

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; creating part III of chapter 121, F.S.,
4 consisting of ss. 121.70, 121.71, 121.72,
5 121.73, 121.74, 121.75, 121.76, 121.77, 121.78,
6 F.S.; providing legislative purpose and intent
7 to establish a uniform contribution rate system
8 for the Florida Retirement System; providing
9 for establishment of uniform rates; providing
10 allocations to Public Employee Optional
11 Retirement Program accounts; providing for
12 allocations to provide disability coverage for
13 Public Employee Optional Retirement Program
14 participants; providing administrative and
15 educational expenses; providing for transfer of
16 remaining balance to Florida Retirement System
17 Trust Fund to fund the benefit costs under the
18 Florida Retirement System Pension Plan and
19 administrative costs authorized under part I of
20 chapter 121, F.S.; providing for contributions
21 for Social Security and for the retiree health
22 insurance subsidy; granting the State Board of
23 Administration authority to allow the
24 third-party administrator to make deductions
25 from participant accounts; providing for
26 payment and distribution of contributions;
27 amending ss. 121.052, 121.055, 121.071,
28 121.571, F.S., to conform to the uniform
29 contribution rate system; amending s. 121.091,
30 F.S.; reducing contribution rates for DROP
31 payroll; amending s. 121.4501, F.S.; conforming

1 references; providing guidance to assist
2 employers and the State Board of Administration
3 in maintaining compliance with section 404(c)
4 of ERISA; providing a directive to statute
5 editors; amending section 11 of chapter
6 2001-235, Laws of Florida, to revise annual
7 payment amount to cover the cost for the
8 special January 2002 benefit increase provided
9 for certain retirees and DROP participants;
10 repealing section 23 of chapter 2000-169, Laws
11 of Florida, relating to contribution rate
12 increases scheduled to take effect on July 1,
13 2002, which are redundant; providing
14 legislative intent regarding other rate
15 changes; providing a declaration of important
16 state interest; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Part III of chapter 121, Florida Statutes,
21 consisting of sections 121.70, 121.71, 121.72, 121.73, 121.74,
22 121.75, 121.76, 121.77, and 121.78, Florida Statutes, is
23 created to read:

24 Part III

25
26 Florida Retirement System Contribution Rates

27
28 121.70 Legislative purpose and intent.--

29 (1) This part provides for a uniform system for
30 funding benefits provided under the Florida Retirement System
31 defined benefit program established under part I of this

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

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

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

25 (b) Provide greater fiscal equity and uniformity for
26 system employers by effectively distributing the financial
27 burden and benefit of short-term system deficits and
28 surpluses, respectively, in proportion to total system
29 payroll; and
30
31

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

4 121.71 Uniform rates; process; calculations; levy.--

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

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

30 (3) Required employer retirement contribution rates
31 for each membership class and subclass of the Florida

1 Retirement System for both retirement plans are as follows.
2 Rates effective July 1, 2002, reflect an offset to normal
3 employer costs of \$1,237,000,000, resulting from recognition
4 and usage of current available excess assets of the Florida
5 Retirement System Trust Fund as determined pursuant to s.
6 121.031. Contribution rates that become effective July 1,
7 2003, reflect normal system costs.

	<u>Percentage of</u> <u>Gross</u> <u>Compensation,</u> <u>Effective</u> <u>July 1, 2002</u>	<u>Percentage of</u> <u>Gross</u> <u>Compensation,</u> <u>Effective</u> <u>July 1, 2003</u>
12 <u>Membership Class</u>		
14 <u>Regular Class</u>	<u>4.50%</u>	<u>9.87%</u>
15 <u>Special Risk Class</u>	<u>14.75%</u>	<u>22.89%</u>
16 <u>Special Risk Administrative</u>		
17 <u>Support Class</u>	<u>5.30%</u>	<u>12.58%</u>
18 <u>Elected Officers' Class -</u>		
19 <u>Legislators, Governor,</u>		
20 <u>Lt. Governor,</u>		
21 <u>Cabinet Officers,</u>		
22 <u>State Attorneys,</u>		
23 <u>Public Defenders</u>	<u>8.15%</u>	<u>15.43%</u>
24 <u>Elected Officers' Class -</u>		
25 <u>Justices, Judges</u>	<u>14.60%</u>	<u>20.54%</u>
26 <u>Elected Officers' Class -</u>		
27 <u>County Elected Officers</u>	<u>10.60%</u>	<u>17.52%</u>
28 <u>Senior Management Class</u>	<u>14.02%</u>	<u>20.90%</u>
29 <u>DROP</u>	<u>8.00%</u>	<u>11.56%</u>
30		
31		

