

Bill No. CS/HB 807, 1st Eng.

Amendment No. Barcode 033448

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Sanderson moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

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16 and insert:

17 Section 1. Paragraph (d) of subsection (2), paragraph
18 (c) of subsection (3), paragraphs (a), (b), and (c) of
19 subsection (4), subsection (6), paragraphs (c) and (e) of
20 subsection (7), and paragraph (a) of subsection (8) of section
21 121.4501, Florida Statutes, are amended, and paragraph (c) is
22 added to subsection (5) of said section, to read:

23 121.4501 Public Employee Optional Retirement
24 Program.--

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

26 (d) "Eligible employee" means an officer or employee,
27 as defined in s. 121.021(11), who:

28 1. Is a member of, or is eligible for membership in,
29 the Florida Retirement System, including any renewed member of
30 the Florida Retirement System;

31 2. Participates in, or is eligible to participate in,

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1 the Senior Management Service Optional Annuity Program as
2 established under s. 121.055(6); or

3 3. Is eligible to participate in, but does not
4 participate in, the State University System Optional
5 Retirement Program established under s. 121.35 or the State
6 Community College System Optional Retirement Program
7 established under s. 121.051(2)(c).

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

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

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

30 2. For purposes of this subsection, the present value
31 of the member's accumulated benefit obligation is based upon

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1 the member's estimated creditable service and estimated
2 average final compensation as of midnight of the day prior to
3 the opening of the election window for the employee. The
4 actuarial present value of the employee's accumulated benefit
5 obligation shall be based on the following:

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

11 b. A benefit commencement age, based on the member's
12 estimated creditable service as of midnight on May 31, 2002.
13 The benefit commencement age shall be the younger of the
14 following, but shall not be younger than the member's age as
15 of midnight on May 31, 2002:

16 (I) Age 62; or

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

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

28 (I) Age 55; or

29 (II) The age the member would attain if the member
30 completed 25 years of service with an employer, assuming the
31 member worked continuously from May 31, 2002, and disregarding

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1 any vesting requirement that would otherwise apply under the
2 defined benefit program of the 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 4. As directed by the participant, the board shall

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1 transfer or cause to be transferred the appropriate amounts to
2 the designated accounts. The board shall establish transfer
3 procedures by rule, but the actual transfer shall not be later
4 than 30 days after the effective date of the member's
5 participation in the optional program unless the major
6 financial markets for securities available for a transfer are
7 seriously disrupted by an unforeseen event which also causes
8 the suspension of trading on any national securities exchange
9 in the country where the securities were issued. In that
10 event, such 30-day period of time may be extended by a
11 resolution of the trustees. Transfers are not commissionable
12 or subject to other fees and may be in the form of securities
13 or cash as determined by the state board. Such securities
14 shall be valued as of the date of receipt in the participant's
15 account.

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

24 (4) PARTICIPATION; ENROLLMENT.--

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

28 a. Any such employee may elect to participate in the
29 Public Employee Optional Retirement Program in lieu of
30 retaining his or her membership in the defined benefit program
31 of the Florida Retirement System. The election must be made in

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1 writing or by electronic means and must be filed with the
2 third-party administrator by August 31 ~~department and the~~
3 ~~personnel officer of the employer within 90 days after June 1,~~
4 2002, or, in the case of an active employee who is on a leave
5 of absence on April June 1, 2002, by August 31, 2002, or
6 within 90 days after the conclusion of the leave of absence,
7 whichever is later. This election is irrevocable, except as
8 provided in paragraph (e). Upon making such election, the
9 employee shall be enrolled as a participant of the Public
10 Employee Optional Retirement Program, the employee's
11 membership in the Florida Retirement System shall be governed
12 by the provisions of this part, and the employee's membership
13 in the defined benefit program of the Florida Retirement
14 System shall terminate. The employee's enrollment in the
15 Public Employee Optional Retirement Program shall be effective
16 the first day of the month for which a full month's employer
17 contribution is made to the optional program.

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

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

28 a. Any such employee shall, by default, be enrolled in
29 the defined benefit retirement program of the Florida
30 Retirement System at the commencement of employment, and may,
31 by the end of the fifth month following the employee's month

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1 ~~of hire within 180 days after employment commences~~, elect to
2 participate in the Public Employee Optional Retirement
3 Program. The employee's election must be made in writing or by
4 electronic means and must be filed with the third-party
5 administrator ~~personnel officer of the employer~~. The election
6 to participate in the optional program is irrevocable, except
7 as provided in paragraph (e).

8 b. If the employee files such election before the
9 initial payroll is submitted for the employee, enrollment in
10 the Public Employee Optional Retirement Program shall be
11 effective on the first day of employment.

12 c. If the employee files such election within the
13 prescribed time period ~~180 days after employment commences~~,
14 but after the initial payroll is submitted for the employee,
15 enrollment in the optional program shall be effective on the
16 first day of the month for which a full month's employer
17 contribution is made to the optional program.

18 d. Any such employee who fails to elect to participate
19 in the Public Employee Optional Retirement Program within the
20 prescribed time period ~~180 days~~ is deemed to have elected to
21 retain membership in the defined benefit program of the
22 Florida Retirement System, and the employee's option to elect
23 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 (b)1. With respect to an eligible employee who is
31 employed in a regularly established position on September 1,

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1 2002, by a district school board employer:

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

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

29 2. With respect to employees who become eligible to
30 participate in the Public Employee Optional Retirement Program
31 by reason of employment in a regularly established position

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1 with a district school board employer commencing after July
2 ~~September~~ 1, 2002:

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

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

18 c. If the employee files such election within the
19 prescribed time period ~~180 days after employment commences~~,
20 but after the initial payroll is submitted for the employee,
21 enrollment in the optional program shall be effective on the
22 first day of the month for which a full month's employer
23 contribution is made to the optional program.

24 d. Any such employee who fails to elect to participate
25 in the Public Employee Optional Retirement Program within the
26 prescribed time period ~~180 days~~ is deemed to have elected to
27 retain membership in the defined benefit program of the
28 Florida Retirement System, and the employee's option to elect
29 to participate in the optional program is forfeited.

30 3. For purposes of this paragraph, "district school
31 board employer" means any district school board that

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1 participates in the Florida Retirement System for the benefit
2 of certain employees, or a charter school or charter technical
3 career center that participates in the Florida Retirement
4 System as provided in s. 121.051(2)(d).

5 (c)1. With respect to an eligible employee who is
6 employed in a regularly established position on December 1,
7 2002, by a local employer:

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

28 b. Any such employee who fails to elect to participate
29 in the Public Employee Optional Retirement Program within the
30 prescribed time period ~~90 days~~ is deemed to have elected to
31 retain membership in the defined benefit program of the

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1 Florida Retirement System, and the employee's option to elect
2 to participate in the optional program is forfeited.

3 2. With respect to employees who become eligible to
4 participate in the Public Employee Optional Retirement Program
5 by reason of employment in a regularly established position
6 with a local employer commencing after October ~~December~~ 1,
7 2002:

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

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

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

29 d. Any such employee who fails to elect to participate
30 in the Public Employee Optional Retirement Program within the
31 prescribed time period ~~180 days~~ is deemed to have elected to

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1 retain membership in the defined benefit program of the
2 Florida Retirement System, and the employee's option to elect
3 to participate in the optional program is forfeited.

4 3. For purposes of this paragraph, "local employer"
5 means any employer not included in paragraph (a) or paragraph
6 (b).

7 (5) CONTRIBUTIONS.--

8 (c) The Public Employee Optional Retirement Program
9 may accept for deposit into participant accounts contributions
10 in the form of rollovers or direct trustee-to-trustee
11 transfers by or on behalf of participants, reasonably
12 determined by the board to be eligible for rollover or
13 transfer to the optional retirement program pursuant to the
14 Internal Revenue Code, if such contributions are made in
15 accordance with rules as may be adopted by the board. Such
16 contributions shall be accounted for in accordance with any
17 applicable Internal Revenue Code requirements and rules of the
18 board.

19 (6) VESTING REQUIREMENTS.--

20 (a)1. With respect to employer contributions paid on
21 behalf of the participant to the Public Employee Optional
22 Retirement Program, plus interest and earnings thereon and
23 less investment fees and administrative charges, a participant
24 shall be vested after completing 1 work year, as defined in s.
25 121.021(54), with an employer, including any service while the
26 participant was a member of the defined benefit retirement
27 program or an optional retirement program authorized under s.
28 121.051(2)(c) or s. 121.055(6).

29 2. If the participant terminates employment prior to
30 satisfying the vesting requirements, the nonvested
31 accumulation shall be transferred from the participant's

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1 accounts to the state board for deposit and investment by the
2 board in the suspense account of the Public Employee Optional
3 Retirement Program Trust Fund of the board. If the terminated
4 participant is reemployed as an eligible employee within 5
5 years, the state board shall transfer to the participant's
6 account any amount of the moneys previously transferred from
7 the participant's accounts to the suspense account of the
8 Public Employee Optional Retirement Program Trust Fund, plus
9 the actual earnings on such amount while in the suspense
10 account interest calculated at 3.0 percent per annum,
11 ~~calculated from the date of transfer to the date of~~
12 ~~reemployment.~~

13 (b)1. A participant shall be vested in the amount
14 transferred from the defined benefit program, plus interest
15 and earnings thereon and less administrative charges and
16 investment fees, upon meeting the service requirements for the
17 participant's membership class as set forth in s. 121.021(29).
18 The third-party administrator shall account for such amounts
19 for each participant. The division shall notify the
20 participant and the third-party administrator when the
21 participant has satisfied the vesting period for Florida
22 Retirement System purposes.

