

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.; amending s. 121.052, F.S.; revising the
13 membership requirements of the Elected
14 Officers' Class of the system to include
15 certain sheriffs and clerks of the circuit
16 court; making the date for payment of
17 retirement contributions consistent under the
18 Florida Retirement System defined benefit and
19 defined contribution programs; providing
20 eligibility of certain officials for membership
21 in the Senior Management Service Class of the
22 Florida Retirement System; revising provisions
23 governing contributions to the Senior
24 Management Service Optional Annuity Program;
25 amending s. 121.35, F.S.; authorizing
26 contributions to the optional retirement
27 program in the form of rollovers or direct
28 trustee-to-trustee transfers; expanding the
29 methods for disbursing benefits; amending s.
30 121.4501, F.S., relating to the Public Employee
31 Optional Retirement Program; updating

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

1 for disability retirement of justices or
2 judges; providing for payment of death
3 benefits; providing for spousal notification in
4 certain cases; updating death benefit
5 distribution provisions to conform to recent
6 changes in federal law; providing protection of
7 benefits from assignment, execution, etc.;
8 providing a declaration of important state
9 interest; authorizing the Department of
10 Management Services to contract with a private
11 company to administer the disability benefit
12 program; authorizing the department to provide
13 for an alternative method to administer and
14 fund disability benefits; requiring the
15 department to seek a private letter ruling from
16 the Internal Revenue Service with respect to
17 the disability retirement program; providing
18 rulemaking authority; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (g) of subsection (2), paragraph
24 (g) of subsection (3), and paragraph (h) of subsection (4) of
25 section 110.123, Florida Statutes, are amended to read:

26 110.123 State group insurance program.--

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

28 (g) "Retired state officer or employee" or "retiree"
29 means any state officer or state employee who retires under a
30 state retirement system or a state optional annuity or
31 retirement program or is placed on disability retirement, and

1 who was insured under the state group insurance program at the
2 time of retirement, and who begins receiving retirement
3 benefits immediately after retirement from state office or
4 employment. In addition to these requirements, any state
5 officer or state employee who retires under the Public
6 Employee Optional Retirement Program established under part II
7 of chapter 121 shall be considered a "retired state officer or
8 employee" or "retiree" as used in this section if he or she:

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

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

14 (3) STATE GROUP INSURANCE PROGRAM.--

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

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

29 ~~(h) State employees may participate in the state group~~
30 ~~health insurance plan at the time of receiving their state~~
31 ~~retirement benefits.~~

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

3 110.205 Career service; exemptions.--

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

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

28 (q) The staff directors, assistant staff directors,
29 district program managers, district program coordinators,
30 district subdistrict administrators, district administrative
31 services directors, district attorneys, and the Deputy

1 Director of Central Operations Services of the Department of
2 Children and Family Services ~~and the county health department~~
3 ~~directors and county health department administrators of the~~
4 ~~Department of Health~~. Unless otherwise fixed by law, the
5 department shall establish the salary range and benefits for
6 these positions in accordance with the rules of the Selected
7 Exempt Service.

8 Section 3. Paragraph (d) of subsection (2) and
9 subsection (7) of section 121.052, Florida Statutes, as
10 amended by chapter 2001-262, Laws of Florida, are amended to
11 read:

12 121.052 Membership class of elected officers.--

13 (2) MEMBERSHIP.--The following holders of elective
14 office, hereinafter referred to as "elected officers," whether
15 assuming elective office by election, reelection, or
16 appointment, are members of the Elected Officers' Class,
17 except as provided in subsection (3):

18 (d) Any constitutional county elected officer assuming
19 office on or after July 1, 1981, including any sheriff, tax
20 collector, property appraiser, supervisor of elections, clerk
21 of the circuit court, county commissioner, school board
22 member, or elected school board superintendent, or any elected
23 officer of any entity with countywide jurisdiction assuming
24 office on or after July 1, 1981, who, pursuant to general or
25 special law, exercises powers and duties that, but for such
26 general or special law, would be exercised by any of the
27 constitutional county elected officers set forth in this
28 paragraph, including the sheriff and clerk of the circuit
29 court in a consolidated government with countywide
30 jurisdiction unless such sheriff or clerk elected to continue
31 to participate in a local retirement system.

1 (7) CONTRIBUTIONS.--

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

11
12 Dates of Contribution

13 Rate Changes	Members	Employers
14 Effective July 1, 2001		
15 Legislators	0%	15.14%
16 Governor, Lt. Governor, Cabinet		
17 Officers	0%	15.14%
18 State Attorneys, Public Defenders	0%	15.14%
19 Justices, Judges	0%	20.61%
20 County Elected Officers	0%	17.61%

21
22 (b) The employer paying the salary of a member of the
23 Elected Officers' Class shall contribute an amount as
24 specified in this subsection which shall constitute the entire
25 employer retirement contribution with respect to such member.
26 The employer shall also withhold one-half of the entire
27 contribution of the member required for social security
28 coverage.

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

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

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

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

23 Section 4. Paragraph (h) of subsection (1), subsection
 24 (3), paragraph (d) of subsection (4), and paragraph (c) of
 25 subsection (6) of section 121.055, Florida Statutes, as
 26 amended by chapter 2001-262, Laws of Florida, are amended to
 27 read:

28 121.055 Senior Management Service Class.--There is
 29 hereby established a separate class of membership within the
 30 Florida Retirement System to be known as the "Senior
 31

1 Management Service Class," which shall become effective
2 February 1, 1987.

3 (1)

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

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

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

1 exceed 0.5 percent of the regularly established positions
2 within the agency.

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

7 (I) Heads an organizational unit; or

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

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

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

29 (3)(a) The following table states the required
30 retirement contribution rates for members of the Senior
31 Management Service Class and their employers in terms of a

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

7
 8 Dates of Contribution

9	Rate Changes	Members	Employers
10	Effective July 1, 2001	0%	11.73%

11
 12 (b) The employer paying the salary of a member of the
 13 Senior Management Service Class shall contribute an amount as
 14 specified in this section which shall constitute the entire
 15 employer retirement contribution with respect to such member.
 16 The employer shall also withhold one-half of the entire
 17 contribution of the member required for social security
 18 coverage.

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

29	Dates of Contribution	Contribution
30	Rate Changes	Rate
31	October 1, 1987, through December 31, 1988	0.24%

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

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

12 (4)

13 (d) A member of the Senior Management Service Class
14 shall receive retirement credit at the rate of 3 ~~2~~ percent of
15 average final compensation for each year of service in such
16 class after January 31, 1987.

17 (6)

18 (c) Participation.--

19 1. Any eligible employee who is employed on or before
20 February 1, 1987, may elect to participate in the optional
21 annuity program in lieu of participation in the Senior
22 Management Service Class. Such election shall be made in
23 writing and filed with the department and the personnel
24 officer of the employer on or before May 1, 1987. Any
25 eligible employee who is employed on or before February 1,
26 1987, and who fails to make an election to participate in the
27 optional annuity program by May 1, 1987, shall be deemed to
28 have elected membership in the Senior Management Service
29 Class.

30 2. Any employee who becomes eligible to participate in
31 the optional annuity program by reason of initial employment

1 commencing after February 1, 1987, may, within 90 days after
2 the date of commencement of employment, elect to participate
3 in the optional annuity program. Such election shall be made
4 in writing and filed with the personnel officer of the
5 employer. Any eligible employee who does not within 90 days
6 after commencement of such employment elect to participate in
7 the optional annuity program shall be deemed to have elected
8 membership in the Senior Management Service Class.