1 121.72 Allocations to optional retirement program
 2 participant accounts; percentage amounts.--

3 (1) The allocations established in subsection (4)
 4 shall fund retirement benefits under the optional retirement
 5 program and shall be transferred monthly by the Division of
 6 Retirement from the Florida Retirement System Contributions
 7 Clearing Trust Fund to the third-party administrator for
 8 deposit in each participating employee's individual account
 9 based on the membership class of the participant.

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

17 (3) Employer and participant contributions to
 18 participant accounts shall be accounted for separately.
 19 Participant contributions may be made only if expressly
 20 authorized by law. Interest and investment earnings on
 21 contributions shall accrue on a tax-deferred basis until
 22 proceeds are distributed.

23 (4) Effective July 1, 2002, allocations from the
 24 Florida Retirement System Contributions Clearing Trust Fund to
 25 optional retirement program participant accounts shall be as
 26 follows:

<u>Membership Class</u>	<u>Percentage of Gross</u>
	<u>Compensation</u>
<u>Regular Class</u>	<u>9.00%</u>
<u>Special Risk Class</u>	<u>20.00%</u>

1	<u>Special Risk Administrative Support Class</u>	<u>11.35%</u>
2	<u>Elected Officers' Class -</u>	
3	<u>Legislators, Governor,</u>	
4	<u>Lt. Governor, Cabinet Officers,</u>	
5	<u>State Attorneys, Public Defenders</u>	<u>13.40%</u>
6	<u>Elected Officers' Class -</u>	
7	<u>Justices, Judges</u>	<u>18.90%</u>
8	<u>Elected Officers' Class -</u>	
9	<u>County Elected Officers</u>	<u>16.20%</u>
10	<u>Senior Management Service Class</u>	<u>10.95%</u>

11
12 121.73 Allocations for optional retirement program
13 participant disability coverage; percentage amounts.--

14 (1) The allocations established in subsection (3)
15 shall be used to provide disability coverage for participants
16 in the optional retirement program and shall be transferred
17 monthly by the Division of Retirement from the Florida
18 Retirement System Contributions Clearing Trust Fund to the
19 disability account of the Florida Retirement System Trust
20 Fund.

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

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

<u>Membership Class</u>	<u>Percentage of Gross Compensation</u>
<u>Regular Class</u>	<u>0.25%</u>
<u>Special Risk Class</u>	<u>1.33%</u>
<u>Special Risk Administrative Support Class</u>	<u>0.45%</u>
<u>Elected Officers' Class -</u>	
<u>Legislators, Governor,</u>	
<u>Lt. Governor, Cabinet Officers,</u>	
<u>State Attorneys, Public Defenders</u>	<u>0.41%</u>
<u>Elected Officers' Class -</u>	
<u>Justices, Judges</u>	<u>0.73%</u>
<u>Elected Officers' Class -</u>	
<u>County Elected Officers</u>	<u>0.41%</u>
<u>Senior Management Service Class</u>	<u>0.26%</u>
<p><u>121.74 Administrative and educational expenses.--Effective July 1, 2002, in addition to contributions required under s. 121.71, employers participating in the Florida Retirement System shall contribute an amount equal to 0.15 percent of the payroll reported for each class or subclass of Florida Retirement System membership, which amount shall be transferred by the Division of Retirement from the Florida Retirement System Contribution Clearing Trust Fund to the State Board of Administration's Administrative Trust Fund to offset the costs of administering the optional retirement program and the costs of providing educational services to participants in the defined benefit program and the optional retirement program. Approval of the Trustees of the State Board of Administration is required prior to the expenditure of these funds. Payments</u></p>	

1 for third-party administrative or educational expenses shall
2 be made only pursuant to the terms of the approved contracts
3 for such services.