23 2. If the participant terminates employment prior to
24 satisfying the vesting requirements, the nonvested
25 accumulation shall be transferred from the participant's
26 accounts to the state board for deposit and investment by the
27 board in the suspense account of the Public Employee Optional
28 Retirement Program Trust Fund of the board. If the terminated
29 participant is reemployed as an eligible employee within 5
30 years, the state board shall transfer to the participant's
31 account any amount of the moneys previously transferred from

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1 the participant's accounts to the suspense account of the
2 Public Employee Optional Retirement Program Trust Fund, plus
3 the actual earnings on such amount while in the suspense
4 account interest calculated at 6.0 percent per annum,
5 calculated from the date of transfer to the date of
6 reemployment.

7 (c) Any nonvested accumulations transferred from a
8 participant's account to the suspense account shall be
9 forfeited by the participant if the participant is not
10 reemployed as an eligible employee within 5 years after
11 termination.

12 (7) BENEFITS.--Under the Public Employee Optional
13 Retirement Program:

14 (c) Benefits shall be payable in accordance with the
15 following terms and conditions:

16 1. To the extent vested, benefits shall be payable
17 only to a participant, or to his or her beneficiaries as
18 designated by the participant. If a participant designates a
19 beneficiary who is not the participant's spouse, the
20 participant's spouse shall be notified. This requirement shall
21 not apply to the designation of a contingent beneficiary
22 designated to receive benefits hereunder in the event the
23 participant's spouse dies before such contingent beneficiary.

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

28 3. To begin receiving the benefits, the participant
29 must be terminated from all employment with all Florida
30 Retirement System employers, as provided in s. 121.021(39), or
31 the participant must be deceased. If a participant elects to

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

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

19 (e) Survivor benefits shall be payable as:

20 1. A lump-sum distribution payable to the
21 beneficiaries, or to the deceased participant's estate;

22 2. An eligible rollover distribution on behalf of the
23 surviving spouse of a deceased participant, whereby all
24 accrued benefits, plus interest and investment earnings, are
25 paid from the deceased participant's account directly to the
26 custodian of an eligible retirement plan ~~individual retirement~~
27 ~~account or an individual retirement annuity~~, as described in
28 s. 402(c)(8)(B)(~~9~~) of the Internal Revenue Code, on behalf of
29 the surviving spouse; or

30 3. A partial lump-sum payment whereby a portion of the
31 accrued benefit is paid to the deceased participant's

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1 surviving spouse or other designated beneficiaries, less
2 withholding taxes remitted to the Internal Revenue Service,
3 and the remaining amount is transferred directly to the
4 custodian of an individual retirement account or an individual
5 retirement annuity, as described in s. 402(c)(9) of the
6 Internal Revenue Code, on behalf of the surviving spouse. The
7 proportions must be specified by the participant or the
8 surviving beneficiary.

9
10 This paragraph does not abrogate other applicable provisions
11 of state or federal law providing for payment of death
12 benefits.

13 (8) ADMINISTRATION OF PROGRAM.--

14 (a) The Public Employee Optional Retirement Program
15 shall be administered by the state board and affected
16 employers. The board is authorized to require oaths, by
17 affidavit or otherwise, and acknowledgments from persons in
18 connection with the administration of its duties and
19 responsibilities under this chapter. No oath, by affidavit or
20 otherwise, shall be required of an employee participant at the
21 time of election. Acknowledgement of an employee's election to
22 participate in the program shall be no greater than necessary
23 to confirm the employee's election.The board shall adopt
24 rules establishing the role and responsibilities of affected
25 state, local government, and education-related employers, the
26 state board, the department, and third-party contractors in
27 administering the Public Employee Optional Retirement Program.
28 The department shall adopt rules necessary to implement the
29 optional program in coordination with the defined benefit
30 retirement program and the disability benefits available under
31 the optional program.

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

4 110.123 State group insurance program.--

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

6 (g) "Retired state officer or employee" or "retiree"
7 means any state officer or state employee who retires under a
8 state retirement system or a state optional annuity or
9 retirement program or is placed on disability retirement, and
10 who was insured under the state group insurance program at the
11 time of retirement, and who begins receiving retirement
12 benefits immediately after retirement from state office or
13 employment. In addition to these requirements, any state
14 officer or state employee who retires under the Public
15 Employee Optional Retirement Program established under part II
16 of chapter 121 shall be considered a "retired state officer or
17 employee" or "retiree" as used in this section if he or she:

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

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

23 (3) STATE GROUP INSURANCE PROGRAM.--

24 (g) Participation by individuals in the program shall
25 be available to all state officers, full-time state employees,
26 and part-time state employees; and such participation in the
27 program or any plan thereof shall be voluntary. Participation
28 in the program shall also be available to retired state
29 officers and employees, as defined in paragraph (2)(g), who
30 elect at the time of retirement to continue coverage under the
31 program, but they may elect to continue all or only part of

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1 the coverage they had at the time of retirement. A surviving
2 spouse may elect to continue coverage only under the state
3 group health insurance plan or a health maintenance
4 organization plan.

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

7 ~~(h) State employees may participate in the state group~~
8 ~~health insurance plan at the time of receiving their state~~
9 ~~retirement benefits.~~

10 Section 3. Paragraphs (j) and (q) of subsection (2) of
11 section 110.205, Florida Statutes, are amended to read:

12 110.205 Career service; exemptions.--

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

15 (j) The appointed secretaries, assistant secretaries,
16 deputy secretaries, and deputy assistant secretaries of all
17 departments; the executive directors, assistant executive
18 directors, deputy executive directors, and deputy assistant
19 executive directors of all departments; ~~and~~ the directors of
20 all divisions and those positions determined by the department
21 to have managerial responsibilities comparable to such
22 positions, which positions include, but are not limited to,
23 program directors, assistant program directors, district
24 administrators, deputy district administrators, the Director
25 of Central Operations Services of the Department of Children
26 and Family Services, and the State Transportation Planner,
27 State Highway Engineer, State Public Transportation
28 Administrator, district secretaries, district directors of
29 planning and programming, production, and operations, and the
30 managers of the offices specified in s. 20.23(3)(d)2., of the
31 Department of Transportation. Unless otherwise fixed by law,

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1 the department shall set the salary and benefits of these
2 positions in accordance with the rules of the Senior
3 Management Service; and the county health department directors
4 and county health department administrators of the Department
5 of Health.

6 (q) The staff directors, assistant staff directors,
7 district program managers, district program coordinators,
8 district subdistrict administrators, district administrative
9 services directors, district attorneys, and the Deputy
10 Director of Central Operations Services of the Department of
11 Children and Family Services ~~and the county health department~~
12 ~~directors and county health department administrators of the~~
13 ~~Department of Health.~~ Unless otherwise fixed by law, the
14 department shall establish the salary range and benefits for
15 these positions in accordance with the rules of the Selected
16 Exempt Service.

17 Section 4. Paragraph (d) of subsection (2) and
18 subsection (7) of section 121.052, Florida Statutes, as
19 amended by chapter 2001-262, Laws of Florida, are amended to
20 read:

21 121.052 Membership class of elected officers.--

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

27 (d) Any constitutional county elected officer assuming
28 office on or after July 1, 1981, including any sheriff, tax
29 collector, property appraiser, supervisor of elections, clerk
30 of the circuit court, county commissioner, school board
31 member, or elected school board superintendent, or any elected

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1 officer of any entity with countywide jurisdiction assuming
2 office on or after July 1, 1981, who, pursuant to general or
3 special law, exercises powers and duties that, but for such
4 general or special law, would be exercised by any of the
5 constitutional county elected officers set forth in this
6 paragraph, including the sheriff and clerk of the circuit
7 court in a consolidated government with countywide
8 jurisdiction unless such sheriff or clerk elected to continue
9 to participate in a local retirement system.

10 (7) CONTRIBUTIONS.--

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

20
21 Dates of Contribution

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

30
31 (b) The employer paying the salary of a member of the

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1 Elected Officers' Class shall contribute an amount as
 2 specified in this subsection which shall constitute the entire
 3 employer retirement contribution with respect to such member.
 4 The employer shall also withhold one-half of the entire
 5 contribution of the member required for social security
 6 coverage.

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

Dates of Contribution	Contribution
Rate Changes	Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1993	0.48%
January 1, 1994, through December 31, 1994	0.56%
January 1, 1995, through June 30, 1998	0.66%
July 1, 1998, through June 30, 2001	0.94%
Effective July 1, 2001	1.11%

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

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1 Section 5. Paragraph (h) of subsection (1), subsection
2 (3), paragraph (d) of subsection (4), and paragraph (c) of
3 subsection (6) of section 121.055, Florida Statutes, as
4 amended by chapter 2001-262, Laws of Florida, are amended, and
5 paragraph (k) is added to subsection (1) of that section, to
6 read:

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

12 (1)

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

28 a. Positions to be included in the class shall be
29 designated by the state attorney or public defender, as
30 appropriate. Notice of intent to designate positions for
31 inclusion in the class shall be published once a week for 2

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1 consecutive weeks in a newspaper of general circulation
2 published in the county or counties affected, as provided in
3 chapter 50.

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

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

16 (I) Heads an organizational unit; or

17 (II) Has responsibility to effect or recommend
18 personnel, budget, expenditure, or policy decisions in his or
19 her areas of responsibility.

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

31 3. In lieu of participation in the Senior Management

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1 Service Class, such members, excluding assistant state
 2 attorneys, assistant public defenders, assistant statewide
 3 prosecutors, assistant attorneys general, and assistant
 4 capital collateral regional counsels, may participate in the
 5 Senior Management Service Optional Annuity Program as
 6 established in subsection (6).

