

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

302-2231A-02

1                                   A bill to be entitled  
2           An act relating to the Florida Retirement  
3           System; amending s. 110.123, F.S.; redefining  
4           the term "retired state officer or employee" or  
5           "retiree" to include an officer or employee who  
6           retires under the Public Employee Optional  
7           Retirement Program under certain circumstances;  
8           amending s. 110.205, F.S.; granting senior  
9           management service benefits to county health  
10          department directors and administrators;  
11          amending ss. 121.052, 121.055, and 121.071,  
12          F.S.; making the date for payment of retirement  
13          contributions consistent under the Florida  
14          Retirement System defined benefit and defined  
15          contribution programs; providing eligibility of  
16          certain officials for membership in the Senior  
17          Management Service Class of the Florida  
18          Retirement System; amending s. 121.35, F.S.;  
19          authorizing contributions to the optional  
20          retirement program in the form of rollovers or  
21          direct trustee-to-trustee transfers; expanding  
22          the methods for disbursing benefits; amending  
23          s. 121.4501, F.S., relating to the Public  
24          Employee Optional Retirement Program; updating  
25          definitions; establishing dates on which  
26          present value calculations are based;  
27          conforming election provisions for local  
28          government employees to provisions applicable  
29          to other employees; providing for the effective  
30          date of enrollment for certain employers;  
31          providing for the transfer of contributions

1 under certain circumstances; transferring  
2 certain provisions relating to payment of  
3 benefits to s. 121.591, F.S., as created in the  
4 act; amending s. 121.571, F.S., relating to  
5 employer contributions to the Public Employee  
6 Optional Retirement Program; adjusting rates;  
7 making the date for payment of retirement  
8 contributions consistent under the Florida  
9 Retirement System defined benefit and defined  
10 contribution programs; creating s. 121.591,  
11 F.S., relating to benefits payable under the  
12 Public Employee Optional Retirement Program;  
13 providing for payment of the normal benefit  
14 upon termination; providing for disability  
15 retirement benefits; providing for transfer of  
16 certain funds; specifying eligibility  
17 requirements; providing procedure and required  
18 documentation; providing for computation of the  
19 disability benefit; providing for  
20 reapplication; providing for membership;  
21 providing an option to cancel; providing for  
22 reexamination and other matters relating to  
23 recovery from disability; providing  
24 nonadmissible causes of disability; providing  
25 for disability retirement of justices or  
26 judges; providing for payment of death  
27 benefits; providing for spousal notification in  
28 certain cases; updating death benefit  
29 distribution provisions to conform to recent  
30 changes in federal law; providing protection of  
31 benefits from assignment, execution, etc.;

1 providing a declaration of important state  
2 interest; authorizing the Department of  
3 Management Services to contract with a private  
4 company to administer the disability benefit  
5 program; authorizing the department to provide  
6 for an alternative method to administer and  
7 fund disability benefits; requiring the  
8 department to seek a private letter ruling from  
9 the Internal Revenue Service with respect to  
10 the disability retirement program; providing  
11 rulemaking authority; providing an effective  
12 date.

13

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

15

16 Section 1. Paragraph (g) of subsection (2), paragraph  
17 (g) of subsection (3), and paragraph (h) of subsection (4) of  
18 section 110.123, Florida Statutes, are amended to read:

19

110.123 State group insurance program.--

20

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

21

(g) "Retired state officer or employee" or "retiree"

22

means any state officer or state employee who retires under a

23

state retirement system or a state optional annuity or

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retirement program or is placed on disability retirement, and

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who was insured under the state group insurance program at the

26

time of retirement, and who begins receiving retirement

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benefits immediately after retirement from state office or

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employment. In addition to these requirements, any state

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officer or state employee who retires under the Public

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Employee Optional Retirement Program established under part II

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1 of chapter 121 shall be considered a "retired state officer or  
2 employee" or "retiree" as used in this section if he or she:

3 1. Meets the age and service requirements to qualify  
4 for normal retirement as set forth in s. 121.021(29); or

5 2. Has attained the age specified by s. 72(t)(2)(A)(i)  
6 of the Internal Revenue Code and has 6 years of creditable  
7 service.

8 (3) STATE GROUP INSURANCE PROGRAM.--

9 (g) Participation by individuals in the program shall  
10 be available to all state officers, full-time state employees,  
11 and part-time state employees; and such participation in the  
12 program or any plan thereof shall be voluntary. Participation  
13 in the program shall also be available to retired state  
14 officers and employees, as defined in paragraph (2)(g), who  
15 elect at the time of retirement to continue coverage under the  
16 program, but they may elect to continue all or only part of  
17 the coverage they had at the time of retirement. A surviving  
18 spouse may elect to continue coverage only under the state  
19 group health insurance plan or a health maintenance  
20 organization plan.

21 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE;  
22 LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.--

23 ~~(h) State employees may participate in the state group~~  
24 ~~health insurance plan at the time of receiving their state~~  
25 ~~retirement benefits.~~

26 Section 2. Paragraphs (j) and (q) of subsection (2) of  
27 section 110.205, Florida Statutes, are amended to read:

28 110.205 Career service; exemptions.--

29 (2) EXEMPT POSITIONS.--The exempt positions that are  
30 not covered by this part include the following:

31

1           (j) The appointed secretaries, assistant secretaries,  
2 deputy secretaries, and deputy assistant secretaries of all  
3 departments; the executive directors, assistant executive  
4 directors, deputy executive directors, and deputy assistant  
5 executive directors of all departments; ~~and~~ the directors of  
6 all divisions and those positions determined by the department  
7 to have managerial responsibilities comparable to such  
8 positions, which positions include, but are not limited to,  
9 program directors, assistant program directors, district  
10 administrators, deputy district administrators, the Director  
11 of Central Operations Services of the Department of Children  
12 and Family Services, and the State Transportation Planner,  
13 State Highway Engineer, State Public Transportation  
14 Administrator, district secretaries, district directors of  
15 planning and programming, production, and operations, and the  
16 managers of the offices specified in s. 20.23(3)(d)2., of the  
17 Department of Transportation. Unless otherwise fixed by law,  
18 the department shall set the salary and benefits of these  
19 positions in accordance with the rules of the Senior  
20 Management Service; and the county health department directors  
21 and county health department administrators of the Department  
22 of Health.

23           (q) The staff directors, assistant staff directors,  
24 district program managers, district program coordinators,  
25 district subdistrict administrators, district administrative  
26 services directors, district attorneys, and the Deputy  
27 Director of Central Operations Services of the Department of  
28 Children and Family Services ~~and the county health department~~  
29 ~~directors and county health department administrators of the~~  
30 ~~Department of Health.~~ Unless otherwise fixed by law, the  
31 department shall establish the salary range and benefits for

1 these positions in accordance with the rules of the Selected  
2 Exempt Service.

3 Section 3. Subsection (7) of section 121.052, Florida  
4 Statutes, as amended by chapter 2001-262, Laws of Florida, is  
5 amended to read:

6 121.052 Membership class of elected officers.--

7 (7) CONTRIBUTIONS.--

8 (a) The following table states the required retirement  
9 contribution rates for members of the Elected Officers' Class  
10 and their employers in terms of a percentage of the member's  
11 gross compensation. A change in a contribution rate is  
12 effective with the first salary paid on or after the beginning  
13 date of the change. Contributions shall be made or deducted as  
14 may be appropriate for each pay period and are in addition to  
15 the contributions required for social security and the Retiree  
16 Health Insurance Subsidy Trust Fund.

17

18 Dates of Contribution

19 Rate Changes	Members	Employers
20 Effective July 1, 2001		
21 Legislators	0%	15.14%
22 Governor, Lt. Governor, Cabinet		
23 Officers	0%	15.14%
24 State Attorneys, Public Defenders	0%	15.14%
25 Justices, Judges	0%	20.61%
26 County Elected Officers	0%	17.61%

27

28 (b) The employer paying the salary of a member of the  
29 Elected Officers' Class shall contribute an amount as  
30 specified in this subsection which shall constitute the entire  
31 employer retirement contribution with respect to such member.