4 121.75 Allocation for defined benefit program.--After
5 making the transfers required pursuant to ss. 121.71, 121.72,
6 121.73, and 121.74, the monthly balance of funds in the
7 Florida Retirement System Contributions Clearing Trust Fund
8 shall be transferred to the Florida Retirement System Trust
9 Fund to pay the costs of providing defined benefit program
10 benefits and plan administrative costs under the defined
11 benefit program.

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

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

31 121.78 Payment and distribution of contributions.--

1 (1) Contributions made pursuant to this part shall be
2 paid by the employer to the Division of Retirement by
3 electronic funds transfer no later than the 5th working day of
4 the month immediately following the month during which the
5 payroll period ended. Accompanying payroll data must be
6 transmitted to the Division concurrent with the
7 contributions.

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

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

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

1 the board pursuant to s. 121.4501(8), shall calculate the
2 market losses for each affected participant. When
3 contributions made on behalf of participants of the optional
4 retirement program or accompanying payroll data are not
5 received within the calendar month due, the employer shall
6 also pay the cost of the third-party administrator's
7 calculation and reconciliation adjustments resulting from the
8 late contributions. The third-party administrator shall notify
9 the employer of the results of the calculations and the total
10 amount due from the employer for such losses and the costs of
11 calculation and reconciliation. The employer shall remit to
12 the Division the amount due within 10 working days after the
13 date of the penalty notice sent by the Division. The Division
14 shall transfer said amount to the third-party administrator,
15 who shall deposit proceeds from the 1-percent assessment and
16 from individual market losses into participant accounts, as
17 appropriate. The board is authorized to adopt rules to
18 implement the provisions regarding late contributions, late
19 submission of payroll data, the process for reimbursing
20 participant accounts for resultant market losses, and the
21 penalties charged to the employers.

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

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

3 121.052 Membership class of elected officers.--

4 (7) CONTRIBUTIONS.--

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

14
15 Dates of Contribution

16 Rate Changes	Members	Employers
17 <u>1. Effective July 1,</u>		
18 <u>2001, through June 30, 2002</u>		
19 Legislators	0%	15.14%
20 Governor, Lt. Governor, Cabinet		
21 Officers	0%	15.14%
22 State Attorneys, Public Defenders	0%	15.14%
23 Justices, Judges	0%	20.61%
24 County Elected Officers	0%	17.61%

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

27
28 (b) The employer paying the salary of a member of the
29 Elected Officers' Class shall contribute an amount as
30 specified in this subsection or s. 121.71, as appropriate,
31 which shall constitute the entire employer retirement

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

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

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

23
 24 Such contributions shall be deposited by the administrator in
 25 the Retiree Health Insurance Subsidy Trust Fund.

26 Section 3. Subsection (3) of section 121.055, Florida
 27 Statutes, is amended to 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 (3)(a) The following table states the required
4 retirement contribution rates for members of the Senior
5 Management Service Class and their employers in terms of a
6 percentage of the member's gross compensation. A change in the
7 contribution rate is effective with the first salary paid on
8 or after the beginning date of the change. Contributions
9 shall be made for each pay period and are in addition to the
10 contributions required for social security and the Retiree
11 Health Insurance Subsidy Trust Fund.