7 (k) Any state attorney or public defender in the
 8 Elected Officers' Class who has creditable service as an
 9 assistant state attorney or assistant public defender may
 10 upgrade retirement credit for such service in accordance with
 11 the provisions of paragraph (j).

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

21

22 Dates of Contribution

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

25

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

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1 coverage.

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

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

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

26 (6)

27 (c) Participation.--

28 1. Any eligible employee who is employed on or before
 29 February 1, 1987, may elect to participate in the optional
 30 annuity program in lieu of participation in the Senior
 31 Management Service Class. Such election shall be made in

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

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

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

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1 membership in the Senior Management Service Class.

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

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

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

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

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

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1 the amount due. In no case may the employee retain any
2 employer contributions or earnings thereon from the Senior
3 Management Service Optional Annuity Program account.

4 Section 6. Subsection (5) of section 121.071, Florida
5 Statutes, as amended by chapter 2001-262, Laws of Florida, is
6 amended to read:

7 121.071 Contributions.--Contributions to the system
8 shall be made as follows:

9 (5) Contributions made in accordance with subsections
10 (1), (2), (3), and (4) shall be paid by the employer into the
11 system trust funds in accordance with rules adopted by the
12 administrator pursuant to chapter 120, except as may be
13 otherwise specified herein.

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

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

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1 ~~the 20th day of the month; and, for any payroll periods ending~~
2 ~~any day of the month after the 15th day of the month, such~~
3 ~~contributions are due and payable no later than the 5th day of~~
4 ~~the next month.~~

5 **(b)** Contributions received in the offices of the
6 department after the prescribed date shall be considered
7 delinquent unless, in the opinion of the department,
8 exceptional circumstances beyond an employer's control
9 prevented remittance by the prescribed due date
10 notwithstanding such employer's good faith efforts to effect
11 delivery; and, with respect to retirement contributions due
12 under subsections (1) and (4), each employer shall be assessed
13 a delinquent fee of 1 percent of the contributions due for
14 each calendar month or part thereof that the contributions are
15 delinquent. Such a waiver of the delinquency fee by the
16 department may be granted an employer only one time each
17 fiscal year. Delinquent social security contributions shall be
18 assessed a delinquent fee as authorized by s. 650.05(4). The
19 delinquent fee assessable for an employer's first delinquency
20 after July 1, 1984, shall be as specified in s. 650.05(4),
21 and, beginning with the second delinquency in any fiscal year
22 by the employer subsequent to July 1, 1984, all subsequent
23 delinquency fees shall be assessed against the employer at
24 twice the applicable percentage rate specified in s.
25 650.05(4).

26 Section 7. Section 121.35, Florida Statutes, is
27 amended to read:

28 121.35 Optional retirement program for the State
29 University System.--

30 (1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.--The
31 Department of Management Services shall establish an optional

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1 retirement program under which contracts providing retirement
2 and death benefits may be purchased for eligible members of
3 the State University System who elect to participate in the
4 program. The benefits to be provided for or on behalf of
5 participants in such optional retirement program shall be
6 provided through individual contracts or individual
7 certificates issued for group annuity or other contracts,
8 which may be fixed, variable, or a combination thereof, in
9 accordance with s. 403(b) of the Internal Revenue Code. Any
10 individual contract or certificate shall state the annuity
11 plan on its face page, and shall include, but not be limited
12 to, a statement of ownership, the contract benefits, annuity
13 income options, limitations, expense charges, and surrender
14 charges, if any. The state shall contribute, as provided in
15 this section, toward the purchase of such optional benefits.

16 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
17 PROGRAM.--

18 (a) Participation in the optional retirement program
19 provided by this section shall be limited to persons who are
20 otherwise eligible for membership in the Florida Retirement
21 System; who are employed or appointed for no less than one
22 academic year; and who are employed in one of the following
23 State University System positions:

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

27 2. Positions classified as administrative and
28 professional which are exempt from the career service under
29 the provisions of s. 110.205(2)(d).

30 3. The Chancellor and the university presidents.

31 (b) For purposes of this section, both the appointees

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1 and employees are referred to as "employees," and the
2 "employer" of an appointee or employee is the individual
3 institution within the State University System or the State
4 Board of Education Regents, whichever is appropriate with
5 respect to the particular employee or appointee.

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

8 (d) For purposes of this section, the authority
9 granted to the State Board of Education Regents may be
10 exercised by the board or by the Chancellor of the Division of
11 Colleges and Universities State University System.

12 (3) ELECTION OF OPTIONAL PROGRAM.--

13 (a) Any eligible employee who is employed on or before
14 March 1, 1984, may elect to participate in the optional
15 retirement program in lieu of participation in the Florida
16 Retirement System. Such election shall be made in writing and
17 filed with the division and the personnel officer of the
18 employer on or before June 1, 1984. Upon such election,
19 participation in the optional program will take effect July 1,
20 1984, and election to so participate will terminate the
21 membership of the employee in the Florida Retirement System.
22 Any eligible employee who is employed on or before March 1,
23 1984, and who fails to make an election to participate in the
24 optional program by June 1, 1984, shall be deemed to have
25 elected to retain membership in the Florida Retirement System.

26 (b)1. Any employee who becomes eligible to participate
27 in the optional retirement program by reason of initial
28 employment commencing after March 1, 1984, but before January
29 1, 1993, may, within 90 days after the date of commencement of
30 employment, elect to participate in the optional program. Such
31 election shall be made in writing and filed with the personnel

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1 officer of the employer. The eligible employees described in
2 this subparagraph shall be enrolled in the Florida Retirement
3 System at the commencement of employment, with the exception
4 of those employees who file an election with the personnel
5 officer of the employer prior to the submission of the initial
6 payroll for the employee. For such employees, participation
7 will be effective on the first day of employment or on July 1,
8 1984, whichever is later. If an eligible employee, as
9 described in this subparagraph, files an election to
10 participate in the optional program within 90 days after the
11 commencement of employment, but after the submission by the
12 employer of the initial payroll for the employee, the
13 employee's participation in the optional program will not be
14 effective until the first day of the month for which a full
15 month's employer contribution may be made, or until July 1,
16 1984, whichever is later. Any eligible employee who does not
17 within 90 days after commencement of such employment elect to
18 participate in the optional program shall be deemed to have
19 elected to retain membership in the Florida Retirement System.

20 2. Any employee who after March 1, 1984, but before
21 January 1, 1993, becomes eligible to participate in the
22 optional program by reason of 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) may elect to
27 participate in the optional program. Such employee shall be
28 notified by the employer of the change in his or her
29 eligibility status. Such employee may, within 90 days after
30 the date of such notification, file with the personnel officer
31 of the employer an election in writing to participate in the

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1 optional program in lieu of participation in the Florida
2 Retirement System. Upon such election, participation in the
3 optional program will be effective on the first day of the
4 month for which a full month's employer contribution may be
5 made or on July 1, 1984, whichever is later. Election to so
6 participate shall terminate the membership of the employee in
7 the Florida Retirement System. Any eligible employee who does
8 not within 90 days after notification of his or her
9 eligibility to participate in the optional program elect to
10 participate in the program shall be deemed to have elected to
11 retain membership in the Florida Retirement System.

12 (c) Any employee who becomes eligible to participate
13 in the optional retirement program on or after January 1,
14 1993, shall be a compulsory participant of the program unless
15 such employee elects membership in the Florida Retirement
16 System. Such election shall be made in writing and filed with
17 the personnel officer of the employer. Any eligible employee
18 who fails to make such election within the prescribed time
19 period shall be deemed to have elected to participate in the
20 optional retirement program.

21 1. Any employee whose optional retirement program
22 eligibility results from initial employment shall be enrolled
23 in the program at the commencement of employment. If, within
24 90 days after commencement of employment, the employee elects
25 membership in the Florida Retirement System, such membership
26 shall be effective retroactive to the date of commencement of
27 employment.

28 2. Any employee whose optional retirement program
29 eligibility results from a change in status due to the
30 subsequent designation of the employee's position as one of
31 those specified in paragraph (2)(a) or due to the employee's

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1 appointment, promotion, transfer, or reclassification to a
2 position specified in paragraph (2)(a) shall be enrolled in
3 the optional retirement program upon such change in status and
4 shall be notified by the employer of such action. If, within
5 90 days after the date of such notification, the employee
6 elects to retain membership in the Florida Retirement System,
7 such continuation of membership shall be retroactive to the
8 date of the change in status.

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

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

27 (e) The election by an eligible employee to
28 participate in the optional retirement program shall be
29 irrevocable for so long as the employee continues to meet the
30 eligibility requirements specified in subsection (2), except
31 as provided in paragraph (h). In the event that an employee

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1 participates in the optional retirement program for 90 days or
2 more and is subsequently employed in an administrative or
3 professional position which has been determined by the
4 department, under subparagraph (2)(a)2., to be not otherwise
5 eligible for participation in the optional retirement program,
6 the employee shall continue participation in the optional
7 program so long as the employee meets the other eligibility
8 requirements for the program, except as provided in paragraph
9 (h).

10 (f) If an employee becomes ineligible to continue
11 participation in the optional retirement program under
12 subsection (2), the employee shall thereafter participate in
13 the Florida Retirement System if he or she is otherwise
14 eligible.

15 (g) An eligible employee who is a member of the
16 Florida Retirement System at the time of election to
17 participate in the optional retirement program shall retain
18 all retirement service credit earned under the Florida
19 Retirement System, at the rate earned. No additional service
20 credit in the Florida Retirement System shall be earned while
21 the employee participates in the optional program, nor shall
22 the employee be eligible for disability retirement under the
23 Florida Retirement System.