1 The employer shall also withhold one-half of the entire  
2 contribution of the member required for social security  
3 coverage.

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

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

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

29 Section 4. Paragraph (h) of subsection (1) and  
30 subsection (3) of section 121.055, Florida Statutes, as

31

1 amended by chapter 2001-262, Laws of Florida, are amended to  
2 read:

3           121.055 Senior Management Service Class.--There is  
4 hereby established a separate class of membership within the  
5 Florida Retirement System to be known as the "Senior  
6 Management Service Class," which shall become effective  
7 February 1, 1987.

8           (1)

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

24           a. Positions to be included in the class shall be  
25 designated by the state attorney or public defender, as  
26 appropriate. Notice of intent to designate positions for  
27 inclusion in the class shall be published once a week for 2  
28 consecutive weeks in a newspaper of general circulation  
29 published in the county or counties affected, as provided in  
30 chapter 50.

31



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

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

13           (I) Heads an organizational unit; or

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

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

28           3. In lieu of participation in the Senior Management  
29 Service Class, such members, excluding assistant state  
30 attorneys, assistant public defenders, assistant statewide  
31 prosecutors, assistant attorneys general, and assistant

1 capital collateral regional counsels, may participate in the  
2 Senior Management Service Optional Annuity Program as  
3 established in subsection (6).

4 (3)(a) The following table states the required  
5 retirement contribution rates for members of the Senior  
6 Management Service Class and their employers in terms of a  
7 percentage of the member's gross compensation. A change in the  
8 contribution rate is effective with the first salary paid on  
9 or after the beginning date of the change. Contributions  
10 shall be made for each pay period and are in addition to the  
11 contributions required for social security and the Retiree  
12 Health Insurance Subsidy Trust Fund.

13  
14 Dates of Contribution

15 Rate Changes	Members	Employers
16 Effective July 1, 2001	0%	11.73%

17  
18 (b) The employer paying the salary of a member of the  
19 Senior Management Service Class shall contribute an amount as  
20 specified in this section which shall constitute the entire  
21 employer retirement contribution with respect to such member.  
22 The employer shall also withhold one-half of the entire  
23 contribution of the member required for social security  
24 coverage.

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

1 retiree health insurance subsidy contribution rate is as  
2 follows:

3	4 Dates of Contribution	5 Contribution
6	7 Rate Changes	8 Rate
9	October 1, 1987, through December 31, 1988	0.24%
10	January 1, 1989, through December 31, 1993	0.48%
11	January 1, 1994, through December 31, 1994	0.56%
12	January 1, 1995, through June 30, 1998	0.66%
13	July 1, 1998, through June 30, 2001	0.94%
14	Effective July 1, 2001	1.11%

15 Such contributions and accompanying payroll data are due and  
16 payable no later than the 5th working day of the month  
17 immediately following the month during which the payroll  
18 period ended and shall be deposited by the administrator in  
19 the Retiree Health Insurance Subsidy Trust Fund.

20 Section 5. Subsection (5) of section 121.071, Florida  
21 Statutes, as amended by chapter 2001-262, Laws of Florida, is  
22 amended to read:

23 121.071 Contributions.--Contributions to the system  
24 shall be made as follows:

25 (5) Contributions made in accordance with subsections  
26 (1), (2), (3), and (4) shall be paid by the employer into the  
27 system trust funds in accordance with rules adopted by the  
28 administrator pursuant to chapter 120, except as may be  
29 otherwise specified herein.

30 (a)1. Effective October 1, 1978, such contributions  
31 are due and payable no later than the 25th day of the month  
immediately following the month during which the payroll  
period ended. The department may, by rule, establish a

1 different due date, which shall supersede the date specified  
2 herein; however, such due date may not be established earlier  
3 than the 20th day of the month immediately following the month  
4 during which the payroll period ended.

5 2. Effective July 1, 2002, contributions paid under  
6 subsections (1) and (4) and accompanying payroll data are due  
7 and payable no later than the 5th working day of the month  
8 immediately following the month during which the payroll  
9 period ended.~~Effective January 1, 1984, contributions made in~~  
10 ~~accordance with subsection (3) shall be paid by the employer~~  
11 ~~into the system trust fund in accordance with rules adopted by~~  
12 ~~the administrator pursuant to chapter 120. For any payroll~~  
13 ~~period ending any day of the month before the 16th day of the~~  
14 ~~month, such contributions are due and payable no later than~~  
15 ~~the 20th day of the month; and, for any payroll periods ending~~  
16 ~~any day of the month after the 15th day of the month, such~~  
17 ~~contributions are due and payable no later than the 5th day of~~  
18 ~~the next month.~~

19 (b) Contributions received in the offices of the  
20 department after the prescribed date shall be considered  
21 delinquent unless, in the opinion of the department,  
22 exceptional circumstances beyond an employer's control  
23 prevented remittance by the prescribed due date  
24 notwithstanding such employer's good faith efforts to effect  
25 delivery; and, with respect to retirement contributions due  
26 under subsections (1) and (4), each employer shall be assessed  
27 a delinquent fee of 1 percent of the contributions due for  
28 each calendar month or part thereof that the contributions are  
29 delinquent. Such a waiver of the delinquency fee by the  
30 department may be granted an employer only one time each  
31 fiscal year. Delinquent social security contributions shall be

1 assessed a delinquent fee as authorized by s. 650.05(4). The  
2 delinquent fee assessable for an employer's first delinquency  
3 after July 1, 1984, shall be as specified in s. 650.05(4),  
4 and, beginning with the second delinquency in any fiscal year  
5 by the employer subsequent to July 1, 1984, all subsequent  
6 delinquency fees shall be assessed against the employer at  
7 twice the applicable percentage rate specified in s.  
8 650.05(4).

9 Section 6. Section 121.35, Florida Statutes, is  
10 amended to read:

11 121.35 Optional retirement program for the State  
12 University System.--

13 (1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.--The  
14 Department of Management Services shall establish an optional  
15 retirement program under which contracts providing retirement  
16 and death benefits may be purchased for eligible members of  
17 the State University System who elect to participate in the  
18 program. The benefits to be provided for or on behalf of  
19 participants in such optional retirement program shall be  
20 provided through individual contracts or individual  
21 certificates issued for group annuity or other contracts,  
22 which may be fixed, variable, or a combination thereof, in  
23 accordance with s. 403(b) of the Internal Revenue Code. Any  
24 individual contract or certificate shall state the annuity  
25 plan on its face page, and shall include, but not be limited  
26 to, a statement of ownership, the contract benefits, annuity  
27 income options, limitations, expense charges, and surrender  
28 charges, if any. The state shall contribute, as provided in  
29 this section, toward the purchase of such optional benefits.

30 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL  
31 PROGRAM.--

1 (a) Participation in the optional retirement program  
2 provided by this section shall be limited to persons who are  
3 otherwise eligible for membership in the Florida Retirement  
4 System; who are employed or appointed for no less than one  
5 academic year; and who are employed in one of the following  
6 State University System positions:

7 1. Positions classified as instructional and research  
8 faculty which are exempt from the career service under the  
9 provisions of s. 110.205(2)(d).

10 2. Positions classified as administrative and  
11 professional which are exempt from the career service under  
12 the provisions of s. 110.205(2)(d).

13 3. The Chancellor and the university presidents.

14 (b) For purposes of this section, both the appointees  
15 and employees are referred to as "employees," and the  
16 "employer" of an appointee or employee is the individual  
17 institution within the State University System or the State  
18 Board of Education Regents, whichever is appropriate with  
19 respect to the particular employee or appointee.

20 (c) For purposes of this section, the Department of  
21 Management Services is referred to as the "department."

22 (d) For purposes of this section, the authority  
23 granted to the State Board of Education Regents may be  
24 exercised by the board or by the Chancellor of the Division of  
25 Colleges and Universities State University System.