12

13 Dates of Contribution

14 Rate Changes	Members	Employers
15 <u>1. Effective July 1,</u> 16 <u>2001, through June 30, 2002</u>	0%	11.73%

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

19

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

27 (c) The following table states the required employer
28 contribution on behalf of each member of the Senior Management
29 Service Class in terms of a percentage of the member's gross
30 compensation. Such contribution constitutes the entire health
31 insurance subsidy contribution with respect to each such ~~the~~

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

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

14
 15 Such contributions shall be deposited by the administrator in
 16 the Retiree Health Insurance Subsidy Trust Fund.

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

19 121.071 Contributions.--Contributions to the system
 20 shall be made as follows:

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

31

1 (a)1. Retirement contributions for regular members are
 2 as follows:
 3
 4 Dates of Contribution

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

8 2. Effective July 1, 2002, the retirement
 9 contributions for regular members shall be specified in s.
 10 121.71.
 11

12 (b)1. Retirement contributions for special risk
 13 members are as follows:
 14
 15 Dates of Contribution

Rate Changes	Members	Employers
Effective July 1, <u>2001, through June 30, 2002</u>	0%	22.07%

19 2. Effective July 1, 2002, retirement contributions
 20 for special risk members shall be specified in s. 121.71.
 21

22 (c)1. Retirement contributions for special risk
 23 administrative support members are as follows:
 24
 25 Dates of Contribution

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

29 2. Effective July 1, 2002, retirement contributions
 30 for special risk administrative support members shall be
 31 specified in s. 121.71.

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

6 (b) Upon termination of employment for any reason
7 other than retirement, a member shall be entitled to a full
8 refund of the contributions he or she has made prior or
9 subsequent to participation in the noncontributory plan,
10 subject to the restrictions otherwise provided in this
11 chapter.

12 (3) The employer paying the salary of a member shall
13 contribute an amount as specified in this section or s.
14 121.71, as appropriate, 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. Contributions for social security by each member
19 and each employer, in the amount required for social security
20 coverage as now or hereafter provided by the federal Social
21 Security Act, shall be in addition to contributions specified
22 in subsection (1).

23 (4) The following table states the required employer
24 contribution on behalf of each member of the Regular Class,
25 Special Risk Class, or Special Risk Administrative Support
26 Class in terms of a percentage of the member's gross
27 compensation. Such contribution constitutes the entire health
28 insurance subsidy contribution with respect to each such ~~the~~
29 member. A change in the contribution rate is effective with
30 the first salary paid on or after the beginning date of the
31

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

3	4 Dates of Contribution	5 Contribution
6	7 Rate Changes	8 Rate
9	10 October 1, 1987, through December 31, 1988	11 0.24%
12	13 January 1, 1989, through December 31, 1993	14 0.48%
15	16 January 1, 1994, through December 31, 1994	17 0.56%
18	19 January 1, 1995, through June 30, 1998	20 0.66%
21	22 July 1, 1998, through June 30, 2001	23 0.94%
24	25 Effective July 1, 2001	26 1.11%

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

29 (5) Contributions made in accordance with subsections
30 (1), (2), (3), and (4), and s. 121.71 shall be paid by the
31 employer into the system trust funds in accordance with rules
adopted by the administrator pursuant to chapter 120. ~~Such
contributions are due and payable no later than the 25th day
of the month immediately following the month during which the
payroll period ended. The department may, by rule, establish a
different due date, which shall supersede the date specified
herein; however, such due date may not be established earlier
than the 20th day of the month immediately following the month
during which the payroll period ended. Effective January 1,
1984, contributions made in accordance with subsection (3)
shall be paid by the employer into the system trust fund in
accordance with rules adopted by the administrator pursuant to
chapter 120. For any payroll period ending any day of the
month before the 16th day of the month, such contributions are
due and payable no later than the 20th day of the month; and,~~