24 (h) A participant in the optional retirement program
25 may not participate in more than one state-administered
26 retirement system, plan, or class simultaneously. Except as
27 provided in s. 121.052(6)(d), a participant who is or becomes
28 dually employed in two or more positions covered by the
29 Florida Retirement System, one of which is eligible for the
30 optional program and one of which is not, may remain a member
31 of the optional program and contributions shall be paid as

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

23 (4) CONTRIBUTIONS.--

24 (a) Through June 30, 2001, each employer shall
25 contribute on behalf of each participant in the optional
26 retirement program an amount equal to the normal cost portion
27 of the employer retirement contribution which would be
28 required if the participant were a regular member of the
29 Florida Retirement System defined benefit program, plus the
30 portion of the contribution rate required in s. 112.363(8)
31 that would otherwise be assigned to the Retiree Health

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1 Insurance Subsidy Trust Fund. Effective July 1, 2001, each
2 employer shall contribute on behalf of each participant in the
3 optional program an amount equal to 10.43 percent of the
4 participant's gross monthly compensation. The department shall
5 deduct an amount approved by the Legislature to provide for
6 the administration of this program. The payment of the
7 contributions to the optional program which is required by
8 this paragraph for each participant shall be made by the
9 employer to the department, which shall forward the
10 contributions to the designated company or companies
11 contracting for payment of benefits for the participant under
12 the program. However, such contributions paid on behalf of an
13 employee described in paragraph (3)(c) shall not be forwarded
14 to a company and shall not begin to accrue interest until the
15 employee has executed an annuity contract and notified the
16 department.

17 (b) Each employer shall contribute on behalf of each
18 participant in the optional retirement program an amount equal
19 to the unfunded actuarial accrued liability portion of the
20 employer contribution which would be required for members of
21 the Florida Retirement System. This contribution shall be
22 paid to the department for transfer to the Florida Retirement
23 System Trust Fund.

24 (c) An Optional Retirement Program Trust Fund shall be
25 established in the State Treasury and administered by the
26 department to make payments to the provider companies on
27 behalf of the optional retirement program participants, and to
28 transfer the unfunded liability portion of the state optional
29 retirement program contributions to the Florida Retirement
30 System Trust Fund.

31 (d) Contributions required for social security by each

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1 employer and each participant, in the amount required for
2 social security coverage as now or hereafter may be provided
3 by the federal Social Security Act, shall be maintained for
4 each participant in the optional retirement program and shall
5 be in addition to the retirement contributions specified in
6 this subsection.

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

28 (f) The Optional Retirement Trust Fund may accept for
29 deposit into participant contracts contributions in the form
30 of rollovers or direct trustee-to-trustee transfers by or on
31 behalf of participants who are reasonably determined by the

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1 department to be eligible for rollover or transfer to the
2 optional retirement program pursuant to the Internal Revenue
3 Code, if such contributions are made in accordance with rules
4 adopted by the department. Such contributions shall be
5 accounted for in accordance with any applicable requirements
6 of the Internal Revenue Code and rules of the department.

7 (5) BENEFITS.--

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

25 1. Benefits shall be payable only to a participant, to
26 his or her beneficiaries, or to his or her estate, as
27 designated by the participant.

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

31 3. In the event of a participant's death, moneys

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1 accumulated by, or on behalf of, the participant, less
2 withholding taxes remitted to the Internal Revenue Service, if
3 any, shall be distributed to the participant's designated
4 beneficiary or beneficiaries, or to the participant's estate,
5 as if the participant retired on the date of death, as
6 provided in paragraph (c). No other death benefits shall be
7 available for survivors of participants under the optional
8 retirement program except for such benefits, or coverage for
9 such benefits, as are separately afforded by the employer, at
10 the employer's discretion.

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

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

20 3. Periodic distributions;

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

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

28 (c) Survivor benefits shall be payable as:

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

31 2. An eligible rollover distribution on behalf of the

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1 surviving spouse of a deceased participant, whereby all
2 accrued benefits, plus interest and investment earnings, are
3 paid from the deceased participant's account directly to an
4 eligible retirement plan, as described in s. 402(c)(8)(B) of
5 the Internal Revenue Code, on behalf of the surviving spouse;

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

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

17
18 This paragraph does not abrogate other applicable provisions
19 of state or federal law providing payment of death benefits.

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

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

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

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

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

18 (6) ADMINISTRATION OF PROGRAM.--

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

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

31 2. The suitability of the rights and benefits to the

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1 needs of the participants and the interests of the
2 institutions in the recruitment and retention of eligible
3 employees.

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

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

30 (d) The provisions of each contract applicable to a
31 participant in the optional retirement program shall be

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1 contained in a written program description which shall include
2 a report of pertinent financial and actuarial information on
3 the solvency and actuarial soundness of the program and the
4 benefits applicable to the participant. Such description
5 shall be furnished by the companies to each participant in the
6 program and to the department upon commencement of
7 participation in the program and annually thereafter.

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

12 Section 8. Subsection (2), paragraph (c) of subsection
13 (3), paragraphs (a), (b), and (c) of subsection (4), and
14 subsections (7) and (16) of section 121.4501, Florida
15 Statutes, as amended by chapter 2001-235, Laws of Florida, are
16 amended to read:

17 121.4501 Public Employee Optional Retirement
18 Program.--

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

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

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

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

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

22 (d)~~(b)~~ "Department" means the Department of Management
23 Services.

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

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

- 28 1. Is a member of, or is eligible for membership in,
29 the Florida Retirement System;
- 30 2. Participates in, or is eligible to participate in,
31 the Senior Management Service Optional Annuity Program as

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1 established under s. 121.055(6); or

2 3. Is eligible to participate in, but does not
3 participate in, the State University System Optional
4 Retirement Program established under s. 121.35 or the State
5 Community College System Optional Retirement Program
6 established under s. 121.051(2)(c).

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

13 (g)~~(e)~~ "Employer" means an employer, as defined in s.
14 121.021(10), of an eligible employee.

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

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

23 (j)~~(h)~~ "State board" or "board" means the State Board
24 of Administration.

25 (k)~~(i)~~ "Trustees" means Trustees of the State Board of
26 Administration.

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

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

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1 (c)1. Notwithstanding paragraph (b), each eligible
2 employee who elects to participate in the Public Employee
3 Optional Retirement Program and establishes one or more
4 individual participant accounts under the optional program may
5 elect to transfer to the optional program a sum representing
6 the present value of the employee's accumulated benefit
7 obligation under the defined benefit retirement program of the
8 Florida Retirement System. Upon such transfer, all service
9 credit previously earned under the defined benefit program of
10 the Florida Retirement System shall be nullified for purposes
11 of entitlement to a future benefit under the defined benefit
12 program of the Florida Retirement System. A participant is
13 precluded from transferring the accumulated benefit obligation
14 balance from the defined benefit program upon the expiration
15 of the period afforded to enroll in the optional program.

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

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1 "estimate date" for these employees ~~of the day prior to the~~
2 ~~opening of the election window for the employee.~~ The actuarial
3 present value of the employee's accumulated benefit obligation
4 shall be based on the following:

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

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

15 (I) Age 62; or

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

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

28 (I) Age 55; or

29 (II) The age the member would attain if the member
30 completed 25 years of service with an employer, assuming the
31 member worked continuously from the estimate date ~~May 31,~~

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1 2002, and disregarding any vesting requirement that would
2 otherwise apply under the defined benefit program of the
3 Florida Retirement System.

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

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

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

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

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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

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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

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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 (b)1. With respect to an eligible employee who is
31 employed in a regularly established position on September 1,

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1 2002, by a district school board employer:

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

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

29 2. With respect to employees who become eligible to
30 participate in the Public Employee Optional Retirement Program
31 by reason of employment in a regularly established position

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1 with a district school board employer commencing after July
2 ~~September~~ 1, 2002:

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

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

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

29 ~~c.d.~~ Any such employee who fails to elect to
30 participate in the Public Employee Optional Retirement Program
31 within the prescribed time period 180 days is deemed to have

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1 elected to retain membership in the defined benefit program of
2 the Florida Retirement System, and the employee's option to
3 elect to participate in the optional program is forfeited.

4 3. For purposes of this paragraph, "district school
5 board employer" means any district school board that
6 participates in the Florida Retirement System for the benefit
7 of certain employees, or a charter school or charter technical
8 career center that participates in the Florida Retirement
9 System as provided in s. 121.051(2)(d).

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

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

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

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

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

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

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

29 ~~b.e.~~ If the employee files such election within the
30 prescribed time period ~~180 days after employment commences~~,
31 ~~but after the initial payroll is submitted for the employee,~~

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1 enrollment in the optional program shall be effective on the
 2 first day of employment ~~the month for which a full month's~~
 3 ~~employer contribution is made to the optional program.~~ The
 4 employer retirement contributions paid through the month of
 5 the employee plan change shall be transferred to the optional
 6 program, and, effective the first day of the next month, the
 7 employer shall pay the applicable contributions based on the
 8 employee membership class in the optional program.

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

15 3. For purposes of this paragraph, "local employer"
 16 means any employer not included in paragraph (a) or paragraph
 17 (b).

18 (7) BENEFITS.--Under the Public Employee Optional
 19 Retirement Program:

20 (a) Benefits shall be provided in accordance with s.
 21 401(a) of the Internal Revenue Code.