9 3. A person who is appointed to a position in the
10 Senior Management Service Class and who is a member of an
11 existing retirement system or the Special Risk or Special Risk
12 Administrative Support Classes of the Florida Retirement
13 System may elect to remain in such system or class in lieu of
14 participation in the Senior Management Service Class or
15 optional annuity program. Such election shall be made in
16 writing and filed with the department and the personnel
17 officer of the employer within 90 days of such appointment.
18 Any eligible employee who fails to make an election to
19 participate in the existing system, the Special Risk Class of
20 the Florida Retirement System, the Special Risk Administrative
21 Support Class of the Florida Retirement System, or the
22 optional annuity program shall be deemed to have elected
23 membership in the Senior Management Service Class.

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

29 5. Effective from July 1, 2002, through September 30,
30 2002, any active employee in a regularly established position
31 who has elected to participate in the Senior Management

1 Service Optional Annuity Program has one opportunity to choose
2 to move from the Senior Management Service Optional Annuity
3 Program to the Florida Retirement System defined benefit
4 program.

5 a. The election must be made in writing and must be
6 filed with the department and the personnel officer of the
7 employer before October 1, 2002, or, in the case of an active
8 employee who is on a leave of absence on July 1, 2002, within
9 90 days after the conclusion of the leave of absence. This
10 election is irrevocable.

11 b. The employee will receive service credit under the
12 defined benefit program of the Florida Retirement System equal
13 to his or her years of service under the Senior Management
14 Service Optional Annuity Program. The cost for such credit
15 shall be an amount representing the present value of that
16 employee's accumulated benefit obligation for the affected
17 period of service.

18 c. The employee must transfer the total accumulated
19 employer contributions and earnings on deposit in his or her
20 Senior Management Service Optional Annuity Program account. If
21 the transferred amount is not sufficient to pay the amount
22 due, the employee must pay a sum representing the remainder of
23 the amount due. In no case may the employee retain any
24 employer contributions or earnings thereon from the Senior
25 Management Service Optional Annuity Program account.

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

29 121.071 Contributions.--Contributions to the system
30 shall be made as follows:
31

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

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

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

28 (b) Contributions received in the offices of the
29 department after the prescribed date shall be considered
30 delinquent unless, in the opinion of the department,
31 exceptional circumstances beyond an employer's control

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

18 Section 6. Section 121.35, Florida Statutes, is
19 amended to read:

20 121.35 Optional retirement program for the State
21 University System.--

22 (1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.--The
23 Department of Management Services shall establish an optional
24 retirement program under which contracts providing retirement
25 and death benefits may be purchased for eligible members of
26 the State University System who elect to participate in the
27 program. The benefits to be provided for or on behalf of
28 participants in such optional retirement program shall be
29 provided through individual contracts or individual
30 certificates issued for group annuity or other contracts,
31 which may be fixed, variable, or a combination thereof, in

1 accordance with s. 403(b) of the Internal Revenue Code. Any
2 individual contract or certificate shall state the annuity
3 plan on its face page, and shall include, but not be limited
4 to, a statement of ownership, the contract benefits, annuity
5 income options, limitations, expense charges, and surrender
6 charges, if any. The state shall contribute, as provided in
7 this section, toward the purchase of such optional benefits.

8 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
9 PROGRAM.--

10 (a) Participation in the optional retirement program
11 provided by this section shall be limited to persons who are
12 otherwise eligible for membership in the Florida Retirement
13 System; who are employed or appointed for no less than one
14 academic year; and who are employed in one of the following
15 State University System positions:

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

19 2. Positions classified as administrative and
20 professional which are exempt from the career service under
21 the provisions of s. 110.205(2)(d).

22 3. The Chancellor and the university presidents.

23 (b) For purposes of this section, both the appointees
24 and employees are referred to as "employees," and the
25 "employer" of an appointee or employee is the individual
26 institution within the State University System or the State
27 Board of Education ~~Regents~~, whichever is appropriate with
28 respect to the particular employee or appointee.

29 (c) For purposes of this section, the Department of
30 Management Services is referred to as the "department."
31

1 (d) For purposes of this section, the authority
2 granted to the State Board of Education ~~Regents~~ may be
3 exercised by the board or by the Chancellor of the Division of
4 Colleges and Universities ~~State University System~~.

5 (3) ELECTION OF OPTIONAL PROGRAM.--

6 (a) Any eligible employee who is employed on or before
7 March 1, 1984, may elect to participate in the optional
8 retirement program in lieu of participation in the Florida
9 Retirement System. Such election shall be made in writing and
10 filed with the division and the personnel officer of the
11 employer on or before June 1, 1984. Upon such election,
12 participation in the optional program will take effect July 1,
13 1984, and election to so participate will terminate the
14 membership of the employee in the Florida Retirement System.

15 Any eligible employee who is employed on or before March 1,
16 1984, and who fails to make an election to participate in the
17 optional program by June 1, 1984, shall be deemed to have
18 elected to retain membership in the Florida Retirement System.

19 (b)1. Any employee who becomes eligible to participate
20 in the optional retirement program by reason of initial
21 employment commencing after March 1, 1984, but before January
22 1, 1993, may, within 90 days after the date of commencement of
23 employment, elect to participate in the optional program. Such
24 election shall be made in writing and filed with the personnel
25 officer of the employer. The eligible employees described in
26 this subparagraph shall be enrolled in the Florida Retirement
27 System at the commencement of employment, with the exception
28 of those employees who file an election with the personnel
29 officer of the employer prior to the submission of the initial
30 payroll for the employee. For such employees, participation
31 will be effective on the first day of employment or on July 1,

1 1984, whichever is later. If an eligible employee, as
2 described in this subparagraph, files an election to
3 participate in the optional program within 90 days after the
4 commencement of employment, but after the submission by the
5 employer of the initial payroll for the employee, the
6 employee's participation in the optional program will not be
7 effective until the first day of the month for which a full
8 month's employer contribution may be made, or until July 1,
9 1984, whichever is later. Any eligible employee who does not
10 within 90 days after commencement of such employment elect to
11 participate in the optional program shall be deemed to have
12 elected to retain membership in the Florida Retirement System.

13 2. Any employee who after March 1, 1984, but before
14 January 1, 1993, becomes eligible to participate in the
15 optional program by reason of a change in status due to the
16 subsequent designation of the employee's position as one of
17 those specified in paragraph (2)(a) or due to the employee's
18 appointment, promotion, transfer, or reclassification to a
19 position specified in paragraph (2)(a) may elect to
20 participate in the optional program. Such employee shall be
21 notified by the employer of the change in his or her
22 eligibility status. Such employee may, within 90 days after
23 the date of such notification, file with the personnel officer
24 of the employer an election in writing to participate in the
25 optional program in lieu of participation in the Florida
26 Retirement System. Upon such election, participation in the
27 optional program will be effective on the first day of the
28 month for which a full month's employer contribution may be
29 made or on July 1, 1984, whichever is later. Election to so
30 participate shall terminate the membership of the employee in
31 the Florida Retirement System. Any eligible employee who does

1 not within 90 days after notification of his or her
2 eligibility to participate in the optional program elect to
3 participate in the program shall be deemed to have elected to
4 retain membership in the Florida Retirement System.