26 (3) ELECTION OF OPTIONAL PROGRAM.--

27 (a) Any eligible employee who is employed on or before  
28 March 1, 1984, may elect to participate in the optional  
29 retirement program in lieu of participation in the Florida  
30 Retirement System. Such election shall be made in writing and  
31 filed with the division and the personnel officer of the

1 | employer on or before June 1, 1984. Upon such election,  
2 | participation in the optional program will take effect July 1,  
3 | 1984, and election to so participate will terminate the  
4 | membership of the employee in the Florida Retirement System.  
5 | Any eligible employee who is employed on or before March 1,  
6 | 1984, and who fails to make an election to participate in the  
7 | optional program by June 1, 1984, shall be deemed to have  
8 | elected to retain membership in the Florida Retirement System.  
9 |       (b)1. Any employee who becomes eligible to participate  
10 | in the optional retirement program by reason of initial  
11 | employment commencing after March 1, 1984, but before January  
12 | 1, 1993, may, within 90 days after the date of commencement of  
13 | employment, elect to participate in the optional program. Such  
14 | election shall be made in writing and filed with the personnel  
15 | officer of the employer. The eligible employees described in  
16 | this subparagraph shall be enrolled in the Florida Retirement  
17 | System at the commencement of employment, with the exception  
18 | of those employees who file an election with the personnel  
19 | officer of the employer prior to the submission of the initial  
20 | payroll for the employee. For such employees, participation  
21 | will be effective on the first day of employment or on July 1,  
22 | 1984, whichever is later. If an eligible employee, as  
23 | described in this subparagraph, files an election to  
24 | participate in the optional program within 90 days after the  
25 | commencement of employment, but after the submission by the  
26 | employer of the initial payroll for the employee, the  
27 | employee's participation in the optional program will not be  
28 | effective until the first day of the month for which a full  
29 | month's employer contribution may be made, or until July 1,  
30 | 1984, whichever is later. Any eligible employee who does not  
31 | within 90 days after commencement of such employment elect to

1 participate in the optional program shall be deemed to have  
2 elected to retain membership in the Florida Retirement System.

3         2. Any employee who after March 1, 1984, but before  
4 January 1, 1993, becomes eligible to participate in the  
5 optional program by reason of a change in status due to the  
6 subsequent designation of the employee's position as one of  
7 those specified in paragraph (2)(a) or due to the employee's  
8 appointment, promotion, transfer, or reclassification to a  
9 position specified in paragraph (2)(a) may elect to  
10 participate in the optional program. Such employee shall be  
11 notified by the employer of the change in his or her  
12 eligibility status. Such employee may, within 90 days after  
13 the date of such notification, file with the personnel officer  
14 of the employer an election in writing to participate in the  
15 optional program in lieu of participation in the Florida  
16 Retirement System. Upon such election, participation in the  
17 optional program will be effective on the first day of the  
18 month for which a full month's employer contribution may be  
19 made or on July 1, 1984, whichever is later. Election to so  
20 participate shall terminate the membership of the employee in  
21 the Florida Retirement System. Any eligible employee who does  
22 not within 90 days after notification of his or her  
23 eligibility to participate in the optional program elect to  
24 participate in the program shall be deemed to have elected to  
25 retain membership in the Florida Retirement System.

26         (c) Any employee who becomes eligible to participate  
27 in the optional retirement program on or after January 1,  
28 1993, shall be a compulsory participant of the program unless  
29 such employee elects membership in the Florida Retirement  
30 System. Such election shall be made in writing and filed with  
31 the personnel officer of the employer. Any eligible employee



1 who fails to make such election within the prescribed time  
2 period shall be deemed to have elected to participate in the  
3 optional retirement program.

4         1. Any employee whose optional retirement program  
5 eligibility results from initial employment shall be enrolled  
6 in the program at the commencement of employment. If, within  
7 90 days after commencement of employment, the employee elects  
8 membership in the Florida Retirement System, such membership  
9 shall be effective retroactive to the date of commencement of  
10 employment.

11         2. Any employee whose optional retirement program  
12 eligibility results from a change in status due to the  
13 subsequent designation of the employee's position as one of  
14 those specified in paragraph (2)(a) or due to the employee's  
15 appointment, promotion, transfer, or reclassification to a  
16 position specified in paragraph (2)(a) shall be enrolled in  
17 the optional retirement program upon such change in status and  
18 shall be notified by the employer of such action. If, within  
19 90 days after the date of such notification, the employee  
20 elects to retain membership in the Florida Retirement System,  
21 such continuation of membership shall be retroactive to the  
22 date of the change in status.

23         3. Notwithstanding the provisions of this paragraph,  
24 effective July 1, 1997, any employee who is eligible to  
25 participate in the Optional Retirement Program and who fails  
26 to execute a a ~~an annuity~~ contract with one of the approved  
27 companies and to notify the department in writing as provided  
28 in subsection (4) within 90 days after ~~of~~ the date of  
29 eligibility shall be deemed to have elected membership in the  
30 Florida Retirement System, except as provided in s.  
31 121.051(1)(a). This provision shall also apply to any employee

1 who terminates employment in an eligible position before  
2 executing the required annuity contract and notifying the  
3 department. Such membership shall be retroactive to the date  
4 of eligibility, and all appropriate contributions shall be  
5 transferred to the Florida Retirement System Trust Fund and  
6 the Health Insurance Subsidy Trust Fund.

7 (d) Participants shall be fully and immediately vested  
8 in the optional retirement program only upon execution of a ~~an~~  
9 ~~annuity~~ contract.

10 (e) The election by an eligible employee to  
11 participate in the optional retirement program shall be  
12 irrevocable for so long as the employee continues to meet the  
13 eligibility requirements specified in subsection (2), except  
14 as provided in paragraph (h). In the event that an employee  
15 participates in the optional retirement program for 90 days or  
16 more and is subsequently employed in an administrative or  
17 professional position which has been determined by the  
18 department, under subparagraph (2)(a)2., to be not otherwise  
19 eligible for participation in the optional retirement program,  
20 the employee shall continue participation in the optional  
21 program so long as the employee meets the other eligibility  
22 requirements for the program, except as provided in paragraph  
23 (h).

24 (f) If an employee becomes ineligible to continue  
25 participation in the optional retirement program under  
26 subsection (2), the employee shall thereafter participate in  
27 the Florida Retirement System if he or she is otherwise  
28 eligible.

29 (g) An eligible employee who is a member of the  
30 Florida Retirement System at the time of election to  
31 participate in the optional retirement program shall retain

1 all retirement service credit earned under the Florida  
2 Retirement System, at the rate earned. No additional service  
3 credit in the Florida Retirement System shall be earned while  
4 the employee participates in the optional program, nor shall  
5 the employee be eligible for disability retirement under the  
6 Florida Retirement System.

7 (h) A participant in the optional retirement program  
8 may not participate in more than one state-administered  
9 retirement system, plan, or class simultaneously. Except as  
10 provided in s. 121.052(6)(d), a participant who is or becomes  
11 dually employed in two or more positions covered by the  
12 Florida Retirement System, one of which is eligible for the  
13 optional program and one of which is not, may remain a member  
14 of the optional program and contributions shall be paid as  
15 required only on the salary earned in the position eligible  
16 for the optional program during such period of dual  
17 employment; or, within 90 days after becoming dually employed,  
18 he or she may elect membership in the Regular Class of the  
19 Florida Retirement System in lieu of the optional program and  
20 contributions shall be paid as required on the total salary  
21 received for all employment. At retirement, the average final  
22 compensation used to calculate any benefits for which the  
23 member becomes eligible under the Florida Retirement System  
24 shall be based on all salary reported for both positions  
25 during such period of dual employment. When such member  
26 ceases to be dually employed, he or she may, within 90 days,  
27 elect to remain in the Florida Retirement System class for  
28 which he or she is eligible or to again become a participant  
29 in the optional retirement program. Failure to elect  
30 membership in the optional program within 90 days shall result  
31 in compulsory membership in the Florida Retirement System,

1 except that a member filling a faculty position under a  
2 faculty practice plan at the University of Florida or the  
3 Medical Center at the University of South Florida shall again  
4 participate in the optional retirement program as required in  
5 s. 121.051(1)(a).