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

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

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

30 ~~2. Benefits shall be paid by the third-party~~
 31 ~~administrator or designated approved providers in accordance~~

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1 ~~with the law, the contracts, and any applicable board rule or~~
2 ~~policy.~~

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

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

25 ~~(d) Upon receipt by the third-party administrator of a~~
26 ~~properly executed application for distribution of benefits,~~
27 ~~the total accumulated benefit shall be payable to the~~
28 ~~participant, as:~~

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

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

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1 ~~paid from the participant's account directly to the custodian~~
2 ~~of an eligible retirement plan, as defined in s. 402(c)(8)(B)~~
3 ~~of the Internal Revenue Code, on behalf of the participant; or~~

4 ~~3. Periodic distributions, as authorized by the state~~
5 ~~board.~~

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

7 ~~1. A lump sum distribution payable to the~~
8 ~~beneficiaries, or to the deceased participant's estate;~~

9 ~~2. An eligible rollover distribution on behalf of the~~
10 ~~surviving spouse of a deceased participant, whereby all~~
11 ~~accrued benefits, plus interest and investment earnings, are~~
12 ~~paid from the deceased participant's account directly to the~~
13 ~~custodian of an individual retirement account or an individual~~

14 ~~retirement annuity, as described in s. 402(c)(9) of the~~
15 ~~Internal Revenue Code, on behalf of the surviving spouse; or~~

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

26
27 ~~This paragraph does not abrogate other applicable provisions~~
28 ~~of state or federal law providing for payment of death~~
29 ~~benefits.~~

30 ~~(f) The benefits payable to any person under the~~
31 ~~Public Employee Optional Retirement Program, and any~~

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1 ~~contributions accumulated under such program, are not subject~~
2 ~~to assignment, execution, attachment, or any legal process,~~
3 ~~except for qualified domestic relations orders by a court of~~
4 ~~competent jurisdiction, income deduction orders as provided in~~
5 ~~s. 61.1301, and federal income tax levies.~~

6 (16) DISABILITY BENEFITS.--For any participant of the
7 optional retirement program who becomes totally and
8 permanently disabled, benefits shall be paid in accordance
9 with the provisions of s. 121.591 as defined in s.

10 ~~121.091(4)(b), the participant shall be entitled to receive~~
11 ~~those moneys that have accrued in his or her participant~~
12 ~~account. It is the intent of the Legislature to design a~~
13 ~~disability benefit for participants of the optional program~~
14 ~~similar to those disability benefits afforded defined benefit~~
15 ~~program members. The department is directed to study the~~
16 ~~potential options of such coverage, including self-insurance~~
17 ~~and commercial coverage, the alternative methods of~~
18 ~~administering such benefits, and the fiscal impacts on the~~
19 ~~employees and employers, and to make recommendations to the~~
20 ~~Legislature by January 15, 2001.~~

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

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

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

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

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

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

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

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

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

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1 federal requirements.

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

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

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

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

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

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

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

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

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

13 (b) Disability retirement; entitlement.--

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

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

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

29 b. If the participant has elected to retain credit for
30 his or her service under the defined benefit program of the
31 Florida Retirement System as provided under s. 121.4501(3)(b),

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1 all such service will be considered creditable service.

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

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

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

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

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

31 (f) Disability retirement benefit.--Upon the

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

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

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

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

29 (j) Option to cancel.--Any participant whose
30 application for disability benefits is approved may cancel his
31 or her application for disability benefits, provided that the

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1 cancellation request is received by the division before a
2 disability retirement warrant has been deposited, cashed, or
3 received by direct deposit. Upon such cancellation:

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

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

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

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

15 (k) Recovery from disability.--

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

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

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1 earnings, under paragraph (a) and total disability benefits
2 paid to such recipient, if any, shall be determined as
3 provided in sub-subparagraph a.
4 a. An amount equal to the total benefits paid shall be
5 subtracted from that portion of the transferred account
6 balance consisting of vested accumulations as described under
7 s. 121.4501(6), if any, and an amount equal to the remainder
8 of benefit amounts paid, if any, shall then be subtracted from
9 any remaining portion consisting of nonvested accumulations as
10 described under s. 121.4501(6).
11 b. Amounts subtracted under sub-subparagraph a. shall
12 be retained within the disability account of the Florida
13 Retirement System Trust Fund. Any remaining account balance
14 shall be transferred to the third-party administrator for
15 disposition as provided under sub-subparagraph c. or
16 sub-subparagraph d., as appropriate.
17 c. If the recipient returns to covered employment,
18 transferred amounts shall be deposited in individual accounts
19 under the Public Employee Optional Retirement Program, as
20 directed by the participant. Vested and nonvested amounts
21 shall be separately accounted for as provided in s.
22 121.4501(6).
23 d. If the recipient fails to return to covered
24 employment upon recovery from disability:
25 (I) Any remaining vested amount shall be deposited in
26 individual accounts under the Public Employee Optional
27 Retirement Program, as directed by the participant, and shall
28 be payable as provided in subsection (1).
29 (II) Any remaining nonvested amount shall be held in a
30 suspense account and shall be forfeitable after 5 years as
31 provided in s. 121.4501(6).

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

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

14 (m) Disability retirement of justice or judge by order
15 of Supreme Court.--

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

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1 Optional Retirement Program as set forth in subsection (1).

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

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

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

21 (n) Upon the death of a disabled retiree or
22 beneficiary thereof who is receiving monthly benefits under
23 this subsection, the monthly benefits shall be paid through
24 the last day of the month of death and shall terminate, or be
25 adjusted, if applicable, as of that date in accordance with
26 the optional form of benefit selected at the time of
27 retirement. The deceased disabled retiree's beneficiary shall
28 also receive the amount of the participant's remaining account
29 balance, if any, in the Florida Retirement System Trust Fund.
30 The Department of Management Services may adopt rules
31 necessary to administer this paragraph.

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1 (3) DEATH BENEFITS.--Under the Public Employee
2 Optional Retirement Program:

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

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

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

18 3. To receive benefits under this subsection, the
19 participant must be deceased.

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

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

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

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

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

24
25 This paragraph does not abrogate other applicable provisions
26 of state or federal law providing for payment of death
27 benefits.

28 (4) LIMITATION ON LEGAL PROCESS.--The benefits payable
29 to any person under the Public Employee Optional Retirement
30 Program, and any contributions accumulated under such program,
31 are not subject to assignment, execution, attachment, or any

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1 legal process, except for qualified domestic relations orders
2 by a court of competent jurisdiction, income deduction orders
3 as provided in s. 61.1301, and federal income tax levies.

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

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

26 Section 12. It is the intent of the Legislature that
27 the disability retirement program for participants of the
28 Public Employee Optional Retirement Program as created in this
29 act must meet all applicable requirements of federal law for a
30 qualified plan. The Department of Management Services shall
31 seek a private letter ruling from the Internal Revenue Service

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1 on the disability retirement program for participants of the
 2 Public Employee Optional Retirement Program. Consistent with
 3 the private letter ruling, the Department of Management
 4 Services shall adopt any necessary rules required to maintain
 5 the qualified status of the disability retirement program and
 6 the Florida Retirement System defined benefit plan.

7 Section 13. Paragraph (b) of subsection (1) of section
 8 121.053, Florida Statutes, is amended to read:

9 121.053 Participation in the Elected Officers' Class
 10 for retired members.--

11 (1)

12 (b) Any retired member of the Florida Retirement
 13 System, or any existing system as defined in s. 121.021(2),
 14 who, on or after July 1, 1990, is serving in, or is elected or
 15 appointed to, an elective office covered by the Elected
 16 Officers' Class shall be enrolled in the appropriate subclass
 17 of the Elected Officers' Class of the Florida Retirement
 18 System, and applicable contributions shall be paid into the
 19 Florida Retirement System Trust Fund as provided in s.
 20 121.052(7). Pursuant thereto:

21 1. Any such retired member shall be eligible to
 22 continue to receive retirement benefits as well as
 23 compensation for the elected officer service for as long as he
 24 or she remains in an elective office covered by the Elected
 25 Officers' Class.

26 2. If any such member serves in an elective office
 27 covered by the Elected Officers' Class and becomes vested
 28 under that class, he or she shall be entitled to receive an
 29 additional retirement benefit for such elected officer
 30 service.

31 3. Such member shall be entitled to purchase

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1 additional retirement credit in the Elected Officers' Class
2 for any postretirement service performed in an elected
3 position eligible for the Elected Officers' Class prior to
4 July 1, 1990, or in the Regular Class for any postretirement
5 service performed in any other regularly established position
6 prior to July 1, 1991, by paying the applicable Elected
7 Officers' Class or Regular Class employee and employer
8 contributions for the period being claimed, plus 4 percent
9 interest compounded annually from the first year of service
10 claimed until July 1, 1975, and 6.5 percent interest
11 compounded thereafter, until full payment is made to the
12 Florida Retirement System Trust Fund. The contribution for
13 postretirement Regular Class service between July 1, 1985, and
14 July 1, 1991, for which the reemployed retiree contribution
15 was paid, shall be the difference between such contribution
16 and the total applicable contribution for the period being
17 claimed, plus interest. The employer of such member may pay
18 the applicable employer contribution in lieu of the member. If
19 a member does not wish to claim credit for all of the
20 postretirement service for which he or she is eligible, the
21 service the member claims must be the most recent service.

22 4. Creditable service for which credit was received,
23 or which remained unclaimed, at retirement may not be claimed
24 or applied toward service credit earned following renewed
25 membership. However, service earned in accordance with the
26 renewed membership provisions in s. 121.122 may be used in
27 conjunction with creditable service earned under this
28 paragraph, provided applicable vesting requirements and other
29 existing statutory conditions required by this chapter are
30 met.

31 5. An elected officer who is elected or appointed to

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1 an elective office and is participating in the Deferred
2 Retirement Option Program is not subject to termination as
3 provided in s. 121.021(39)(b), or reemployment limitations as
4 provided in s. 121.091(9), until the end of his or her current
5 term of office or, if the officer is consecutively elected or
6 reelected to an elective office eligible for coverage under
7 the Florida Retirement System, until he or she no longer holds
8 such an elective office, as follows:

9 a. At the end of the 60-month DROP period:

10 (I) The officer's DROP account shall accrue no
11 additional monthly benefits, but shall continue to earn
12 interest as provided in s. 121.091(13).