5 (c) Any employee who becomes eligible to participate
6 in the optional retirement program on or after January 1,
7 1993, shall be a compulsory participant of the program unless
8 such employee elects membership in the Florida Retirement
9 System. Such election shall be made in writing and filed with
10 the personnel officer of the employer. Any eligible employee
11 who fails to make such election within the prescribed time
12 period shall be deemed to have elected to participate in the
13 optional retirement program.

14 1. Any employee whose optional retirement program
15 eligibility results from initial employment shall be enrolled
16 in the program at the commencement of employment. If, within
17 90 days after commencement of employment, the employee elects
18 membership in the Florida Retirement System, such membership
19 shall be effective retroactive to the date of commencement of
20 employment.

21 2. Any employee whose optional retirement program
22 eligibility results from a change in status due to the
23 subsequent designation of the employee's position as one of
24 those specified in paragraph (2)(a) or due to the employee's
25 appointment, promotion, transfer, or reclassification to a
26 position specified in paragraph (2)(a) shall be enrolled in
27 the optional retirement program upon such change in status and
28 shall be notified by the employer of such action. If, within
29 90 days after the date of such notification, the employee
30 elects to retain membership in the Florida Retirement System,
31

1 such continuation of membership shall be retroactive to the
2 date of the change in status.

3 3. Notwithstanding the provisions of this paragraph,
4 effective July 1, 1997, any employee who is eligible to
5 participate in the Optional Retirement Program and who fails
6 to execute a a ~~an annuity~~ contract with one of the approved
7 companies and to notify the department in writing as provided
8 in subsection (4) within 90 days after ~~of~~ the date of
9 eligibility shall be deemed to have elected membership in the
10 Florida Retirement System, except as provided in s.
11 121.051(1)(a). This provision shall also apply to any employee
12 who terminates employment in an eligible position before
13 executing the required annuity contract and notifying the
14 department. Such membership shall be retroactive to the date
15 of eligibility, and all appropriate contributions shall be
16 transferred to the Florida Retirement System Trust Fund and
17 the Health Insurance Subsidy Trust Fund.

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

21 (e) The election by an eligible employee to
22 participate in the optional retirement program shall be
23 irrevocable for so long as the employee continues to meet the
24 eligibility requirements specified in subsection (2), except
25 as provided in paragraph (h). In the event that an employee
26 participates in the optional retirement program for 90 days or
27 more and is subsequently employed in an administrative or
28 professional position which has been determined by the
29 department, under subparagraph (2)(a)2., to be not otherwise
30 eligible for participation in the optional retirement program,
31 the employee shall continue participation in the optional

1 program so long as the employee meets the other eligibility
2 requirements for the program, except as provided in paragraph
3 (h).

4 (f) If an employee becomes ineligible to continue
5 participation in the optional retirement program under
6 subsection (2), the employee shall thereafter participate in
7 the Florida Retirement System if he or she is otherwise
8 eligible.

9 (g) An eligible employee who is a member of the
10 Florida Retirement System at the time of election to
11 participate in the optional retirement program shall retain
12 all retirement service credit earned under the Florida
13 Retirement System, at the rate earned. No additional service
14 credit in the Florida Retirement System shall be earned while
15 the employee participates in the optional program, nor shall
16 the employee be eligible for disability retirement under the
17 Florida Retirement System.

18 (h) A participant in the optional retirement program
19 may not participate in more than one state-administered
20 retirement system, plan, or class simultaneously. Except as
21 provided in s. 121.052(6)(d), a participant who is or becomes
22 dually employed in two or more positions covered by the
23 Florida Retirement System, one of which is eligible for the
24 optional program and one of which is not, may remain a member
25 of the optional program and contributions shall be paid as
26 required only on the salary earned in the position eligible
27 for the optional program during such period of dual
28 employment; or, within 90 days after becoming dually employed,
29 he or she may elect membership in the Regular Class of the
30 Florida Retirement System in lieu of the optional program and
31 contributions shall be paid as required on the total salary

1 received for all employment. At retirement, the average final
2 compensation used to calculate any benefits for which the
3 member becomes eligible under the Florida Retirement System
4 shall be based on all salary reported for both positions
5 during such period of dual employment. When such member
6 ceases to be dually employed, he or she may, within 90 days,
7 elect to remain in the Florida Retirement System class for
8 which he or she is eligible or to again become a participant
9 in the optional retirement program. Failure to elect
10 membership in the optional program within 90 days shall result
11 in compulsory membership in the Florida Retirement System,
12 except that a member filling a faculty position under a
13 faculty practice plan at the University of Florida or the
14 Medical Center at the University of South Florida shall again
15 participate in the optional retirement program as required in
16 s. 121.051(1)(a).

17 (4) CONTRIBUTIONS.--

18 (a) Through June 30, 2001, each employer shall
19 contribute on behalf of each participant in the optional
20 retirement program an amount equal to the normal cost portion
21 of the employer retirement contribution which would be
22 required if the participant were a regular member of the
23 Florida Retirement System defined benefit program, plus the
24 portion of the contribution rate required in s. 112.363(8)
25 that would otherwise be assigned to the Retiree Health
26 Insurance Subsidy Trust Fund. Effective July 1, 2001, each
27 employer shall contribute on behalf of each participant in the
28 optional program an amount equal to 10.43 percent of the
29 participant's gross monthly compensation. The department shall
30 deduct an amount approved by the Legislature to provide for
31 the administration of this program. The payment of the

1 contributions to the optional program which is required by
2 this paragraph for each participant shall be made by the
3 employer to the department, which shall forward the
4 contributions to the designated company or companies
5 contracting for payment of benefits for the participant under
6 the program. However, such contributions paid on behalf of an
7 employee described in paragraph (3)(c) shall not be forwarded
8 to a company and shall not begin to accrue interest until the
9 employee has executed an annuity contract and notified the
10 department.

11 (b) Each employer shall contribute on behalf of each
12 participant in the optional retirement program an amount equal
13 to the unfunded actuarial accrued liability portion of the
14 employer contribution which would be required for members of
15 the Florida Retirement System. This contribution shall be
16 paid to the department for transfer to the Florida Retirement
17 System Trust Fund.

18 (c) An Optional Retirement Program Trust Fund shall be
19 established in the State Treasury and administered by the
20 department to make payments to the provider companies on
21 behalf of the optional retirement program participants, and to
22 transfer the unfunded liability portion of the state optional
23 retirement program contributions to the Florida Retirement
24 System Trust Fund.

25 (d) Contributions required for social security by each
26 employer and each participant, in the amount required for
27 social security coverage as now or hereafter may be provided
28 by the federal Social Security Act, shall be maintained for
29 each participant in the optional retirement program and shall
30 be in addition to the retirement contributions specified in
31 this subsection.

1 (e) Each participant in the optional retirement
2 program who has executed a ~~an annuity~~ contract may contribute
3 by way of salary reduction or deduction a percentage amount of
4 the participant's gross compensation not to exceed the
5 percentage amount contributed by the employer to the optional
6 program, but in no case may such contribution exceed federal
7 limitations. Payment of the participant's contributions shall
8 be made by the financial officer of the employer to the
9 division which shall forward the contributions to the
10 designated company or companies contracting for payment of
11 benefits for the participant under the program. A participant
12 may not make, through salary reduction, any voluntary employee
13 contributions to any other plan under s. 403(b) of the
14 Internal Revenue Code, with the exception of a custodial
15 account under s. 403(b)(7) of the Internal Revenue Code, until
16 he or she has made an employee contribution to his or her
17 optional program equal to the employer contribution. A
18 participant is responsible for monitoring his or her
19 individual tax-deferred income to ensure he or she does not
20 exceed the maximum deferral amounts permitted under the
21 Internal Revenue Code.