1 ~~for any payroll periods ending any day of the month after the~~
2 ~~15th day of the month, such contributions are due and payable~~
3 ~~no later than the 5th day of the next month. Contributions~~
4 ~~received in the offices of the department after the prescribed~~
5 ~~date shall be considered delinquent unless, in the opinion of~~
6 ~~the department, exceptional circumstances beyond an employer's~~
7 ~~control prevented remittance by the prescribed due date~~
8 ~~notwithstanding such employer's good faith efforts to effect~~
9 ~~delivery; and, with respect to retirement contributions due~~
10 ~~under subsections (1) and (4), each employer shall be assessed~~
11 ~~a delinquent fee of 1 percent of the contributions due for~~
12 ~~each calendar month or part thereof that the contributions are~~
13 ~~delinquent. Such a waiver of the delinquency fee by the~~
14 ~~department may be granted an employer only one time each~~
15 ~~fiscal year. Delinquent social security contributions shall be~~
16 ~~assessed a delinquent fee as authorized by s. 650.05(4). The~~
17 ~~delinquent fee assessable for an employer's first delinquency~~
18 ~~after July 1, 1984, shall be as specified in s. 650.05(4),~~
19 ~~and, beginning with the second delinquency in any fiscal year~~
20 ~~by the employer subsequent to July 1, 1984, all subsequent~~
21 ~~delinquency fees shall be assessed against the employer at~~
22 ~~twice the applicable percentage rate specified in s.~~
23 ~~650.05(4).~~

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

27 121.091 Benefits payable under the system.--Benefits
28 may not be paid under this section unless the member has
29 terminated employment as provided in s. 121.021(39)(a) or
30 begun participation in the Deferred Retirement Option Program
31 as provided in subsection (13), and a proper application has

1 | been filed in the manner prescribed by the department. The
2 | department may cancel an application for retirement benefits
3 | when the member or beneficiary fails to timely provide the
4 | information and documents required by this chapter and the
5 | department's rules. The department shall adopt rules
6 | establishing procedures for application for retirement
7 | benefits and for the cancellation of such application when the
8 | required information or documents are not received.

9 | (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
10 | and subject to the provisions of this section, the Deferred
11 | Retirement Option Program, hereinafter referred to as the
12 | DROP, is a program under which an eligible member of the
13 | Florida Retirement System may elect to participate, deferring
14 | receipt of retirement benefits while continuing employment
15 | with his or her Florida Retirement System employer. The
16 | deferred monthly benefits shall accrue in the System Trust
17 | Fund on behalf of the participant, plus interest compounded
18 | monthly, for the specified period of the DROP participation,
19 | as provided in paragraph (c). Upon termination of employment,
20 | the participant shall receive the total DROP benefits and
21 | begin to receive the previously determined normal retirement
22 | benefits. Participation in the DROP does not guarantee
23 | employment for the specified period of DROP.

24 | (i) Contributions.--

25 | 1. All employers paying the salary of a DROP
26 | participant filling a regularly established position shall
27 | contribute 8.0 ~~11.56~~ percent of such participant's gross
28 | compensation for the period of July 1, 2002, through June 30,
29 | 2003, and 11.56 percent of such compensation thereafter, which
30 | shall constitute the entire employer DROP contribution with
31 | respect to such participant. Such contributions, payable to

1 the System Trust Fund in the same manner as required in s.
2 121.071, shall be made as appropriate for each pay period and
3 are in addition to contributions required for social security
4 and the Retiree Health Insurance Subsidy Trust Fund. Such
5 employer, social security, and health insurance subsidy
6 contributions are not included in the DROP.

7 2. The employer shall, in addition to subparagraph 1.,
8 also withhold one-half of the entire social security
9 contribution required for the participant. Contributions for
10 social security by each participant and each employer, in the
11 amount required for social security coverage as now or
12 hereafter provided by the federal Social Security Act, shall
13 be in addition to contributions specified in subparagraph 1.

14 3. All employers paying the salary of a DROP
15 participant filling a regularly established position shall
16 contribute the percent of such participant's gross
17 compensation required in s. 121.071(4), which shall constitute
18 the employer's health insurance subsidy contribution with
19 respect to such participant. Such contributions shall be
20 deposited by the administrator in the Retiree Health Insurance
21 Subsidy Trust Fund.