13 (II) No retirement contributions shall be required of
14 the employer of the elected officer and no additional
15 retirement credit shall be earned under the Florida Retirement
16 System.

17 b. Nothing herein shall prevent an elected officer
18 from voluntarily terminating his or her elective office at any
19 time and electing to receive his or her DROP proceeds.
20 However, until termination requirements are fulfilled as
21 provided in s. 121.021(39), any elected officer whose
22 termination limitations are extended by this section shall be
23 ineligible for renewed membership in the system and shall
24 receive no pension payments, DROP lump sum payments, or any
25 other state payment other than the statutorily determined
26 salary, travel, and per diem for the elective office.

27 c. Upon termination, the officer shall receive his or
28 her accumulated DROP account, plus interest, and shall accrue
29 and commence receiving monthly retirement benefits, which
30 shall be paid on a prospective basis only.

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1 However, an officer electing to participate in the Deferred
2 Retirement Option Program on or before June 30, 2002, shall
3 not be required to terminate and shall remain subject to the
4 provisions of this subparagraph as adopted in section 1 of
5 chapter 2001-235, Laws of Florida ~~Any elected officer who is a~~
6 ~~participating member of DROP may terminate participation at~~
7 ~~any time during the 60-month DROP participation period and~~
8 ~~elect to enroll in the appropriate subclass of the Elected~~
9 ~~Officers' Class, including participating in the Senior~~
10 ~~Management Service Class, effective the first day of the~~
11 ~~following month.~~

12 Section 14. Paragraph (b) of subsection (13) of
13 section 121.091, Florida Statutes, is amended to read:

14 121.091 Benefits payable under the system.--Benefits
15 may not be paid under this section unless the member has
16 terminated employment as provided in s. 121.021(39)(a) or
17 begun participation in the Deferred Retirement Option Program
18 as provided in subsection (13), and a proper application has
19 been filed in the manner prescribed by the department. The
20 department may cancel an application for retirement benefits
21 when the member or beneficiary fails to timely provide the
22 information and documents required by this chapter and the
23 department's rules. The department shall adopt rules
24 establishing procedures for application for retirement
25 benefits and for the cancellation of such application when the
26 required information or documents are not received.

27 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
28 and subject to the provisions of this section, the Deferred
29 Retirement Option Program, hereinafter referred to as the
30 DROP, is a program under which an eligible member of the
31 Florida Retirement System may elect to participate, deferring

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1 receipt of retirement benefits while continuing employment
2 with his or her Florida Retirement System employer. The
3 deferred monthly benefits shall accrue in the System Trust
4 Fund on behalf of the participant, plus interest compounded
5 monthly, for the specified period of the DROP participation,
6 as provided in paragraph (c). Upon termination of employment,
7 the participant shall receive the total DROP benefits and
8 begin to receive the previously determined normal retirement
9 benefits. Participation in the DROP does not guarantee
10 employment for the specified period of DROP.

11 (b) Participation in the DROP.--

12 1. An eligible member may elect to participate in the
13 DROP for a period not to exceed a maximum of 60 calendar
14 months immediately following the date on which the member
15 first reaches his or her normal retirement date or the date to
16 which he or she is eligible to defer his or her election to
17 participate as provided in subparagraph (a)2. However, a
18 member who has reached normal retirement date prior to the
19 effective date of the DROP shall be eligible to participate in
20 the DROP for a period of time not to exceed 60 calendar months
21 immediately following the effective date of the DROP, except a
22 member of the Special Risk Class who has reached normal
23 retirement date prior to the effective date of the DROP and
24 whose total accrued value exceeds 75 percent of average final
25 compensation as of his or her effective date of retirement
26 shall be eligible to participate in the DROP for no more than
27 36 calendar months immediately following the effective date of
28 the DROP.

29 2. Upon deciding to participate in the DROP, the
30 member shall submit, on forms required by the division:

31 a. A written election to participate in the DROP;

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1 b. Selection of the DROP participation and termination
2 dates, which satisfy the limitations stated in paragraph (a)
3 and subparagraph 1. Such termination date shall be in a
4 binding letter of resignation with the employer, establishing
5 a deferred termination date. The member may change the
6 termination date within the limitations of subparagraph 1.,
7 but only with the written approval of his or her employer;

8 c. A properly completed DROP application for service
9 retirement as provided in this section; and

10 d. Any other information required by the division.

11 3. The DROP participant shall be a retiree under the
12 Florida Retirement System for all purposes, except for
13 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
14 121.053, and 121.122. However, participation in the DROP does
15 not alter the participant's employment status and such
16 employee shall not be deemed retired from employment until his
17 or her deferred resignation is effective and termination
18 occurs as provided in s. 121.021(39).

19 4. Elected officers shall be eligible to participate
20 in the DROP subject to the following:

21 a. An elected officer who reaches normal retirement
22 date during a term of office may defer the election to
23 participate in the DROP until the next succeeding term in that
24 office. Such elected officer who exercises this option may
25 participate in the DROP for up to 60 calendar months or a
26 period of no longer than such succeeding term of office,
27 whichever is less.

28 b. An elected or a nonelected participant may run for
29 a term of office while participating in DROP and, if elected,
30 extend the DROP termination date accordingly, except, however,
31 if such additional term of office exceeds the 60-month

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1 limitation established in subparagraph 1., and the officer
2 does not resign from office within such 60-month limitation,
3 the retirement and the participant's DROP shall be null and
4 void as provided in sub-subparagraph (c)5.d.

5 c. An elected officer who is dually employed and
6 elects to participate in DROP shall be required to satisfy the
7 definition of termination within the 60-month limitation
8 period as provided in subparagraph 1. for the nonelected
9 position and may continue employment as an elected officer as
10 provided in s. 121.053. The elected officer will be enrolled
11 as a renewed member in the Elected Officers' Class or the
12 Regular Class, as provided in ss. 121.053 and 121.22, on the
13 first day of the month after termination of employment in the
14 nonelected position and termination of DROP. Distribution of
15 the DROP benefits shall be made as provided in paragraph (c).

16 ~~d. An elected officer who is elected or appointed to~~
17 ~~an elective office is not subject to termination limitations~~
18 ~~as provided in chapter 121.~~

19 Section 15. Paragraph (b) of subsection (9) and
20 paragraph (b) of subsection (13) of section 121.091, Florida
21 Statutes, are amended to read:

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

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1 establishing procedures for application for retirement
2 benefits and for the cancellation of such application when the
3 required information or documents are not received.

4 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

5 (b)1. Any person who is retired under this chapter,
6 except under the disability retirement provisions of
7 subsection (4), may be reemployed by any private or public
8 employer after retirement and receive retirement benefits and
9 compensation from his or her employer without any limitations,
10 except that a person may not receive both a salary from
11 reemployment with any agency participating in the Florida
12 Retirement System and retirement benefits under this chapter
13 for a period of 12 months immediately subsequent to the date
14 of retirement. However, a DROP participant shall continue
15 employment and receive a salary during the period of
16 participation in the Deferred Retirement Option Program, as
17 provided in subsection (13).

18 2. Any person to whom the limitation in subparagraph
19 1. applies who violates such reemployment limitation and who
20 is reemployed with any agency participating in the Florida
21 Retirement System before completion of the 12-month limitation
22 period shall give timely notice of this fact in writing to the
23 employer and to the division and shall have his or her
24 retirement benefits suspended for the balance of the 12-month
25 limitation period. Any person employed in violation of this
26 paragraph and any employing agency which knowingly employs or
27 appoints such person without notifying the Division of
28 Retirement to suspend retirement benefits shall be jointly and
29 severally liable for reimbursement to the retirement trust
30 fund of any benefits paid during the reemployment limitation
31 period. To avoid liability, such employing agency shall have

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1 a written statement from the retiree that he or she is not
2 retired from a state-administered retirement system. Any
3 retirement benefits received while reemployed during this
4 reemployment limitation period shall be repaid to the
5 retirement trust fund, and retirement benefits shall remain
6 suspended until such repayment has been made. Benefits
7 suspended beyond the reemployment limitation shall apply
8 toward repayment of benefits received in violation of the
9 reemployment limitation.

10 3. A district school board may reemploy a retired
11 member as a substitute or hourly teacher, education
12 paraprofessional, transportation assistant, bus driver, or
13 food service worker on a noncontractual basis after he or she
14 has been retired for 1 calendar month, in accordance with s.
15 121.021(39). Any retired member who is reemployed within 1
16 calendar month after retirement shall void his or her
17 application for retirement benefits. District school boards
18 reemploying such teachers, education paraprofessionals,
19 transportation assistants, bus drivers, or food service
20 workers are subject to the retirement contribution required by
21 subparagraph 7. Reemployment of a retired member as a
22 substitute or hourly teacher, education paraprofessional,
23 transportation assistant, bus driver, or food service worker
24 is limited to 780 hours during the first 12 months of his or
25 her retirement. Any retired member reemployed for more than
26 780 hours during his or her first 12 months of retirement
27 shall give timely notice in writing to the employer and to the
28 division of the date he or she will exceed the limitation.
29 The division shall suspend his or her retirement benefits for
30 the remainder of the first 12 months of retirement. Any
31 person employed in violation of this subparagraph and any

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1 employing agency which knowingly employs or appoints such
2 person without notifying the Division of Retirement to suspend
3 retirement benefits shall be jointly and severally liable for
4 reimbursement to the retirement trust fund of any benefits
5 paid during the reemployment limitation period. To avoid
6 liability, such employing agency shall have a written
7 statement from the retiree that he or she is not retired from
8 a state-administered retirement system. Any retirement
9 benefits received by a retired member while reemployed in
10 excess of 780 hours during the first 12 months of retirement
11 shall be repaid to the Retirement System Trust Fund, and his
12 or her retirement benefits shall remain suspended until
13 repayment is made. Benefits suspended beyond the end of the
14 retired member's first 12 months of retirement shall apply
15 toward repayment of benefits received in violation of the
16 780-hour reemployment limitation.