22 (f) The Optional Retirement Trust Fund may accept for
23 deposit into participant contracts contributions in the form
24 of rollovers or direct trustee-to-trustee transfers by or on
25 behalf of participants who are reasonably determined by the
26 department to be eligible for rollover or transfer to the
27 optional retirement program pursuant to the Internal Revenue
28 Code, if such contributions are made in accordance with rules
29 adopted by the department. Such contributions shall be
30 accounted for in accordance with any applicable requirements
31 of the Internal Revenue Code and rules of the department.

1 (5) BENEFITS.--

2 (a) Benefits shall be payable under the optional
3 retirement program only to vested participants in the program,
4 or their beneficiaries as designated by the participant in the
5 contract with a provider company, and such benefits shall be
6 paid only by the designated company in accordance with s.
7 403(b) of the Internal Revenue Code and in accordance with the
8 terms of the annuity contract or contracts applicable to the
9 participant. Benefits shall accrue in individual accounts that
10 are participant-directed, portable, and funded by employer
11 contributions and the earnings thereon.The participant must
12 be terminated from all employment with all Florida Retirement
13 System employers, as provided in s. 121.021(39), to begin
14 receiving the employer-funded benefit. Benefits funded by
15 employer contributions shall be payable in accordance with the
16 following terms and conditions ~~only as a lifetime annuity to~~
17 ~~the participant, his or her beneficiary, or his or her estate,~~
18 ~~except for:~~

19 1. Benefits shall be payable only to a participant, to
20 his or her beneficiaries, or to his or her estate, as
21 designated by the participant.

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

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

1 available for survivors of participants under the optional
2 retirement program except for such benefits, or coverage for
3 such benefits, as are separately afforded by the employer, at
4 the employer's discretion.

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

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

14 3. Periodic distributions;

15 4. A partial lump-sum payment whereby a portion of the
16 accrued benefit is paid to the participant and the remaining
17 amount is transferred to an eligible retirement plan, as
18 defined in s. 402(c)(8)(B) of the Internal Revenue Code, on
19 behalf of the participant; or

20 5. Such other distribution options as are provided for
21 in the participant's optional retirement program contract.

22 (c) Survivor benefits shall be payable as:

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

25 2. An eligible rollover distribution on behalf of the
26 surviving spouse of a deceased participant, whereby all
27 accrued benefits, plus interest and investment earnings, are
28 paid from the deceased participant's account directly to an
29 eligible retirement plan, as described in s. 402(c)(8)(B) of
30 the Internal Revenue Code, on behalf of the surviving spouse;

31

1 3. Such other distribution options as are provided for
2 in the participant's optional retirement program contract; or

3 4. A partial lump-sum payment whereby a portion of the
4 accrued benefit is paid to the deceased participant's
5 surviving spouse or other designated beneficiaries, less
6 withholding taxes remitted to the Internal Revenue Service, if
7 any, and the remaining amount is transferred directly to an
8 eligible retirement plan, as described in s.402(c)(8)(B) of
9 the Internal Revenue Code, on behalf of the surviving spouse.
10 The proportions must be specified by the participant or the
11 surviving beneficiary.

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

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

17 ~~2. A cash-out of a de minimis account upon the request~~
18 ~~of a former participant who has been terminated for a minimum~~
19 ~~of 6 months from the employment that entitled him or her to~~
20 ~~optional retirement program participation. A de minimis~~
21 ~~account is an account with a provider company containing~~
22 ~~employer contributions and accumulated earnings of not more~~
23 ~~than \$5,000 made under the provisions of this chapter. Such~~
24 ~~cash-out must be a complete liquidation of the account balance~~
25 ~~with that company and is subject to the provisions of the~~
26 ~~Internal Revenue Code.~~

27 (d)(b) The benefits payable to any person under the
28 optional retirement program, and any contribution accumulated
29 under such program, shall not be subject to assignment,
30 execution, or attachment or to any legal process whatsoever.

31

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

7 (f)~~(d)~~ Benefits funded by the participant's personal
8 contributions may be paid out at any time and in any form
9 within the limits provided in the contract between the
10 participant and his or her provider company. The participant
11 shall notify the provider company regarding the date and
12 provisions under which he or she wants to receive the
13 employee-funded portion of the plan.

14 (6) ADMINISTRATION OF PROGRAM.--

15 (a) The optional retirement program authorized by this
16 section shall be administered by the department. The
17 department shall adopt rules establishing the responsibilities
18 of the State Board of Education ~~Regents~~ and institutions in
19 the State University System in administering the optional
20 retirement program. The State Board of Education ~~Regents~~
21 shall, no more than 90 days after July 1, 1983, submit to the
22 department its recommendations for the ~~annuity~~ contracts to be
23 offered by the companies chosen by the department. The
24 recommendations of the board shall include the following:

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

27 2. The suitability of the rights and benefits to the
28 needs of the participants and the interests of the
29 institutions in the recruitment and retention of eligible
30 employees.

31

1 (b) After receiving and considering the
2 recommendations of the State Board of Education Regents, the
3 department shall designate no more than four companies from
4 which ~~annuity~~ contracts may be purchased under the program and
5 shall approve the form and content of the optional retirement
6 program contracts. Upon application by a qualified Florida
7 domestic company, the department shall give reasonable notice
8 to all other such companies that it intends to designate one
9 of such companies as a fifth company from which ~~annuity~~
10 contracts may be purchased pursuant to this section and that
11 they may apply for such designation prior to the deadline
12 established by said notice. At least 60 days after giving such
13 notice and upon receipt of the recommendation of the State
14 Board of Education Regents, the department shall so designate
15 one of such companies as the fifth company from which such
16 contracts may be purchased.

17 (c) Effective July 1, 1997, the State Board of
18 Administration shall review and make recommendations to the
19 department on the acceptability of all investment products
20 proposed by provider companies of the optional retirement
21 program before they are offered through annuity contracts to
22 the participants and may advise the department of any changes
23 necessary to ensure that the optional retirement program
24 offers an acceptable mix of investment products. The
25 department shall make the final determination as to whether an
26 investment product will be approved for the program.

27 (d) The provisions of each contract applicable to a
28 participant in the optional retirement program shall be
29 contained in a written program description which shall include
30 a report of pertinent financial and actuarial information on
31 the solvency and actuarial soundness of the program and the

1 benefits applicable to the participant. Such description
2 shall be furnished by the companies to each participant in the
3 program and to the department upon commencement of
4 participation in the program and annually thereafter.

5 (e) The department shall ensure that each participant
6 in the optional retirement program is provided an accounting
7 of the total contribution and the annual contribution made by
8 and on behalf of such participant.

9 Section 7. Subsection (2), paragraph (c) of subsection
10 (3), paragraphs (a), (b), and (c) of subsection (4), and
11 subsections (7) and (16) of section 121.4501, Florida
12 Statutes, as amended by chapter 2001-235, Laws of Florida, are
13 amended to read:

14 121.4501 Public Employee Optional Retirement
15 Program.--

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

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

1 account balances and transactions; guidance, advice, and
2 allocation services directly relating to its own investment
3 options or products, but only if the bundled provider complies
4 with the standard of care of s. 404(a)(1)(A-B) of the Employee
5 Retirement Income Security Act of 1974 (ERISA) and if
6 providing such guidance, advice, or allocation services does
7 not constitute a prohibited transaction under s. 4975(c)(1) of
8 the Internal Revenue Code or s. 406 of ERISA, notwithstanding
9 that such prohibited transaction provisions do not apply to
10 the optional retirement program; a broad array of distribution
11 options; asset allocation; and retirement counseling and
12 education. Private sector companies include investment
13 management companies, insurance companies, depositories, and
14 mutual fund companies.