22 Section 6. Subsections (1), (5), and (15) of section
23 121.4501, Florida Statutes, is amended to read:

24 121.4501 Public Employee Optional Retirement
25 Program.--

26 (1) The Trustees of the State Board of Administration
27 shall establish an optional defined contribution retirement
28 program for members of the Florida Retirement System under
29 which retirement benefits will be provided for eligible
30 employees who elect to participate in the program. The
31 benefits to be provided for or on behalf of participants in

1 such optional retirement program shall be provided through
2 employee-directed investments, in accordance with s. 401(a) of
3 the Internal Revenue Code and its related regulations. The
4 employers shall contribute, as provided in this section s.
5 121.71, and s. 121.571, to the Public Employee Optional
6 Retirement Program Trust Fund toward the funding of such
7 optional benefits.

8 (5) CONTRIBUTIONS.--

9 (a) Each employer shall contribute on behalf of each
10 participant in the Public Employee Optional Retirement
11 Program, as provided in part III of this chapter ~~an amount~~
12 ~~based on a percentage of the employee's monthly compensation~~
13 ~~as set forth in s. 121.571.~~ The state board, acting as plan
14 fiduciary, shall ensure that all plan assets are held in a
15 trust, pursuant to s. 401 of the Internal Revenue Code. ~~The~~
16 ~~employer shall forward all contributions under this program to~~
17 ~~the third-party administrator.~~ The fiduciary shall ensure that
18 said contributions are allocated as follows:

19 1. The portion earmarked for participant accounts
20 shall be used to purchase interests in the appropriate
21 investment vehicles for the accounts of each participant as
22 specified by the participant, or in accordance with paragraph
23 (4)(d).

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

26 3. The portion earmarked for disability benefits shall
27 be transferred to the department.

28 (b) Employers are responsible for notifying
29 participants regarding maximum contribution levels permitted
30 under the Internal Revenue Code. If a participant contributes
31 to any other tax-deferred plan, he or she is responsible for

1 ensuring that total contributions made to the optional program
2 and to any other such plan do not exceed federally permitted
3 maximums.

4 (15) STATEMENT OF FIDUCIARY STANDARDS AND
5 RESPONSIBILITIES.--

6 (a) Investment of optional defined contribution
7 retirement plan assets shall be made for the sole interest and
8 exclusive purpose of providing benefits to plan participants
9 and beneficiaries and defraying reasonable expenses of
10 administering the plan. The program's assets are to be
11 invested, on behalf of the program participants, with the
12 care, skill, and diligence that a prudent person acting in a
13 like manner would undertake. The performance of the investment
14 duties set forth in this paragraph shall comply with the
15 fiduciary standards set forth in the Employee Retirement
16 Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C).
17 In case of conflict with other provisions of law authorizing
18 investments, the investment and fiduciary standards set forth
19 in this subsection shall prevail.

20 (b) If a participant or beneficiary of the Public
21 Employee Optional Retirement Program exercises control over
22 the assets in his or her account, as determined by reference
23 to regulations of the United States Department of Labor under
24 s. 404(c) of the Employee Retirement Income Security Act of
25 1974 and all applicable laws governing the operation of the
26 program, no program fiduciary shall be liable for any loss to
27 a participant's or beneficiary's account which results from
28 such participant's or beneficiary's exercise of control.