17 4. A community college board of trustees may reemploy
18 a retired member as an adjunct instructor, that is, an
19 instructor who is noncontractual and part-time, or as a
20 participant in a phased retirement program within the Florida
21 Community College System, after he or she has been retired for
22 1 calendar month, in accordance with s. 121.021(39). Any
23 retired member who is reemployed within 1 calendar month after
24 retirement shall void his or her application for retirement
25 benefits. Boards of trustees reemploying such instructors are
26 subject to the retirement contribution required in
27 subparagraph 7. A retired member may be reemployed as an
28 adjunct instructor for no more than 780 hours during the first
29 12 months of retirement. Any retired member reemployed for
30 more than 780 hours during the first 12 months of retirement
31 shall give timely notice in writing to the employer and to the

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1 division of the date he or she will exceed the limitation.
2 The division shall suspend his or her retirement benefits for
3 the remainder of the first 12 months of retirement. Any
4 person employed in violation of this subparagraph and any
5 employing agency which knowingly employs or appoints such
6 person without notifying the Division of Retirement to suspend
7 retirement benefits shall be jointly and severally liable for
8 reimbursement to the retirement trust fund of any benefits
9 paid during the reemployment limitation period. To avoid
10 liability, such employing agency shall have a written
11 statement from the retiree that he or she is not retired from
12 a state-administered retirement system. Any retirement
13 benefits received by a retired member while reemployed in
14 excess of 780 hours during the first 12 months of retirement
15 shall be repaid to the Retirement System Trust Fund, and
16 retirement benefits shall remain suspended until repayment is
17 made. Benefits suspended beyond the end of the retired
18 member's first 12 months of retirement shall apply toward
19 repayment of benefits received in violation of the 780-hour
20 reemployment limitation.

21 5. The State University System may reemploy a retired
22 member as an adjunct faculty member or as a participant in a
23 phased retirement program within the State University System
24 after the retired member has been retired for 1 calendar
25 month, in accordance with s. 121.021(39). Any retired member
26 who is reemployed within 1 calendar month after retirement
27 shall void his or her application for retirement benefits.
28 The State University System is subject to the retired
29 contribution required in subparagraph 7., as appropriate. A
30 retired member may be reemployed as an adjunct faculty member
31 or a participant in a phased retirement program for no more

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1 than 780 hours during the first 12 months of his or her
2 retirement. Any retired member reemployed for more than 780
3 hours during the first 12 months of retirement shall give
4 timely notice in writing to the employer and to the division
5 of the date he or she will exceed the limitation. The
6 division shall suspend his or her retirement benefits for the
7 remainder of the first 12 months of retirement. Any person
8 employed in violation of this subparagraph and any employing
9 agency which knowingly employs or appoints such person without
10 notifying the Division of Retirement to suspend retirement
11 benefits shall be jointly and severally liable for
12 reimbursement to the retirement trust fund of any benefits
13 paid during the reemployment limitation period. To avoid
14 liability, such employing agency shall have a written
15 statement from the retiree that he or she is not retired from
16 a state-administered retirement system. Any retirement
17 benefits received by a retired member while reemployed in
18 excess of 780 hours during the first 12 months of retirement
19 shall be repaid to the Retirement System Trust Fund, and
20 retirement benefits shall remain suspended until repayment is
21 made. Benefits suspended beyond the end of the retired
22 member's first 12 months of retirement shall apply toward
23 repayment of benefits received in violation of the 780-hour
24 reemployment limitation.

25 6. The Board of Trustees of the Florida School for the
26 Deaf and the Blind may reemploy a retired member as a
27 substitute teacher, substitute residential instructor, or
28 substitute nurse on a noncontractual basis after he or she has
29 been retired for 1 calendar month, in accordance with s.
30 121.021(39). Any retired member who is reemployed within 1
31 calendar month after retirement shall void his or her

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1 application for retirement benefits. The Board of Trustees of
2 the Florida School for the Deaf and the Blind reemploying such
3 teachers, residential instructors, or nurses is subject to the
4 retirement contribution required by subparagraph 7.
5 Reemployment of a retired member as a substitute teacher,
6 substitute residential instructor, or substitute nurse is
7 limited to 780 hours during the first 12 months of his or her
8 retirement. Any retired member reemployed for more than 780
9 hours during the first 12 months of retirement shall give
10 timely notice in writing to the employer and to the division
11 of the date he or she will exceed the limitation. The division
12 shall suspend his or her retirement benefits for the remainder
13 of the first 12 months of retirement. Any person employed in
14 violation of this subparagraph and any employing agency which
15 knowingly employs or appoints such person without notifying
16 the Division of Retirement to suspend retirement benefits
17 shall be jointly and severally liable for reimbursement to the
18 retirement trust fund of any benefits paid during the
19 reemployment limitation period. To avoid liability, such
20 employing agency shall have a written statement from the
21 retiree that he or she is not retired from a
22 state-administered retirement system. Any retirement benefits
23 received by a retired member while reemployed in excess of 780
24 hours during the first 12 months of retirement shall be repaid
25 to the Retirement System Trust Fund, and his or her retirement
26 benefits shall remain suspended until payment is made.
27 Benefits suspended beyond the end of the retired member's
28 first 12 months of retirement shall apply toward repayment of
29 benefits received in violation of the 780-hour reemployment
30 limitation.

31 7. The employment by an employer of any retiree or

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1 DROP participant of any state-administered retirement system
2 shall have no effect on the average final compensation or
3 years of creditable service of the retiree or DROP
4 participant. Prior to July 1, 1991, upon employment of any
5 person, other than an elected officer as provided in s.
6 121.053, who has been retired under any state-administered
7 retirement program, the employer shall pay retirement
8 contributions in an amount equal to the unfunded actuarial
9 liability portion of the employer contribution which would be
10 required for regular members of the Florida Retirement System.
11 Effective July 1, 1991, contributions shall be made as
12 provided in s. 121.122 for retirees with renewed membership or
13 subsection (13) with respect to DROP participants.

14 8. Any person who has previously retired and who is
15 holding an elective public office or an appointment to an
16 elective public office eligible for the Elected Officers'
17 Class on or after July 1, 1990, shall be enrolled in the
18 Florida Retirement System as provided in s. 121.053(1)(b) or,
19 if holding an elective public office that does not qualify for
20 the Elected Officers' Class on or after July 1, 1991, shall be
21 enrolled in the Florida Retirement System as provided in s.
22 121.122, and shall continue to receive retirement benefits as
23 well as compensation for the elected officer's service for as
24 long as he or she remains in elective office. However, any
25 retired member who served in an elective office prior to July
26 1, 1990, suspended his or her retirement benefit, and had his
27 or her Florida Retirement System membership reinstated shall,
28 upon retirement from such office, have his or her retirement
29 benefit recalculated to include the additional service and
30 compensation earned.

31 9. Any person who is holding an elective public office

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1 which is covered by the Florida Retirement System and who is
2 concurrently employed in nonelected covered employment may
3 elect to retire while continuing employment in the elective
4 public office, provided that he or she shall be required to
5 terminate his or her nonelected covered employment. Any
6 person who exercises this election shall receive his or her
7 retirement benefits in addition to the compensation of the
8 elective office without regard to the time limitations
9 otherwise provided in this subsection. No person who seeks to
10 exercise the provisions of this subparagraph, as the same
11 existed prior to May 3, 1984, shall be deemed to be retired
12 under those provisions, unless such person is eligible to
13 retire under the provisions of this subparagraph, as amended
14 by chapter 84-11, Laws of Florida.

15 10. The limitations of this paragraph apply to
16 reemployment in any capacity with an "employer" as defined in
17 s. 121.021(10), irrespective of the category of funds from
18 which the person is compensated.

19 11. An employing agency may reemploy a retired member
20 as a firefighter or paramedic after the retired member has
21 been retired for 1 calendar month, in accordance with s.
22 121.021(39). Any retired member who is reemployed within 1
23 calendar month after retirement shall void his or her
24 application for retirement benefits. The employing agency
25 reemploying such firefighter or paramedic is subject to the
26 retired contribution required in subparagraph 8. Reemployment
27 of a retired firefighter or paramedic is limited to no more
28 than 780 hours during the first 12 months of his or her
29 retirement. Any retired member reemployed for more than 780
30 hours during the first 12 months of retirement shall give
31 timely notice in writing to the employer and to the division

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1 of the date he or she will exceed the limitation. The division
2 shall suspend his or her retirement benefits for the remainder
3 of the first 12 months of retirement. Any person employed in
4 violation of this subparagraph and any employing agency which
5 knowingly employs or appoints such person without notifying
6 the Division of Retirement to suspend retirement benefits
7 shall be jointly and severally liable for reimbursement to the
8 Retirement System Trust Fund of any benefits paid during the
9 reemployment limitation period. To avoid liability, such
10 employing agency shall have a written statement from the
11 retiree that he or she is not retired from a
12 state-administered retirement system. Any retirement benefits
13 received by a retired member while reemployed in excess of 780
14 hours during the first 12 months of retirement shall be repaid
15 to the Retirement System Trust Fund, and retirement benefits
16 shall remain suspended until repayment is made. Benefits
17 suspended beyond the end of the retired member's first 12
18 months of retirement shall apply toward repayment of benefits
19 received in violation of the 780-hour reemployment limitation.