6 (4) CONTRIBUTIONS.--

7 (a) Through June 30, 2001, each employer shall  
8 contribute on behalf of each participant in the optional  
9 retirement program an amount equal to the normal cost portion  
10 of the employer retirement contribution which would be  
11 required if the participant were a regular member of the  
12 Florida Retirement System defined benefit program, plus the  
13 portion of the contribution rate required in s. 112.363(8)  
14 that would otherwise be assigned to the Retiree Health  
15 Insurance Subsidy Trust Fund. Effective July 1, 2001, each  
16 employer shall contribute on behalf of each participant in the  
17 optional program an amount equal to 10.43 percent of the  
18 participant's gross monthly compensation. The department shall  
19 deduct an amount approved by the Legislature to provide for  
20 the administration of this program. The payment of the  
21 contributions to the optional program which is required by  
22 this paragraph for each participant shall be made by the  
23 employer to the department, which shall forward the  
24 contributions to the designated company or companies  
25 contracting for payment of benefits for the participant under  
26 the program. However, such contributions paid on behalf of an  
27 employee described in paragraph (3)(c) shall not be forwarded  
28 to a company and shall not begin to accrue interest until the  
29 employee has executed an annuity contract and notified the  
30 department.

31

1           (b) Each employer shall contribute on behalf of each  
2 participant in the optional retirement program an amount equal  
3 to the unfunded actuarial accrued liability portion of the  
4 employer contribution which would be required for members of  
5 the Florida Retirement System. This contribution shall be  
6 paid to the department for transfer to the Florida Retirement  
7 System Trust Fund.

8           (c) An Optional Retirement Program Trust Fund shall be  
9 established in the State Treasury and administered by the  
10 department to make payments to the provider companies on  
11 behalf of the optional retirement program participants, and to  
12 transfer the unfunded liability portion of the state optional  
13 retirement program contributions to the Florida Retirement  
14 System Trust Fund.

15           (d) Contributions required for social security by each  
16 employer and each participant, in the amount required for  
17 social security coverage as now or hereafter may be provided  
18 by the federal Social Security Act, shall be maintained for  
19 each participant in the optional retirement program and shall  
20 be in addition to the retirement contributions specified in  
21 this subsection.

22           (e) Each participant in the optional retirement  
23 program who has executed a a ~~an annuity~~ contract may contribute  
24 by way of salary reduction or deduction a percentage amount of  
25 the participant's gross compensation not to exceed the  
26 percentage amount contributed by the employer to the optional  
27 program, but in no case may such contribution exceed federal  
28 limitations. Payment of the participant's contributions shall  
29 be made by the financial officer of the employer to the  
30 division which shall forward the contributions to the  
31 designated company or companies contracting for payment of

1 benefits for the participant under the program. A participant  
2 may not make, through salary reduction, any voluntary employee  
3 contributions to any other plan under s. 403(b) of the  
4 Internal Revenue Code, with the exception of a custodial  
5 account under s. 403(b)(7) of the Internal Revenue Code, until  
6 he or she has made an employee contribution to his or her  
7 optional program equal to the employer contribution. A  
8 participant is responsible for monitoring his or her  
9 individual tax-deferred income to ensure he or she does not  
10 exceed the maximum deferral amounts permitted under the  
11 Internal Revenue Code.

12 (f) The Optional Retirement Trust Fund may accept for  
13 deposit into participant contracts contributions in the form  
14 of rollovers or direct trustee-to-trustee transfers by or on  
15 behalf of participants who are reasonably determined by the  
16 department to be eligible for rollover or transfer to the  
17 optional retirement program pursuant to the Internal Revenue  
18 Code, if such contributions are made in accordance with rules  
19 adopted by the department. Such contributions shall be  
20 accounted for in accordance with any applicable requirements  
21 of the Internal Revenue Code and rules of the department.

22 (5) BENEFITS.--

23 (a) Benefits shall be payable under the optional  
24 retirement program only to vested participants in the program,  
25 or their beneficiaries as designated by the participant in the  
26 contract with a provider company, and such benefits shall be  
27 paid only by the designated company in accordance with s.  
28 403(b) of the Internal Revenue Code and in accordance with the  
29 terms of the annuity contract or contracts applicable to the  
30 participant. Benefits shall accrue in individual accounts that  
31 are participant-directed, portable, and funded by employer

1 contributions and the earnings thereon.The participant must  
2 be terminated from all employment with all Florida Retirement  
3 System employers, as provided in s. 121.021(39), to begin  
4 receiving the employer-funded benefit. Benefits funded by  
5 employer contributions shall be payable in accordance with the  
6 following terms and conditions ~~only as a lifetime annuity to~~  
7 ~~the participant, his or her beneficiary, or his or her estate,~~  
8 ~~except for:~~

9 1. Benefits shall be payable only to a participant, to  
10 his or her beneficiaries, or to his or her estate, as  
11 designated by the participant.

12 2. Benefits shall be paid by the provider company or  
13 companies in accordance with the law, the provisions of the  
14 contract, and any applicable board rule or policy.

15 3. In the event of a participant's death, moneys  
16 accumulated by, or on behalf of, the participant, less  
17 withholding taxes remitted to the Internal Revenue Service, if  
18 any, shall be distributed to the participant's designated  
19 beneficiary or beneficiaries, or to the participant's estate,  
20 as if the participant retired on the date of death, as  
21 provided in paragraph (c). No other death benefits shall be  
22 available for survivors of participants under the optional  
23 retirement program except for such benefits, or coverage for  
24 such benefits, as are separately afforded by the employer, at  
25 the employer's discretion.

26 (b) Upon receipt by the provider company of a properly  
27 executed application for distribution of benefits, the total  
28 accumulated benefit shall be payable to the participant, as:

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

30 2. A lump-sum direct rollover distribution whereby all  
31 accrued benefits, plus interest and investment earnings, are

1 paid from the participant's account directly to an eligible  
2 retirement plan, as defined in s. 402(c)(8)(B) of the Internal  
3 Revenue Code, on behalf of the participant;  
4       3. Periodic distributions;  
5       4. A partial lump-sum payment whereby a portion of the  
6 accrued benefit is paid to the participant and the remaining  
7 amount is transferred to an eligible retirement plan, as  
8 defined in s. 402(c)(8)(B) of the Internal Revenue Code, on  
9 behalf of the participant; or  
10       5. Such other distribution options as are provided for  
11 in the participant's optional retirement program contract.  
12       (c) Survivor benefits shall be payable as:  
13       1. A lump-sum distribution payable to the  
14 beneficiaries or to the deceased participant's estate;  
15       2. An eligible rollover distribution on behalf of the  
16 surviving spouse of a deceased participant, whereby all  
17 accrued benefits, plus interest and investment earnings, are  
18 paid from the deceased participant's account directly to an  
19 eligible retirement plan, as described in s. 402(c)(8)(B) of  
20 the Internal Revenue Code, on behalf of the surviving spouse;  
21       3. Such other distribution options as are provided for  
22 in the participant's optional retirement program contract; or  
23       4. A partial lump-sum payment whereby a portion of the  
24 accrued benefit is paid to the deceased participant's  
25 surviving spouse or other designated beneficiaries, less  
26 withholding taxes remitted to the Internal Revenue Service, if  
27 any, and the remaining amount is transferred directly to an  
28 eligible retirement plan, as described in s.402(c)(8)(B) of  
29 the Internal Revenue Code, on behalf of the surviving spouse.  
30 The proportions must be specified by the participant or the  
31 surviving beneficiary.



1  
2 This paragraph does not abrogate other applicable provisions  
3 of state or federal law providing payment of death benefits.