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

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

19 (d)~~(b)~~ "Department" means the Department of Management
20 Services.

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

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

- 25 1. Is a member of, or is eligible for membership in,
26 the Florida Retirement System;
- 27 2. Participates in, or is eligible to participate in,
28 the Senior Management Service Optional Annuity Program as
29 established under s. 121.055(6); or
- 30 3. Is eligible to participate in, but does not
31 participate in, the State University System Optional

1 Retirement Program established under s. 121.35 or the State
2 Community College System Optional Retirement Program
3 established under s. 121.051(2)(c).

4

5 The term does not include any renewed member of the Florida
6 Retirement System, any member participating in the Deferred
7 Retirement Option Program established under s. 121.091(13), or
8 any employee participating in an optional retirement program
9 established under s. 121.051(2)(c) or s. 121.35.

10 (g)~~(e)~~ "Employer" means an employer, as defined in s.
11 121.021(10), of an eligible employee.

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

16 (i)~~(g)~~ "Public Employee Optional Retirement Program,"
17 "optional program," or "optional retirement program" means the
18 alternative defined contribution retirement program
19 established under this section.

20 (j)~~(h)~~ "State board" or "board" means the State Board
21 of Administration.

22 (k)~~(i)~~ "Trustees" means Trustees of the State Board of
23 Administration.

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

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

29 (c)1. Notwithstanding paragraph (b), each eligible
30 employee who elects to participate in the Public Employee
31 Optional Retirement Program and establishes one or more

1 individual participant accounts under the optional program may
2 elect to transfer to the optional program a sum representing
3 the present value of the employee's accumulated benefit
4 obligation under the defined benefit retirement program of the
5 Florida Retirement System. Upon such transfer, all service
6 credit previously earned under the defined benefit program of
7 the Florida Retirement System shall be nullified for purposes
8 of entitlement to a future benefit under the defined benefit
9 program of the Florida Retirement System. A participant is
10 precluded from transferring the accumulated benefit obligation
11 balance from the defined benefit program upon the expiration
12 of the period afforded to enroll in the optional program.

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

1 present value of the employee's accumulated benefit obligation
2 shall be based on the following:

3 a. The discount rate and other relevant actuarial
4 assumptions used to value the Florida Retirement System Trust
5 Fund at the time the amount to be transferred is determined,
6 consistent with the factors provided in sub-subparagraphs b.
7 and c.

8 b. A benefit commencement age, based on the member's
9 estimated creditable service as of the estimate date ~~midnight~~
10 ~~on May 31, 2002~~. The benefit commencement age shall be the
11 younger of the following, but shall not be younger than the
12 member's age as of the estimate date ~~midnight on May 31, 2002~~:

13 (I) Age 62; or

14 (II) The age the member would attain if the member
15 completed 30 years of service with an employer, assuming the
16 member worked continuously from the estimate date ~~May 31,~~
17 ~~2002~~, and disregarding any vesting requirement that would
18 otherwise apply under the defined benefit program of the
19 Florida Retirement System.

20 c. For members of the Special Risk Class and for
21 members of the Special Risk Administrative Support Class
22 entitled to retain special risk normal retirement date, the
23 benefit commencement age shall be the younger of the
24 following, but shall not be younger than the member's age as
25 of the estimate date ~~midnight on May 31, 2002~~:

26 (I) Age 55; or

27 (II) The age the member would attain if the member
28 completed 25 years of service with an employer, assuming the
29 member worked continuously from the estimate date ~~May 31,~~
30 ~~2002~~, and disregarding any vesting requirement that would
31

1 otherwise apply under the defined benefit program of the
2 Florida Retirement System.

3 d. The calculation shall disregard vesting
4 requirements and early retirement reduction factors that would
5 otherwise apply under the defined benefit retirement program.

6 3. For each participant who elects to transfer moneys
7 from the defined benefit program to his or her account in the
8 optional program, the division shall recompute the amount
9 transferred under subparagraph 2. not later than 60 days after
10 the actual transfer of funds based upon the participant's
11 actual creditable service and actual final average
12 compensation as of the initial date of participation in the
13 optional program. If the recomputed amount differs from the
14 amount transferred under subparagraph 2. by \$10 or more, the
15 division shall:

16 a. Transfer, or cause to be transferred, from the
17 Florida Retirement System Trust Fund to the participant's
18 account in the optional program the excess, if any, of the
19 recomputed amount over the previously transferred amount
20 together with interest from the initial date of transfer to
21 the date of transfer under this subparagraph, based upon 8
22 percent effective annual interest, compounded annually.

23 b. Transfer, or cause to be transferred, from the
24 participant's account to the Florida Retirement System Trust
25 Fund the excess, if any, of the previously transferred amount
26 over the recomputed amount, together with interest from the
27 initial date of transfer to the date of transfer under this
28 subparagraph, based upon 6 percent effective annual interest,
29 compounded annually, pro rata based on the participant's
30 allocation plan.

31

1 4. As directed by the participant, the board shall
2 transfer or cause to be transferred the appropriate amounts to
3 the designated accounts. The board shall establish transfer
4 procedures by rule, but the actual transfer shall not be later
5 than 30 days after the effective date of the member's
6 participation in the optional program. Transfers are not
7 commissionable or subject to other fees and may be in the form
8 of securities or cash as determined by the state board. Such
9 securities shall be valued as of the date of receipt in the
10 participant's account.

11 5. If the board or the division receives notification
12 from the United States Internal Revenue Service that this
13 paragraph or any portion of this paragraph will cause the
14 retirement system, or a portion thereof, to be disqualified
15 for tax purposes under the Internal Revenue Code, then the
16 portion that will cause the disqualification does not apply.
17 Upon such notice, the state board and the division shall
18 notify the presiding officers of the Legislature.

19 (4) PARTICIPATION; ENROLLMENT.--

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

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

1 within 90 days after the conclusion of the leave of absence,
2 whichever is later. This election is irrevocable, except as
3 provided in paragraph (e). Upon making such election, the
4 employee shall be enrolled as a participant of the Public
5 Employee Optional Retirement Program, the employee's
6 membership in the Florida Retirement System shall be governed
7 by the provisions of this part, and the employee's membership
8 in the defined benefit program of the Florida Retirement
9 System shall terminate. The employee's enrollment in the
10 Public Employee Optional Retirement Program shall be effective
11 the first day of the month for which a full month's employer
12 contribution is made to the optional program.

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

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

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

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, "state employer"
25 means any agency, board, branch, commission, community
26 college, department, institution, institution of higher
27 education, or water management district of the state, which
28 participates in the Florida Retirement System for the benefit
29 of certain employees.

