributions, or both, made to the member's retirement
24 account under the defined benefit program shall be transferred
25 to and deposited in the General Revenue Fund of the state.

26 b. Any present value amount that was transferred to
27 the participant's individual account and all employer
28 contributions made to such account on his or her behalf, plus
29 interest and earnings thereon, shall be transferred to and
30 deposited in the General Revenue Fund of the state.

31

1 There is appropriated annually out of the General Revenue
2 Fund, to be paid into an appropriate account of the Florida
3 Retirement System Trust Fund and accounted for separately, an
4 amount necessary to pay the benefits of all such justices and
5 judges.

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

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

10 1. To the extent vested, benefits shall be payable
11 only to a participant's beneficiary or beneficiaries as
12 designated by the participant. If a participant designates a
13 primary beneficiary other than the participant's spouse, the
14 participant's spouse shall be notified of the designation.
15 This requirement shall not apply to the designation of one or
16 more contingent beneficiaries to receive any benefits
17 remaining upon the death of the primary beneficiary or
18 beneficiaries.

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

23 3. To receive benefits under this subsection, the
24 participant must be deceased.

25 (b) In the event of a participant's death, all vested
26 accumulations as described in s. 121.4501(6), less withholding
27 taxes remitted to the Internal Revenue Service, shall be
28 distributed, as provided in paragraph (c), to the
29 participant's designated beneficiary or beneficiaries, or to
30 the participant's estate, as if the participant retired on the
31 date of death. No other death benefits shall be available for

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

5 (c) 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 by the
8 third-party administrator to the participant's surviving
9 beneficiary or beneficiaries, as:

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

12 2. An eligible rollover distribution on behalf of the
13 surviving spouse of a deceased participant, whereby all
14 accrued benefits, plus interest and investment earnings, are
15 paid from the deceased participant's account directly to the
16 custodian of an eligible retirement plan, as described in s.
17 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
18 surviving spouse; or

19 3. A partial lump-sum payment whereby a portion of the
20 accrued benefit is paid to the deceased participant's
21 surviving spouse or other designated beneficiaries, less
22 withholding taxes remitted to the Internal Revenue Service,
23 and the remaining amount is transferred directly to the
24 custodian of an eligible retirement plan, as described in s.
25 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
26 surviving spouse. The proportions must be specified by the
27 participant or the surviving beneficiary.

28
29 This paragraph does not abrogate other applicable provisions
30 of state or federal law providing for payment of death
31 benefits.

1 (4) LIMITATION ON LEGAL PROCESS.--The benefits payable
2 to any person under the Public Employee Optional Retirement
3 Program, and any contributions accumulated under such program,
4 are not subject to assignment, execution, attachment, or any
5 legal process, except for qualified domestic relations orders
6 by a court of competent jurisdiction, income deduction orders
7 as provided in s. 61.1301, and federal income tax levies.

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

19 Section 8. This act shall take effect July 1, 2002.

20
21 *****

22 SENATE SUMMARY

23 Revises the date for payment of retirement contributions
24 under the Florida Retirement System. Changes contribution
25 rates applicable to the Public Employee Optional
26 Retirement Program. Provides for payment of benefits
27 under that program. (See bill for details.)