4 ~~1. A lump-sum payment to the beneficiary upon the~~  
5 ~~death of the participant; or~~

6 ~~2. A cash-out of a de minimis account upon the request~~  
7 ~~of a former participant who has been terminated for a minimum~~  
8 ~~of 6 months from the employment that entitled him or her to~~  
9 ~~optional retirement program participation. A de minimis~~  
10 ~~account is an account with a provider company containing~~  
11 ~~employer contributions and accumulated earnings of not more~~  
12 ~~than \$5,000 made under the provisions of this chapter. Such~~  
13 ~~cash-out must be a complete liquidation of the account balance~~  
14 ~~with that company and is subject to the provisions of the~~  
15 ~~Internal Revenue Code.~~

16 (d)~~(b)~~ The benefits payable to any person under the  
17 optional retirement program, and any contribution accumulated  
18 under such program, shall not be subject to assignment,  
19 execution, or attachment or to any legal process whatsoever.

20 (e)~~(c)~~ A participant who chooses to receive his or her  
21 benefits upon termination of employment shall have  
22 responsibility to notify the provider company of the date on  
23 which he or she wishes benefits ~~the annuity~~ funded by employer  
24 contributions to begin. Benefits may be deferred until such  
25 time as the participant chooses to make such application.

26 (f)~~(d)~~ Benefits funded by the participant's personal  
27 contributions may be paid out at any time and in any form  
28 within the limits provided in the contract between the  
29 participant and his or her provider company. The participant  
30 shall notify the provider company regarding the date and

31

1 provisions under which he or she wants to receive the  
2 employee-funded portion of the plan.

3 (6) ADMINISTRATION OF PROGRAM.--

4 (a) The optional retirement program authorized by this  
5 section shall be administered by the department. The  
6 department shall adopt rules establishing the responsibilities  
7 of the State Board of Education Regents and institutions in  
8 the State University System in administering the optional  
9 retirement program. The State Board of Education Regents  
10 shall, no more than 90 days after July 1, 1983, submit to the  
11 department its recommendations for the ~~annuity~~ contracts to be  
12 offered by the companies chosen by the department. The  
13 recommendations of the board shall include the following:

14 1. The nature and extent of the rights and benefits in  
15 relation to the required contributions; and

16 2. The suitability of the rights and benefits to the  
17 needs of the participants and the interests of the  
18 institutions in the recruitment and retention of eligible  
19 employees.

20 (b) After receiving and considering the  
21 recommendations of the State Board of Education Regents, the  
22 department shall designate no more than four companies from  
23 which ~~annuity~~ contracts may be purchased under the program and  
24 shall approve the form and content of the optional retirement  
25 program contracts. Upon application by a qualified Florida  
26 domestic company, the department shall give reasonable notice  
27 to all other such companies that it intends to designate one  
28 of such companies as a fifth company from which ~~annuity~~  
29 contracts may be purchased pursuant to this section and that  
30 they may apply for such designation prior to the deadline  
31 established by said notice. At least 60 days after giving such

1 notice and upon receipt of the recommendation of the State  
2 Board of Education ~~Regents~~, the department shall so designate  
3 one of such companies as the fifth company from which such  
4 contracts may be purchased.

5 (c) Effective July 1, 1997, the State Board of  
6 Administration shall review and make recommendations to the  
7 department on the acceptability of all investment products  
8 proposed by provider companies of the optional retirement  
9 program before they are offered through annuity contracts to  
10 the participants and may advise the department of any changes  
11 necessary to ensure that the optional retirement program  
12 offers an acceptable mix of investment products. The  
13 department shall make the final determination as to whether an  
14 investment product will be approved for the program.

15 (d) The provisions of each contract applicable to a  
16 participant in the optional retirement program shall be  
17 contained in a written program description which shall include  
18 a report of pertinent financial and actuarial information on  
19 the solvency and actuarial soundness of the program and the  
20 benefits applicable to the participant. Such description  
21 shall be furnished by the companies to each participant in the  
22 program and to the department upon commencement of  
23 participation in the program and annually thereafter.

24 (e) The department shall ensure that each participant  
25 in the optional retirement program is provided an accounting  
26 of the total contribution and the annual contribution made by  
27 and on behalf of such participant.

28 Section 7. Subsection (2), paragraph (c) of subsection  
29 (3), paragraphs (a), (b), and (c) of subsection (4), and  
30 subsections (7) and (16) of section 121.4501, Florida

31

1 Statutes, as amended by chapter 2001-235, Laws of Florida, are  
2 amended to read:

3 121.4501 Public Employee Optional Retirement  
4 Program.--

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

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

1 education. Private sector companies include investment  
2 management companies, insurance companies, depositories, and  
3 mutual fund companies.

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

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

8 (d)~~(b)~~ "Department" means the Department of Management  
9 Services.

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

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

- 14 1. Is a member of, or is eligible for membership in,  
15 the Florida Retirement System;
- 16 2. Participates in, or is eligible to participate in,  
17 the Senior Management Service Optional Annuity Program as  
18 established under s. 121.055(6); or
- 19 3. Is eligible to participate in, but does not  
20 participate in, the State University System Optional  
21 Retirement Program established under s. 121.35 or the State  
22 Community College System Optional Retirement Program  
23 established under s. 121.051(2)(c).

24  
25 The term does not include any renewed member of the Florida  
26 Retirement System, any member participating in the Deferred  
27 Retirement Option Program established under s. 121.091(13), or  
28 any employee participating in an optional retirement program  
29 established under s. 121.051(2)(c) or s. 121.35.

30 (g)~~(e)~~ "Employer" means an employer, as defined in s.  
31 121.021(10), of an eligible employee.

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

5           (i)~~(g)~~ "Public Employee Optional Retirement Program,"  
6 "optional program," or "optional retirement program" means the  
7 alternative defined contribution retirement program  
8 established under this section.

9           (j)~~(h)~~ "State board" or "board" means the State Board  
10 of Administration.

11           (k)~~(i)~~ "Trustees" means Trustees of the State Board of  
12 Administration.

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

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

18           (c)1. Notwithstanding paragraph (b), each eligible  
19 employee who elects to participate in the Public Employee  
20 Optional Retirement Program and establishes one or more  
21 individual participant accounts under the optional program may  
22 elect to transfer to the optional program a sum representing  
23 the present value of the employee's accumulated benefit  
24 obligation under the defined benefit retirement program of the  
25 Florida Retirement System. Upon such transfer, all service  
26 credit previously earned under the defined benefit program of  
27 the Florida Retirement System shall be nullified for purposes  
28 of entitlement to a future benefit under the defined benefit  
29 program of the Florida Retirement System. A participant is  
30 precluded from transferring the accumulated benefit obligation  
31

1 balance from the defined benefit program upon the expiration  
2 of the period afforded to enroll in the optional program.

3         2. For purposes of this subsection, the present value  
4 of the member's accumulated benefit obligation is based upon  
5 the member's estimated creditable service and estimated  
6 average final compensation under the defined benefit program,  
7 subject to recomputation under subparagraph 3. For state  
8 employees enrolling under subparagraph (4)(a)1., initial  
9 estimates will be based upon creditable service and average  
10 final compensation as of midnight on June 30, 2002; for  
11 district school board employees enrolling under subparagraph  
12 (4)(b)1., initial estimates will be based upon creditable  
13 service and average final compensation as of midnight on  
14 September 30, 2002; and for local government employees  
15 enrolling under subparagraph (4)(c)1., initial estimates will  
16 be based upon creditable service and average final  
17 compensation as of midnight on December 31, 2002. The dates  
18 respectively specified above shall be construed as the  
19 "estimate date" for these employees of the day prior to the  
20 opening of the election window for the employee. The actuarial  
21 present value of the employee's accumulated benefit obligation  
22 shall be based on the following:

23         a. The discount rate and other relevant actuarial  
24 assumptions used to value the Florida Retirement System Trust  
25 Fund at the time the amount to be transferred is determined,  
26 consistent with the factors provided in sub-subparagraphs b.  
27 and c.