29 (c) Subparagraph (8)(b)4. and paragraph (15)(b)
30 incorporate the federal law concept of participant control,
31 established by regulations of the U.S. Department of Labor

1 under section 404(c) of the Employee Retirement Income
2 Security Act of 1974 (ERISA). The purpose of this paragraph
3 is to assist employers and the State Board of Administration
4 in maintaining compliance with section 404(c), while avoiding
5 unnecessary costs and eroding participant benefits under the
6 Public Employee Optional Retirement Program. Pursuant to 29
7 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(1)(viii), the State Board of
8 Administration or its designated agents shall deliver to
9 participants of the Public Employee Optional Retirement
10 Program a copy of the prospectus most recently provided to the
11 plan, or shall provide such participants an opportunity to
12 obtain this information, except that:

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

24 2. Delivery shall be deemed to have been effected if
25 delivery is through electronic means and the following
26 standards are satisfied:

27 a. Electronically-delivered documents are prepared and
28 provided consistent with style, format, and content
29 requirements applicable to printed documents;

30 b. Each participant is provided timely and adequate
31 notice of the documents that are to be delivered and their

1 significance thereof, and of the participant's right to obtain
2 a paper copy of such documents free of charge;

3 c.(I) Participants have adequate access to the
4 electronic documents, at locations such as their worksites or
5 public facilities, and have the ability to convert the
6 documents to paper free of charge by the State Board of
7 Administration, and the Board or its designated agents take
8 appropriate and reasonable measures to ensure that the system
9 for furnishing electronic documents results in actual receipt,
10 or

11 (II) Participants have provided consent to receive
12 information in electronic format, which consent may be
13 revoked; and

14 d. The State Board of Administration, or its
15 designated agent, actually provides paper copies of the
16 documents free of charge, upon request.

17 Section 7. Section 121.571, Florida Statutes, is
18 amended to read:

19 (Substantial rewording of section. See
20 s. 121.571, F.S., for present text.)

21 121.571 Contributions.--Contributions to the Public
22 Employee Optional Retirement Program shall be made as follows:

23 (1) NONCONTRIBUTORY PLAN.--Each employer shall
24 accomplish the contributions required by s. 121.71 by a
25 procedure in which no employee's gross salary shall be
26 reduced.

27 (2) CONTRIBUTION RATES GENERALLY.--Contributions to
28 fund the retirement and disability benefits provided under
29 this part shall be based on the uniform contribution rates
30 established by s. 121.71 and on the membership class or
31

1 subclass of the participant. Such contributions shall be
2 allocated as provided in ss. 121.72 and 121.73.

3 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
4 RETIREE HEALTH INSURANCE SUBSIDY.--Contributions required
5 under this section shall be in addition to employer and member
6 contributions required for social security and the Retiree
7 Health Insurance Subsidy Trust Fund as provided in ss.
8 112.363, 121.052, 121.055, and 121.071, as appropriate.

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

11 Section 11. It is the intent of the Legislature that
12 the costs attributable to the additional cost-of-living
13 increase for special risk retirees and Deferred Retirement
14 Option Program participants as provided under section 2 shall
15 be funded by recognition of excess actuarial assets, amortized
16 over 30 years with the payments assumed to remain relatively
17 stable when expressed as a percentage of payroll. For fiscal
18 year 2001-2002, the payment shall be \$9.3 million. For fiscal
19 year 2002-2003, the payment shall be \$15.1~~\$19~~ million, and,
20 thereafter, payments shall increase by 5 percent per year. If
21 insufficient funds are available to fund this additional cost
22 through recognition of excess actuarial assets in fiscal year
23 2002-2003 and any year thereafter, and there remains an
24 unfunded actuarial liability attributable to the one-time
25 cost-of-living increase provided under section 2, the payroll
26 contribution rate for the Special Risk Class of the Florida
27 Retirement System shall be increased by .93 percent effective
28 July 1 of that year, unless the Legislature provides an
29 alternative funding mechanism before that date.

30 Section 9. Section 23 of chapter 2000-169, Laws of
31 Florida, is hereby repealed.

1 Section 10. The contribution rates proposed in this
2 act shall be in addition to all other changes to such
3 contribution rates which may be enacted into law to take
4 effect on July 1, 2002. The Division of Statutory Revision is
5 directed to adjust the contribution rates set forth herein
6 accordingly.

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

19 Section 12. Except as otherwise provided herein, this
20 act shall take effect June 30, 2002.
21
22
23
24
25
26
27
28
29
30
31