30
31

1 (b)1. With respect to an eligible employee who is
2 employed in a regularly established position on September 1,
3 2002, by a district school board 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 November 30 ~~department and the~~
10 ~~personnel officer of the employer within 90 days after~~
11 ~~September 1, 2002,~~ or, in the case of an active employee who
12 is on a leave of absence on July ~~September~~ 1, 2002, by
13 November 30, 2002, or within 90 days after the conclusion of
14 the leave of absence, whichever is later. This election is
15 irrevocable, except as provided in paragraph (e). Upon making
16 such election, the employee shall be enrolled as a participant
17 of 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 district school board employer commencing after July
5 ~~September~~ 1, 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.e.~~ 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, "district school
8 board employer" means any district school board that
9 participates in the Florida Retirement System for the benefit
10 of certain employees, or a charter school or charter technical
11 career center that participates in the Florida Retirement
12 System as provided in s. 121.051(2)(d).

13 (c)1. With respect to an eligible employee who is
14 employed in a regularly established position on December 1,
15 2002, by a local employer:

16 a. Any such employee may elect to participate in the
17 Public Employee Optional Retirement Program in lieu of
18 retaining his or her membership in the defined benefit program
19 of the Florida Retirement System. The election must be made in
20 writing or by electronic means and must be filed with the
21 third-party administrator by February 28, 2003,~~department and~~
22 ~~the personnel officer of the employer within 90 days after~~
23 ~~December 1, 2002~~ or, in the case of an active employee who is
24 on a leave of absence on October ~~December~~ 1, 2002, by February
25 28, 2003, or within 90 days after the conclusion of the leave
26 of absence, whichever is later. This election is irrevocable,
27 except as provided in paragraph (e). Upon making such
28 election, the employee shall be enrolled as a participant of
29 the Public Employee Optional Retirement Program, the
30 employee's membership in the Florida Retirement System shall
31 be governed by the provisions of this part, and the employee's

1 membership in the defined benefit program of the Florida
2 Retirement System shall terminate. The employee's enrollment
3 in the Public Employee Optional Retirement Program shall be
4 effective the first day of the month for which a full month's
5 employer contribution is made to the optional program.

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

12 2. With respect to employees who become eligible to
13 participate in the Public Employee Optional Retirement Program
14 by reason of employment in a regularly established position
15 with a local employer commencing after October ~~December~~ 1,
16 2002:

17 a. Any such employee shall, by default, be enrolled in
18 the defined benefit retirement program of the Florida
19 Retirement System at the commencement of employment, and may,
20 by the end of the 5th month following the employee's month of
21 hire ~~within 180 days after employment commences~~, elect to
22 participate in the Public Employee Optional Retirement
23 Program. The employee's election must be made in writing or by
24 electronic means and must be filed with the third-party
25 administrator ~~personnel officer of the employer~~. The election
26 to participate in the optional program is irrevocable, except
27 as provided in paragraph (e).

28 b. ~~If the employee files such election before the~~
29 ~~initial payroll is submitted for the employee, enrollment in~~
30 ~~the Public Employee Optional Retirement Program shall be~~
31 ~~effective on the first day of employment.~~

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

12 ~~c.d.~~ Any such employee who fails to elect to
13 participate in the Public Employee Optional Retirement Program
14 within the prescribed time period ~~180 days~~ is deemed to have
15 elected to retain membership in the defined benefit program of
16 the Florida Retirement System, and the employee's option to
17 elect to participate in the optional program is forfeited.

18 3. For purposes of this paragraph, "local employer"
19 means any employer not included in paragraph (a) or paragraph
20 (b).

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

23 (a) Benefits shall be provided in accordance with s.
24 401(a) of the Internal Revenue Code.

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

28 (c) Benefits shall be payable in accordance with the
29 provisions of s. 121.591. ~~following terms and conditions:~~
30
31

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

4 ~~2. Benefits shall be paid by the third-party~~
5 ~~administrator or designated approved providers in accordance~~
6 ~~with the law, the contracts, and any applicable board rule or~~
7 ~~policy.~~

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

19 ~~4. In the event of a participant's death, moneys~~
20 ~~accumulated by, or on behalf of, the participant, less~~
21 ~~withholding taxes remitted to the Internal Revenue Service,~~
22 ~~shall be distributed to the participant's designated~~
23 ~~beneficiary or beneficiaries, or to the participant's estate,~~
24 ~~as if the participant retired on the date of death, as~~
25 ~~provided in paragraph (e). No other death benefits shall be~~
26 ~~available for survivors of participants under the Public~~
27 ~~Employee Optional Retirement Program, except for such~~
28 ~~benefits, or coverage for such benefits, as are separately~~
29 ~~afforded by the employer, at the employer's discretion.~~

30 ~~(d) Upon receipt by the third-party administrator of a~~
31 ~~properly executed application for distribution of benefits,~~

1 ~~the total accumulated benefit shall be payable to the~~
2 ~~participant, as:~~

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

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

- 12 ~~1. A lump-sum distribution payable to the~~
13 ~~beneficiaries, or to the deceased participant's estate;~~
- 14 ~~2. An eligible rollover distribution on behalf of the~~
15 ~~surviving spouse of a deceased participant, whereby all~~
16 ~~accrued benefits, plus interest and investment earnings, are~~
17 ~~paid from the deceased participant's account directly to the~~
18 ~~custodian of an individual retirement account or an individual~~
19 ~~retirement annuity, as described in s. 402(c)(9) of the~~
20 ~~Internal Revenue Code, on behalf of the surviving spouse; or~~
- 21 ~~3. A partial lump-sum payment whereby a portion of the~~
22 ~~accrued benefit is paid to the deceased participant's~~
23 ~~surviving spouse or other designated beneficiaries, less~~
24 ~~withholding taxes remitted to the Internal Revenue Service,~~
25 ~~and the remaining amount is transferred directly to the~~
26 ~~custodian of an individual retirement account or an individual~~
27 ~~retirement annuity, as described in s. 402(c)(9) of the~~
28 ~~Internal Revenue Code, on behalf of the surviving spouse. The~~
29 ~~proportions must be specified by the participant or the~~
30 ~~surviving beneficiary.~~

31

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

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

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

26 Section 8. Subsections (3) and (7) of section 121.571,
27 Florida Statutes, are amended to read:

28 121.571 Contributions.--Contributions to the Public
29 Employee Optional Retirement Program shall be made as follows:

30 (3) CONTRIBUTIONS TO DISABILITY ACCOUNT.--

31

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

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

14		
15	Dates of Contribution	Employers
16	Rate Changes	
17	Effective July 1, 2002:	<u>0.25%</u> 0.39%
18		

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

21		
22	Dates of Contribution	Employers
23	Rate Changes	
24	Effective July 1, 2002:	<u>1.33%</u> 1.25%
25		

26 (d) Disability contributions for Special Risk
 27 Administrative Support Class members of the optional
 28 retirement plan are as follows:

29		
30	Dates of Contribution	Employers
31	Rate Changes	

1 Effective July 1, 2002: 0.45%~~0.73%~~

2

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

5

6 Dates of Contribution Employers

7 Rate Changes

8 Effective July 1, 2002:

9 Legislators 0.41%~~0.61%~~

10 Governor, Lt. Governor, 0.41%~~0.61%~~

11 Cabinet Officers

12 State Attorneys, Public 0.41%~~0.61%~~

13 Defenders

14 Justices, Judges 0.73%~~1.45%~~

15 County Elected Officers 0.41%~~0.86%~~

16

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

20

21 Dates of Contribution Employers

22 Rate Changes

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

24

25 (7) PAYMENT AND DISTRIBUTION OF
26 CONTRIBUTIONS.--Contributions made pursuant to this section
27 and accompanying payroll data are due and payable ~~shall be~~
28 ~~paid~~ by the employer to the third-party administrator by
29 electronic funds transfer or electronic data transfer no later
30 than the 5th working day of the month immediately following
31 the month during which the payroll period ended. The board and

1 the third-party administrator shall ensure that the
2 contributions are distributed to the appropriate trust funds
3 or participant accounts in a timely manner.