28         b. A benefit commencement age, based on the member's  
29 estimated creditable service as of the estimate date ~~midnight~~  
30 ~~on May 31, 2002.~~ The benefit commencement age shall be the  
31

1 younger of the following, but shall not be younger than the  
2 member's age as of the estimate date ~~midnight on May 31, 2002~~:

3 (I) Age 62; or

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

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

16 (I) Age 55; or

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

23 d. The calculation shall disregard vesting  
24 requirements and early retirement reduction factors that would  
25 otherwise apply under the defined benefit retirement program.

26 3. For each participant who elects to transfer moneys  
27 from the defined benefit program to his or her account in the  
28 optional program, the division shall recompute the amount  
29 transferred under subparagraph 2. not later than 60 days after  
30 the actual transfer of funds based upon the participant's  
31 actual creditable service and actual final average



1 compensation as of the initial date of participation in the  
2 optional program. If the recomputed amount differs from the  
3 amount transferred under subparagraph 2. by \$10 or more, the  
4 division shall:

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

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

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

30           5. If the board or the division receives notification  
31 from the United States Internal Revenue Service that this

1 paragraph or any portion of this paragraph will cause the  
2 retirement system, or a portion thereof, to be disqualified  
3 for tax purposes under the Internal Revenue Code, then the  
4 portion that will cause the disqualification does not apply.  
5 Upon such notice, the state board and the division shall  
6 notify the presiding officers of the Legislature.

7 (4) PARTICIPATION; ENROLLMENT.--

8 (a)1. With respect to an eligible employee who is  
9 employed in a regularly established position on June 1, 2002,  
10 by a state employer:

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

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

7           2. With respect to employees who become eligible to  
8 participate in the Public Employee Optional Retirement Program  
9 by reason of employment in a regularly established position  
10 with a state employer commencing after April ~~June~~ 1, 2002:

11           a. Any such employee shall, by default, be enrolled in  
12 the defined benefit retirement program of the Florida  
13 Retirement System at the commencement of employment, and may,  
14 by the end of the 5th month following the employee's month of  
15 hire ~~within 180 days after employment commences~~, elect to  
16 participate in the Public Employee Optional Retirement  
17 Program. The employee's election must be made in writing or by  
18 electronic means and must be filed with the third-party  
19 administrator ~~personnel officer of the employer~~. The election  
20 to participate in the optional program is irrevocable, except  
21 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           **b.e.** If the employee files such election within the  
27 prescribed time period ~~180 days after employment commences~~,  
28 ~~but after the initial payroll is submitted for the employee,~~  
29 enrollment in the optional program shall be effective on the  
30 first day of employment ~~the month for which a full month's~~  
31 ~~employer contribution is made to the optional program. The~~

1 employer retirement contributions paid through the month of  
2 the employee plan change shall be transferred to the optional  
3 program, and, effective the first day of the next month, the  
4 employer shall pay the applicable contributions based on the  
5 employee membership class in the optional program.

6 ~~c.d.~~ Any such employee who fails to elect to  
7 participate in the Public Employee Optional Retirement Program  
8 within the prescribed time period ~~180 days~~ is deemed to have  
9 elected to retain membership in the defined benefit program of  
10 the Florida Retirement System, and the employee's option to  
11 elect to participate in the optional program is forfeited.

12 3. For purposes of this paragraph, "state employer"  
13 means any agency, board, branch, commission, community  
14 college, department, institution, institution of higher  
15 education, or water management district of the state, which  
16 participates in the Florida Retirement System for the benefit  
17 of certain employees.

18 (b)1. With respect to an eligible employee who is  
19 employed in a regularly established position on September 1,  
20 2002, by a district school board employer:

21 a. Any such employee may elect to participate in the  
22 Public Employee Optional Retirement Program in lieu of  
23 retaining his or her membership in the defined benefit program  
24 of the Florida Retirement System. The election must be made in  
25 writing or by electronic means and must be filed with the  
26 third-party administrator by November 30 ~~department and the~~  
27 ~~personnel officer of the employer within 90 days after~~  
28 ~~September 1, 2002~~, or, in the case of an active employee who  
29 is on a leave of absence on July ~~September~~ 1, 2002, by  
30 November 30, 2002, or within 90 days after the conclusion of  
31 the leave of absence, whichever is later. This election is

1 irrevocable, except as provided in paragraph (e). Upon making  
2 such election, the employee shall be enrolled as a participant  
3 of the Public Employee Optional Retirement Program, the  
4 employee's membership in the Florida Retirement System shall  
5 be governed by the provisions of this part, and the employee's  
6 membership in the defined benefit program of the Florida  
7 Retirement System shall terminate. The employee's enrollment  
8 in the Public Employee Optional Retirement Program shall be  
9 effective the first day of the month for which a full month's  
10 employer contribution is made to the optional program.

11 b. Any such employee who fails to elect to participate  
12 in the Public Employee Optional Retirement Program within the  
13 prescribed time period ~~90 days~~ is deemed to have elected to  
14 retain membership in the defined benefit program of the  
15 Florida Retirement System, and the employee's option to elect  
16 to participate in the optional program is forfeited.

17 2. With respect to employees who become eligible to  
18 participate in the Public Employee Optional Retirement Program  
19 by reason of employment in a regularly established position  
20 with a district school board employer commencing after July  
21 ~~September~~ 1, 2002:

22 a. Any such employee shall, by default, be enrolled in  
23 the defined benefit retirement program of the Florida  
24 Retirement System at the commencement of employment, and may,  
25 by the end of the 5th month following the employee's month of  
26 hire ~~within 180 days after employment commences~~, elect to  
27 participate in the Public Employee Optional Retirement  
28 Program. The employee's election must be made in writing or by  
29 electronic means and must be filed with the third-party  
30 administrator ~~personnel officer of the employer~~. The election  
31

1 to participate in the optional program is irrevocable, except  
2 as provided in paragraph (e).

3 ~~b. If the employee files such election before the~~  
4 ~~initial payroll is submitted for the employee, enrollment in~~  
5 ~~the Public Employee Optional Retirement Program shall be~~  
6 ~~effective on the first day of employment.~~

7 b.c. If the employee files such election within the  
8 prescribed time period ~~180 days after employment commences,~~  
9 ~~but after the initial payroll is submitted for the employee,~~  
10 enrollment in the optional program shall be effective on the  
11 first day of employment ~~the month for which a full month's~~  
12 ~~employer contribution is made to the optional program. The~~  
13 ~~employer retirement contributions paid through the month of~~  
14 ~~the employee plan change shall be transferred to the optional~~  
15 ~~program, and, effective the first day of the next month, the~~  
16 ~~employer shall pay the applicable contributions based on the~~  
17 ~~employee membership class in the optional program.~~

18 c.d. Any such employee who fails to elect to  
19 participate in the Public Employee Optional Retirement Program  
20 within the prescribed time period ~~180 days~~ is deemed to have  
21 elected to retain membership in the defined benefit program of  
22 the Florida Retirement System, and the employee's option to  
23 elect to participate in the optional program is forfeited.

24 3. For purposes of this paragraph, "district school  
25 board employer" means any district school board that  
26 participates in the Florida Retirement System for the benefit  
27 of certain employees, or a charter school or charter technical  
28 career center that participates in the Florida Retirement  
29 System as provided in s. 121.051(2)(d).

30  
31

1 (c)1. With respect to an eligible employee who is  
2 employed in a regularly established position on December 1,  
3 2002, by a local employer:

4 a. Any such employee may elect to participate in the  
5 Public Employee Optional Retirement Program in lieu of  
6 retaining his or her membership in the defined benefit program  
7 of the Florida Retirement System. The election must be made in  
8 writing or by electronic means and must be filed with the  
9 third-party administrator by February 28, 2003,~~department and~~  
10 ~~the personnel officer of the employer within 90 days after~~  
11 ~~December 1, 2002~~ or, in the case of an active employee who is  
12 on a leave of absence on October ~~December~~ 1, 2002, by February  
13 28, 2003, or within 90 days after the conclusion of the leave  
14 of absence, whichever is later. This election is irrevocable,  
15 except as provided in paragraph (e). Upon making such  
16 election, the employee shall be enrolled as a participant of  
17 the Public Employee Optional Retirement Program, the  
18 employee's membership in the Florida Retirement System shall  
19 be governed by the provisions of this part, and the employee's  
20 membership in the defined benefit program of the Florida  
21 Retirement System shall terminate. The employee's enrollment  
22 in the Public Employee Optional Retirement Program shall be  
23 effective the first day of the month for which a full month's  
24 employer contribution is made to the optional program.

25 b. Any such employee who fails to elect to participate  
26 in the Public Employee Optional Retirement Program within the  
27 prescribed time period ~~90 days~~ is deemed to have elected to  
28 retain membership in the defined benefit program of the  
29 Florida Retirement System, and the employee's option to elect  
30 to participate in the optional program is forfeited.

31

1           2. With respect to employees who become eligible to  
2 participate in the Public Employee Optional Retirement Program  
3 by reason of employment in a regularly established position  
4 with a local employer commencing after October ~~December~~ 1,  
5 2002:

6           a. Any such employee shall, by default, be enrolled in  
7 the defined benefit retirement program of the Florida  
8 Retirement System at the commencement of employment, and may,  
9 by the end of the 5th month following the employee's month of  
10 hire ~~within 180 days after employment commences~~, elect to  
11 participate in the Public Employee Optional Retirement  
12 Program. The employee's election must be made in writing or by  
13 electronic means and must be filed with the third-party  
14 administrator ~~personnel officer of the employer~~. The election  
15 to participate in the optional program is irrevocable, except  
16 as provided in paragraph (e).

17           ~~b. If the employee files such election before the~~  
18 ~~initial payroll is submitted for the employee, enrollment in~~  
19 ~~the Public Employee Optional Retirement Program shall be~~  
20 ~~effective on the first day of employment.~~

21           ~~b.c.~~ If the employee files such election within the  
22 prescribed time period ~~180 days after employment commences,~~  
23 ~~but after the initial payroll is submitted for the employee,~~  
24 enrollment in the optional program shall be effective on the  
25 first day of employment ~~the month for which a full month's~~  
26 ~~employer contribution is made to the optional program. The~~  
27 employer retirement contributions paid through the month of  
28 the employee plan change shall be transferred to the optional  
29 program, and, effective the first day of the next month, the  
30 employer shall pay the applicable contributions based on the  
31 employee membership class in the optional program.



1            c.d. Any such employee who fails to elect to  
2 participate in the Public Employee Optional Retirement Program  
3 within the prescribed time period ~~180 days~~ is deemed to have  
4 elected to retain membership in the defined benefit program of  
5 the Florida Retirement System, and the employee's option to  
6 elect to 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 8. 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

11 (7) PAYMENT AND DISTRIBUTION OF

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

21 Section 9. Section 121.591, Florida Statutes, is  
22 created to read:

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

1 documents required by this chapter and the rules of the state  
2 board and department. In accordance with their respective  
3 responsibilities as provided herein, the State Board of  
4 Administration and the Department of Management Services shall  
5 adopt rules establishing procedures for application for  
6 retirement benefits and for the cancellation of such  
7 application when the required information or documents are not  
8 received.

9 (1) NORMAL BENEFITS.--Under the Public Employee  
10 Optional Retirement Program:

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

15 1. To the extent vested, benefits shall be payable  
16 only to a participant.

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

21 3. To receive benefits under this subsection, the  
22 participant must be terminated from all employment with all  
23 Florida Retirement System employers, as provided in s.  
24 121.021(39).

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

31

1 until he or she chooses to make such application, subject to  
2 federal requirements.

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

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

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

13 3. Periodic distributions, as authorized by the state  
14 board.

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

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

24 1. All moneys accumulated in the participant's Public  
25 Employee Optional Retirement Program accounts, including  
26 vested and nonvested accumulations as described in s.  
27 121.4501(6), shall be transferred from such individual  
28 accounts to the Division of Retirement for deposit in the  
29 disability account of the Florida Retirement System Trust  
30 Fund. Such moneys shall be separately accounted for. Earnings  
31 shall be credited on an annual basis for amounts held in the



1 disability accounts of the Florida Retirement System Trust  
2 Fund based on actual earnings of the Florida Retirement System  
3 Trust Fund.

4 2. If the participant has retained retirement credit  
5 he or she had earned under the defined benefit program of the  
6 Florida Retirement System as provided in s. 121.4501(3)(b), a  
7 sum representing the actuarial present value of such credit  
8 within the Florida Retirement System Trust Fund shall be  
9 reassigned by the Division of Retirement from the defined  
10 benefit program to the disability program as implemented under  
11 this subsection and shall be deposited in the disability  
12 account of the Florida Retirement System Trust Fund. Such  
13 moneys shall be separately accounted for.

14 (b) Disability retirement; entitlement.--

15 1. A participant of the Public Employee Optional  
16 Retirement Program who becomes totally and permanently  
17 disabled, as defined in s. 121.091(4)(b), after completing 8  
18 years of creditable service, or a participant who becomes  
19 totally and permanently disabled in the line of duty  
20 regardless of his or her length of service, shall be entitled  
21 to a monthly disability benefit as provided herein.

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

27 a. The participant's period of service under the  
28 Public Employee Optional Retirement Program will be considered  
29 creditable service, except as provided in subparagraph d.

30 b. If the participant has elected to retain credit for  
31 his or her service under the defined benefit program of the

1 Florida Retirement System as provided under s. 121.4501(3)(b),  
2 all such service will be considered creditable service.

3 c. If the participant has elected to transfer to his  
4 or her participant accounts a sum representing the present  
5 value of his or her retirement credit under the defined  
6 benefit program as provided under s. 121.4501(3)(c), the  
7 period of service under the defined benefit program  
8 represented in the present value amounts transferred will be  
9 considered creditable service for purposes of vesting for  
10 disability benefits, except as provided in subparagraph d.

11 d. Whenever a participant has terminated employment  
12 and has taken distribution of his or her funds as provided in  
13 subsection (1), all creditable service represented by such  
14 distributed funds is forfeited for purposes of this  
15 subsection.

16 (c) Disability retirement effective date.--The  
17 effective retirement date for a participant who applies and is  
18 approved for disability retirement shall be established as  
19 provided under s. 121.091(4)(a)2. and 3.

20 (d) Total and permanent disability.--A participant  
21 shall be considered totally and permanently disabled if, in  
22 the opinion of the division, he or she is prevented, by reason  
23 of a medically determinable physical or mental impairment,  
24 from rendering useful and efficient service as an officer or  
25 employee.

26 (e) Proof of disability.--The division, before  
27 approving payment of any disability retirement benefit, shall  
28 require proof that the participant is totally and permanently  
29 disabled in the same manner as provided for members of the  
30 defined benefit program of the Florida Retirement System under  
31 s. 121.091(4)(c).

1           (f) Disability retirement benefit.--Upon the  
2 disability retirement of a participant under this subsection,  
3 the participant shall receive a monthly benefit that shall  
4 begin to accrue on the first day of the month of disability  
5 retirement, as approved by the division, and shall be payable  
6 on the last day of that month and each month thereafter during  
7 his or her lifetime and continued disability. All disability  
8 benefits payable to such member shall be paid out of the  
9 disability account of the Florida Retirement System Trust Fund  
10 established under this subsection.

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

19           (h) Reapplication.--A participant whose initial  
20 application for disability retirement has been denied may  
21 reapply for disability benefits in the same manner, and under  
22 the same conditions, as provided for members of the defined  
23 benefit program of the Florida Retirement System under s.  
24 121.091(4)(g).

25           (i) Membership.--Upon approval of an application for  
26 disability benefits under this subsection, the applicant shall  
27 be transferred to the defined benefit program of the Florida  
28 Retirement System, effective upon his or her disability  
29 retirement effective date.