4 Section 9. Section 121.591, Florida Statutes, is
5 created to read:

6 121.591 Benefits payable under the Public Employee
7 Optional Retirement Program of the Florida Retirement
8 System.--Benefits may not be paid under this section unless
9 the member has terminated employment as provided in s.
10 121.021(39)(a) or is deceased and a proper application has
11 been filed in the manner prescribed by the state board or the
12 department. The state board or department, as appropriate, may
13 cancel an application for retirement benefits when the member
14 or beneficiary fails to timely provide the information and
15 documents required by this chapter and the rules of the state
16 board and department. In accordance with their respective
17 responsibilities as provided herein, the State Board of
18 Administration and the Department of Management Services shall
19 adopt rules establishing procedures for application for
20 retirement benefits and for the cancellation of such
21 application when the required information or documents are not
22 received.

23 (1) NORMAL BENEFITS.--Under the Public Employee
24 Optional Retirement Program:

25 (a) Benefits in the form of vested accumulations as
26 described in s. 121.4501(6) shall be payable under this
27 subsection in accordance with the following terms and
28 conditions:

29 1. To the extent vested, benefits shall be payable
30 only to a participant.

31

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

5 3. To receive benefits under this subsection, the
6 participant must be terminated from all employment with all
7 Florida Retirement System employers, as provided in s.
8 121.021(39).

9 (b) If a participant elects to receive his or her
10 benefits upon termination of employment, the participant must
11 submit a written application to the third-party administrator
12 indicating his or her preferred distribution date and
13 selecting an authorized method of distribution as provided in
14 paragraph (c). The participant may defer receipt of benefits
15 until he or she chooses to make such application, subject to
16 federal requirements.

17 (c) Upon receipt by the third-party administrator of a
18 properly executed application for distribution of benefits,
19 the total accumulated benefit shall be payable 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 (2) DISABILITY RETIREMENT BENEFITS.--Benefits provided
30 under this subsection are payable in lieu of the benefits
31 which would otherwise be payable under the provisions of

1 subsection (1). Such benefits shall be funded entirely from
2 employer contributions made under s. 121.571, transferred
3 participant funds accumulated pursuant to paragraph (a), and
4 interest and earnings thereon. Pursuant thereto:

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

7 1. All moneys accumulated in the participant's Public
8 Employee Optional Retirement Program accounts, including
9 vested and nonvested accumulations as described in s.
10 121.4501(6), shall be transferred from such individual
11 accounts to the Division of Retirement for deposit in the
12 disability account of the Florida Retirement System Trust
13 Fund. Such moneys shall be separately accounted for. Earnings
14 shall be credited on an annual basis for amounts held in the
15 disability accounts of the Florida Retirement System Trust
16 Fund based on actual earnings of the Florida Retirement System
17 Trust Fund.

18 2. If the participant has retained retirement credit
19 he or she had earned under the defined benefit program of the
20 Florida Retirement System as provided in s. 121.4501(3)(b), a
21 sum representing the actuarial present value of such credit
22 within the Florida Retirement System Trust Fund shall be
23 reassigned by the Division of Retirement from the defined
24 benefit program to the disability program as implemented under
25 this subsection and shall be deposited in the disability
26 account of the Florida Retirement System Trust Fund. Such
27 moneys shall be separately accounted for.

28 (b) Disability retirement; entitlement.--

29 1. A participant of the Public Employee Optional
30 Retirement Program who becomes totally and permanently
31 disabled, as defined in s. 121.091(4)(b), after completing 8

1 years of creditable service, or a participant who becomes
2 totally and permanently disabled in the line of duty
3 regardless of his or her length of service, shall be entitled
4 to a monthly disability benefit as provided herein.

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

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

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

17 c. If the participant has elected to transfer to his
18 or her participant accounts a sum representing the present
19 value of his or her retirement credit under the defined
20 benefit program as provided under s. 121.4501(3)(c), the
21 period of service under the defined benefit program
22 represented in the present value amounts transferred will be
23 considered creditable service for purposes of vesting for
24 disability benefits, except as provided in subparagraph d.

25 d. Whenever a participant has terminated employment
26 and has taken distribution of his or her funds as provided in
27 subsection (1), all creditable service represented by such
28 distributed funds is forfeited for purposes of this
29 subsection.

30 (c) Disability retirement effective date.--The
31 effective retirement date for a participant who applies and is

1 approved for disability retirement shall be established as
2 provided under s. 121.091(4)(a)2. and 3.

3 (d) Total and permanent disability.--A participant
4 shall be considered totally and permanently disabled if, in
5 the opinion of the division, he or she is prevented, by reason
6 of a medically determinable physical or mental impairment,
7 from rendering useful and efficient service as an officer or
8 employee.

9 (e) Proof of disability.--The division, before
10 approving payment of any disability retirement benefit, shall
11 require proof that the participant is totally and permanently
12 disabled in the same manner as provided for members of the
13 defined benefit program of the Florida Retirement System under
14 s. 121.091(4)(c).

15 (f) Disability retirement benefit.--Upon the
16 disability retirement of a participant under this subsection,
17 the participant shall receive a monthly benefit that shall
18 begin to accrue on the first day of the month of disability
19 retirement, as approved by the division, and shall be payable
20 on the last day of that month and each month thereafter during
21 his or her lifetime and continued disability. All disability
22 benefits payable to such member shall be paid out of the
23 disability account of the Florida Retirement System Trust Fund
24 established under this subsection.

25 (g) Computation of disability retirement benefit.--The
26 amount of each monthly payment shall be calculated in the same
27 manner as provided for members of the defined benefit program
28 of the Florida Retirement System under s. 121.091(4)(f). For
29 such purpose, creditable service under both the defined
30 benefit program and the Public Employee Optional Retirement
31

1 Program of the Florida Retirement System shall be applicable
2 as provided under paragraph (b).

3 (h) Reapplication.--A participant whose initial
4 application for disability retirement has been denied may
5 reapply for disability benefits in the same manner, and under
6 the same conditions, as provided for members of the defined
7 benefit program of the Florida Retirement System under s.
8 121.091(4)(g).

9 (i) Membership.--Upon approval of an application for
10 disability benefits under this subsection, the applicant shall
11 be transferred to the defined benefit program of the Florida
12 Retirement System, effective upon his or her disability
13 retirement effective date.

14 (j) Option to cancel.--Any participant whose
15 application for disability benefits is approved may cancel his
16 or her application for disability benefits, provided that the
17 cancellation request is received by the division before a
18 disability retirement warrant has been deposited, cashed, or
19 received by direct deposit. Upon such cancellation:

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

22 2. The participant shall be retroactively reinstated
23 in the Public Employee Optional Retirement Program without
24 hiatus;

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

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

31 (k) Recovery from disability.--

1 1. The division may require periodic reexaminations at
2 the expense of the disability program account of the Florida
3 Retirement System Trust Fund. Except as otherwise provided in
4 subparagraph 2., the requirements, procedures, and
5 restrictions relating to the conduct and review of such
6 reexaminations, discontinuation or termination of benefits,
7 reentry into employment, disability retirement after reentry
8 into covered employment, and all other matters relating to
9 recovery from disability shall be the same as are set forth
10 under s. 121.091(4)(h).

11 2. Upon recovery from disability, any recipient of
12 disability retirement benefits under this subsection shall be
13 a compulsory member of the Public Employee Optional Retirement
14 Program of the Florida Retirement System. The net difference
15 between the recipient's original account balance transferred
16 to the Florida Retirement System Trust Fund, including
17 earnings, under paragraph (a) and total disability benefits
18 paid to such recipient, if any, shall be determined as
19 provided in sub-subparagraph a.

20 a. An amount equal to the total benefits paid shall be
21 subtracted from that portion of the transferred account
22 balance consisting of vested accumulations as described under
23 s. 121.4501(6), if any, and an amount equal to the remainder
24 of benefit amounts paid, if any, shall then be subtracted from
25 any remaining portion consisting of nonvested accumulations as
26 described under s. 121.4501(6).

27 b. Amounts subtracted under sub-subparagraph a. shall
28 be retained within the disability account of the Florida
29 Retirement System Trust Fund. Any remaining account balance
30 shall be transferred to the third-party administrator for
31

1 disposition as provided under sub-subparagraph c. or
2 sub-subparagraph d., as appropriate.

3 c. If the recipient returns to covered employment,
4 transferred amounts shall be deposited in individual accounts
5 under the Public Employee Optional Retirement Program, as
6 directed by the participant. Vested and nonvested amounts
7 shall be separately accounted for as provided in s.
8 121.4501(6).

9 d. If the recipient fails to return to covered
10 employment upon recovery from disability:

11 (I) Any remaining vested amount shall be deposited in
12 individual accounts under the Public Employee Optional
13 Retirement Program, as directed by the participant, and shall
14 be payable as provided in subsection (1).

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

18 3. If present value was reassigned from the defined
19 benefit program to the disability program of the Florida
20 Retirement System as provided under subparagraph (a)2., the
21 full present value amount shall be returned to the defined
22 benefit account within the Florida Retirement System Trust
23 Fund and the affected individual's associated retirement
24 credit under the defined benefit program shall be reinstated
25 in full. Any benefit based upon such credit shall be
26 calculated as provided in s. 121.091(4)(h)1.

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

31

1 (m) Disability retirement of justice or judge by order
2 of Supreme Court.--

3 1. If a participant is a justice of the Supreme Court,
4 judge of a district court of appeal, circuit judge, or judge
5 of a county court who has served for 6 years or more as an
6 elected constitutional judicial officer, including service as
7 a judicial officer in any court abolished pursuant to Article
8 V of the State Constitution, and who is retired for disability
9 by order of the Supreme Court upon recommendation of the
10 Judicial Qualifications Commission pursuant to the provisions
11 of Article V of the State Constitution, the participant's
12 Option 1 monthly disability benefit amount as provided in s.
13 121.091(6)(a)1. shall be two-thirds of his or her monthly
14 compensation as of the participant's disability retirement
15 date. Such a participant may alternatively elect to receive
16 an actuarially adjusted disability retirement benefit under
17 any other option as provided in s. 121.091(6)(a), or to
18 receive the normal benefit payable under the Public Employee
19 Optional Retirement Program as set forth in subsection (1).

20 2. If any justice or judge who is a participant of the
21 Public Employee Optional Retirement Program of the Florida
22 Retirement System is retired for disability by order of the
23 Supreme Court upon recommendation of the Judicial
24 Qualifications Commission pursuant to the provisions of
25 Article V of the State Constitution and elects to receive a
26 monthly disability benefit under the provisions of this
27 paragraph:

28 a. Any present value amount that was transferred to
29 his or her program account and all employer contributions made
30 to such account on his or her behalf, plus interest and
31 earnings thereon, shall be transferred to and deposited in the

1 disability account of the Florida Retirement System Trust
2 Fund; and

3 b. The monthly benefits payable under this paragraph
4 for any affected justice or judge retired from the Florida
5 Retirement System pursuant to Article V of the State
6 Constitution shall be paid from the disability account of the
7 Florida Retirement System Trust Fund.

8 (n) Upon the death of a disabled retiree or
9 beneficiary thereof who is receiving monthly benefits under
10 this subsection, the monthly benefits shall be paid through
11 the last day of the month of death and shall terminate, or be
12 adjusted, if applicable, as of that date in accordance with
13 the optional form of benefit selected at the time of
14 retirement. The deceased disabled retiree's beneficiary shall
15 also receive the amount of the participant's remaining account
16 balance, if any, in the Florida Retirement System Trust Fund.
17 The Department of Management Services may adopt rules
18 necessary to administer this paragraph.

19 (3) DEATH BENEFITS.--Under the Public Employee
20 Optional Retirement Program:

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

23 1. To the extent vested, benefits shall be payable
24 only to a participant's beneficiary or beneficiaries as
25 designated by the participant. If a participant designates a
26 primary beneficiary other than the participant's spouse, the
27 participant's spouse shall be notified of the designation.
28 This requirement shall not apply to the designation of one or
29 more contingent beneficiaries to receive any benefits
30 remaining upon the death of the primary beneficiary or
31 beneficiaries.

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

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

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

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

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

26 2. An eligible rollover distribution on behalf of the
27 surviving spouse of a deceased participant, whereby all
28 accrued benefits, plus interest and investment earnings, are
29 paid from the deceased participant's account directly to the
30 custodian of an eligible retirement plan, as described in s.

31

1 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
2 surviving spouse; or

3 3. A partial lump-sum payment whereby a portion of the
4 accrued benefit is paid to the deceased participant's
5 surviving spouse or other designated beneficiaries, less
6 withholding taxes remitted to the Internal Revenue Service,
7 and the remaining amount is transferred directly to the
8 custodian of an eligible retirement plan, as described in s.
9 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
10 surviving spouse. The proportions must be specified by the
11 participant or the surviving beneficiary.

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

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

23 Section 10. The Legislature finds that a proper and
24 legitimate state purpose is served when employees and retirees
25 of the state and of its political subdivisions, and the
26 dependents, survivors, and beneficiaries of such employees and
27 retirees, are extended the basic protections afforded by
28 governmental retirement systems that provide fair and adequate
29 benefits that are managed, administered, and funded in an
30 actuarially sound manner, as required by s. 14, Art. X of the
31 State Constitution and part VII of chapter 112, Florida

1 Statutes. Therefore, the Legislature hereby determines and
2 declares that this act fulfills an important state interest.

3 Section 11. Notwithstanding any provision to the
4 contrary and the authority of the Department of Management
5 Services, the Department of Management Services may contract
6 with a private-sector company selected and approved by the
7 department for services to administer the disability benefit
8 program. Not later than March 1, 2003, the department may
9 provide to the Legislature for its approval an alternative
10 method for administering and funding disability benefits for
11 participants in the Public Employee Optional Retirement
12 Program and the Florida Retirement System, including through
13 commercial insurance coverage.

14 Section 12. It is the intent of the Legislature that
15 the disability retirement program for participants of the
16 Public Employee Optional Retirement Program as created in this
17 act must meet all applicable requirements of federal law for a
18 qualified plan. The Department of Management Services shall
19 seek a private letter ruling from the Internal Revenue Service
20 on the disability retirement program for participants of the
21 Public Employee Optional Retirement Program. Consistent with
22 the private letter ruling, the Department of Management
23 Services shall adopt any necessary rules required to maintain
24 the qualified status of the disability retirement program and
25 the Florida Retirement System defined benefit plan.

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