30           (j) Option to cancel.--Any participant whose  
31 application for disability benefits is approved may cancel his

1 or her application for disability benefits, provided that the  
2 cancellation request is received by the division before a  
3 disability retirement warrant has been deposited, cashed, or  
4 received by direct deposit. Upon such cancellation:

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

7 2. The participant shall be retroactively reinstated  
8 in the Public Employee Optional Retirement Program without  
9 hiatus;

10 3. All funds transferred to the Florida Retirement  
11 System Trust Fund under paragraph (a) shall be returned to the  
12 participant accounts from which such funds were drawn; and

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

16 (k) Recovery from disability.--

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

27 2. Upon recovery from disability, any recipient of  
28 disability retirement benefits under this subsection shall be  
29 a compulsory member of the Public Employee Optional Retirement  
30 Program of the Florida Retirement System. The net difference  
31 between the recipient's original account balance transferred

1 to the Florida Retirement System Trust Fund, including  
2 earnings, under paragraph (a) and total disability benefits  
3 paid to such recipient, if any, shall be determined as  
4 provided in sub-subparagraph a.

5 a. An amount equal to the total benefits paid shall be  
6 subtracted from that portion of the transferred account  
7 balance consisting of vested accumulations as described under  
8 s. 121.4501(6), if any, and an amount equal to the remainder  
9 of benefit amounts paid, if any, shall then be subtracted from  
10 any remaining portion consisting of nonvested accumulations as  
11 described under s. 121.4501(6).

12 b. Amounts subtracted under sub-subparagraph a. shall  
13 be retained within the disability account of the Florida  
14 Retirement System Trust Fund. Any remaining account balance  
15 shall be transferred to the third-party administrator for  
16 disposition as provided under sub-subparagraph c. or  
17 sub-subparagraph d., as appropriate.

18 c. If the recipient returns to covered employment,  
19 transferred amounts shall be deposited in individual accounts  
20 under the Public Employee Optional Retirement Program, as  
21 directed by the participant. Vested and nonvested amounts  
22 shall be separately accounted for as provided in s.  
23 121.4501(6).

24 d. If the recipient fails to return to covered  
25 employment upon recovery from disability:

26 (I) Any remaining vested amount shall be deposited in  
27 individual accounts under the Public Employee Optional  
28 Retirement Program, as directed by the participant, and shall  
29 be payable as provided in subsection (1).

30  
31

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

4           3. If present value was reassigned from the defined  
5 benefit program to the disability program of the Florida  
6 Retirement System as provided under subparagraph (a)2., the  
7 full present value amount shall be returned to the defined  
8 benefit account within the Florida Retirement System Trust  
9 Fund and the affected individual's associated retirement  
10 credit under the defined benefit program shall be reinstated  
11 in full. Any benefit based upon such credit shall be  
12 calculated as provided in s. 121.091(4)(h)1.

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

17           (m) Disability retirement of justice or judge by order  
18 of Supreme Court.--

19           1. If a participant is a justice of the Supreme Court,  
20 judge of a district court of appeal, circuit judge, or judge  
21 of a county court who has served for 6 years or more as an  
22 elected constitutional judicial officer, including service as  
23 a judicial officer in any court abolished pursuant to Article  
24 V of the State Constitution, and who is retired for disability  
25 by order of the Supreme Court upon recommendation of the  
26 Judicial Qualifications Commission pursuant to the provisions  
27 of Article V of the State Constitution, the participant's  
28 Option 1 monthly disability benefit amount as provided in s.  
29 121.091(6)(a)1. shall be two-thirds of his or her monthly  
30 compensation as of the participant's disability retirement  
31 date. Such a participant may alternatively elect to receive

1 an actuarially adjusted disability retirement benefit under  
2 any other option as provided in s. 121.091(6)(a), or to  
3 receive the normal benefit payable under the Public Employee  
4 Optional Retirement Program as set forth in subsection (1).

5 2. If any justice or judge who is a participant of the  
6 Public Employee Optional Retirement Program of the Florida  
7 Retirement System is retired for disability by order of the  
8 Supreme Court upon recommendation of the Judicial  
9 Qualifications Commission pursuant to the provisions of  
10 Article V of the State Constitution and elects to receive a  
11 monthly disability benefit under the provisions of this  
12 paragraph:

13 a. Any present value amount that was transferred to  
14 his or her program account and all employer contributions made  
15 to such account on his or her behalf, plus interest and  
16 earnings thereon, shall be transferred to and deposited in the  
17 disability account of the Florida Retirement System Trust  
18 Fund; and

19 b. The monthly benefits payable under this paragraph  
20 for any affected justice or judge retired from the Florida  
21 Retirement System pursuant to Article V of the State  
22 Constitution shall be paid from the disability account of the  
23 Florida Retirement System Trust Fund.

24 (n) Upon the death of a disabled retiree or  
25 beneficiary thereof who is receiving monthly benefits under  
26 this subsection, the monthly benefits shall be paid through  
27 the last day of the month of death and shall terminate, or be  
28 adjusted, if applicable, as of that date in accordance with  
29 the optional form of benefit selected at the time of  
30 retirement. The deceased disabled retiree's beneficiary shall  
31 also receive the amount of the participant's remaining account

1 balance, if any, in the Florida Retirement System Trust Fund.

2 The Department of Management Services may adopt rules  
3 necessary to administer this paragraph.

4 (3) DEATH BENEFITS.--Under the Public Employee  
5 Optional Retirement Program:

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

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

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

21 3. To receive benefits under this subsection, the  
22 participant must be deceased.

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



1 such benefits, as are otherwise provided by law or are  
2 separately afforded by the employer, at the employer's  
3 discretion.

4 (c) Upon receipt by the third-party administrator of a  
5 properly executed application for distribution of benefits,  
6 the total accumulated benefit shall be payable by the  
7 third-party administrator to the participant's surviving  
8 beneficiary or beneficiaries, as:

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

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

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

27  
28 This paragraph does not abrogate other applicable provisions  
29 of state or federal law providing for payment of death  
30 benefits.

31

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 10. 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 s. 14, Art. X of the  
16 State Constitution and part VII of chapter 112, Florida  
17 Statutes. Therefore, the Legislature hereby determines and  
18 declares that this act fulfills an important state interest.

19           Section 11. Notwithstanding any provision to the  
20 contrary and the authority of the Department of Management  
21 Services, the Department of Management Services may contract  
22 with a private-sector company selected and approved by the  
23 department for services to administer the disability benefit  
24 program. Not later than March 1, 2003, the department may  
25 provide to the Legislature for its approval an alternative  
26 method for administering and funding disability benefits for  
27 participants in the Public Employee Optional Retirement  
28 Program and the Florida Retirement System, including through  
29 commercial insurance coverage.

30           Section 12. It is the intent of the Legislature that  
31 the disability retirement program for participants of the

1 Public Employee Optional Retirement Program as created in this  
2 act must meet all applicable requirements of federal law for a  
3 qualified plan. The Department of Management Services shall  
4 seek a private letter ruling from the Internal Revenue Service  
5 on the disability retirement program for participants of the  
6 Public Employee Optional Retirement Program. Consistent with  
7 the private letter ruling, the Department of Management  
8 Services shall adopt any necessary rules required to maintain  
9 the qualified status of the disability retirement program and  
10 the Florida Retirement System defined benefit plan.

11 Section 13. This act shall take effect July 1, 2002.

12

13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
14 COMMITTEE SUBSTITUTE FOR  
15 Senate Bill 2132

16 The Committee Substitute changes the implementing dates for  
17 account balance transfers to the alternative investment plan  
18 for public employees. It permits employees in the university  
19 system optional annuity program to have the same distribution  
20 options as those provided participants in the new plan. The  
21 Committee Substitute authorizes a study of the administration  
22 of the disability benefits plan including private  
23 administration or use of commercial insurance.

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