20 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
21 and subject to the provisions of this section, the Deferred
22 Retirement Option Program, hereinafter referred to as the
23 DROP, is a program under which an eligible member of the
24 Florida Retirement System may elect to participate, deferring
25 receipt of retirement benefits while continuing employment
26 with his or her Florida Retirement System employer. The
27 deferred monthly benefits shall accrue in the System Trust
28 Fund on behalf of the participant, plus interest compounded
29 monthly, for the specified period of the DROP participation,
30 as provided in paragraph (c). Upon termination of employment,
31 the participant shall receive the total DROP benefits and

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1 begin to receive the previously determined normal retirement
2 benefits. Participation in the DROP does not guarantee
3 employment for the specified period of DROP.

4 (b) Participation in the DROP.--

5 1. An eligible member may elect to participate in the
6 DROP for a period not to exceed a maximum of 60 calendar
7 months immediately following the date on which the member
8 first reaches his or her normal retirement date or the date to
9 which he or she is eligible to defer his or her election to
10 participate as provided in subparagraph (a)2. However, a
11 member who has reached normal retirement date prior to the
12 effective date of the DROP shall be eligible to participate in
13 the DROP for a period of time not to exceed 60 calendar months
14 immediately following the effective date of the DROP, except a
15 member of the Special Risk Class who has reached normal
16 retirement date prior to the effective date of the DROP and
17 whose total accrued value exceeds 75 percent of average final
18 compensation as of his or her effective date of retirement
19 shall be eligible to participate in the DROP for no more than
20 36 calendar months immediately following the effective date of
21 the DROP.

22 2. Upon deciding to participate in the DROP, the
23 member shall submit, on forms required by the division:

24 a. A written election to participate in the DROP;

25 b. Selection of the DROP participation and termination
26 dates, which satisfy the limitations stated in paragraph (a)
27 and subparagraph 1. Such termination date shall be in a
28 binding letter of resignation with the employer, establishing
29 a deferred termination date. The member may change the
30 termination date within the limitations of subparagraph 1.,
31 but only with the written approval of his or her employer;

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1 c. A properly completed DROP application for service
2 retirement as provided in this section; and

3 d. Any other information required by the division.

4 3. The DROP participant shall be a retiree under the
5 Florida Retirement System for all purposes, except for
6 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
7 121.053, and 121.122. However, participation in the DROP does
8 not alter the participant's employment status and such
9 employee shall not be deemed retired from employment until his
10 or her deferred resignation is effective and termination
11 occurs as provided in s. 121.021(39).

12 4. Elected officers shall be eligible to participate
13 in the DROP subject to the following:

14 a. An elected officer who reaches normal retirement
15 date during a term of office may defer the election to
16 participate in the DROP until the next succeeding term in that
17 office. Such elected officer who exercises this option may
18 participate in the DROP for up to 60 calendar months or a
19 period of no longer than such succeeding term of office,
20 whichever is less.

21 b. An elected or a nonelected participant may run for
22 a term of office while participating in DROP and, if elected,
23 extend the DROP termination date accordingly, except, however,
24 if such additional term of office exceeds the 60-month
25 limitation established in subparagraph 1., and the officer
26 does not resign from office within such 60-month limitation,
27 the retirement and the participant's DROP shall be null and
28 void as provided in sub-subparagraph (c)5.d.

29 c. An elected officer who is dually employed and
30 elects to participate in DROP shall be required to satisfy the
31 definition of termination within the 60-month limitation

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1 period as provided in subparagraph 1. for the nonelected
2 position and may continue employment as an elected officer as
3 provided in s. 121.053. The elected officer will be enrolled
4 as a renewed member in the Elected Officers' Class or the
5 Regular Class, as provided in ss. 121.053 and 121.22, on the
6 first day of the month after termination of employment in the
7 nonelected position and termination of DROP. Distribution of
8 the DROP benefits shall be made as provided in paragraph (c).

9 ~~d. An elected officer who is elected or appointed to~~
10 ~~an elective office is not subject to termination limitations~~
11 ~~as provided in chapter 121.~~

12 Section 16. Subsections (2) and (9) of section
13 121.0515, Florida Statutes, are amended to read:

14 121.0515 Special risk membership.--

15 (2) CRITERIA.--A member, to be designated as a special
16 risk member, must meet the following criteria:

17 (a) The member must be employed as a law enforcement
18 officer and be certified, or required to be certified, in
19 compliance with s. 943.1395; however, sheriffs and elected
20 police chiefs shall be excluded from meeting the certification
21 requirements of this paragraph. In addition, the member's
22 duties and responsibilities must include the pursuit,
23 apprehension, and arrest of law violators or suspected law
24 violators; or the member must be an active member of a bomb
25 disposal unit whose primary responsibility is the location,
26 handling, and disposal of explosive devices; or the member
27 must be the supervisor or command officer of a member or
28 members who have such responsibilities; provided, however,
29 administrative support personnel, including, but not limited
30 to, those whose primary duties and responsibilities are in
31 accounting, purchasing, legal, and personnel, shall not be

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1 included;

2 (b) The member must be employed as a firefighter and
3 be certified, or required to be certified, in compliance with
4 s. 633.35 and be employed solely within the fire department of
5 a local government employer or an agency of state government
6 with firefighting responsibilities. In addition, the member's
7 duties and responsibilities must include on-the-scene fighting
8 of fires, fire prevention, or firefighter training; direct
9 supervision of firefighting units, fire prevention, or
10 firefighter training; or aerial firefighting surveillance
11 performed by fixed-wing aircraft pilots employed by the
12 Division of Forestry of the Department of Agriculture and
13 Consumer Services; or the member must be the supervisor or
14 command officer of a member or members who have such
15 responsibilities; provided, however, administrative support
16 personnel, including, but not limited to, those whose primary
17 duties and responsibilities are in accounting, purchasing,
18 legal, and personnel, shall not be included and further
19 provided that all periods of creditable service in fire
20 prevention or firefighter training, or as the supervisor or
21 command officer of a member or members who have such
22 responsibilities, and for which the employer paid the special
23 risk contribution rate, shall be included;

24 (c) The member must be employed as a correctional
25 officer and be certified, or required to be certified, in
26 compliance with s. 943.1395. In addition, the member's
27 primary duties and responsibilities must be the custody, and
28 physical restraint when necessary, of prisoners or inmates
29 within a prison, jail, or other criminal detention facility,
30 or while on work detail outside the facility, or while being
31 transported; or the member must be the supervisor or command

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1 officer of a member or members who have such responsibilities;
2 provided, however, administrative support personnel,
3 including, but not limited to, those whose primary duties and
4 responsibilities are in accounting, purchasing, legal, and
5 personnel, shall not be included; however, wardens and
6 assistant wardens, as defined by rule, shall participate in
7 the Special Risk Class;

8 (d) The member must be employed by a licensed Advance
9 Life Support (ALS) or Basic Life Support (BLS) employer as an
10 emergency medical technician or a paramedic and be certified
11 in compliance with s. 401.27. In addition, the member's
12 primary duties and responsibilities must include on-the-scene
13 emergency medical care or direct supervision of emergency
14 medical technicians or paramedics, or the member must be the
15 supervisor or command officer of one or more members who have
16 such responsibility. However, administrative support
17 personnel, including, but not limited to, those whose primary
18 responsibilities are in accounting, purchasing, legal, and
19 personnel, shall not be included;

20 (e) The member must be employed as a community-based
21 correctional probation officer and be certified, or required
22 to be certified, in compliance with s. 943.1395. In addition,
23 the member's primary duties and responsibilities must be the
24 supervised custody, surveillance, control, investigation, and
25 counseling of assigned inmates, probationers, parolees, or
26 community controllees within the community; or the member must
27 be the supervisor of a member or members who have such
28 responsibilities. Administrative support personnel, including,
29 but not limited to, those whose primary duties and
30 responsibilities are in accounting, purchasing, legal
31 services, and personnel management, shall not be included;

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1 however, probation and parole circuit and deputy circuit
2 administrators shall participate in the Special Risk Class; or
3 (f) The member must be employed in one of the
4 following classes and must spend at least 75 percent of his or
5 her time performing duties which involve contact with patients
6 or inmates in a correctional or forensic facility or
7 institution:

- 8 1. Dietitian (class codes 5203 and 5204).
- 9 2. Public health nutrition consultant (class code
10 5224).
- 11 3. Psychological specialist (class codes 5230 and
12 5231).
- 13 4. Psychologist (class code 5234).
- 14 5. Senior psychologist (class codes 5237 and 5238).
- 15 6. Regional mental health consultant (class code
16 5240).
- 17 7. Psychological Services Director--DCF (class code
18 5242).
- 19 8. Pharmacist (class codes 5245 and 5246).
- 20 9. Senior pharmacist (class codes 5248 and 5249).
- 21 10. Dentist (class code 5266).
- 22 11. Senior dentist (class code 5269).
- 23 12. Registered nurse (class codes 5290 and 5291).
- 24 13. Senior registered nurse (class codes 5292 and
25 5293).
- 26 14. Registered nurse specialist (class codes 5294 and
27 5295).
- 28 15. Clinical associate (class codes 5298 and 5299).
- 29 16. Advanced registered nurse practitioner (class
30 codes 5297 and 5300).
- 31 17. Advanced registered nurse practitioner specialist

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1 (class codes 5304 and 5305).

2 18. Registered nurse supervisor (class codes 5306 and
3 5307).

4 19. Senior registered nurse supervisor (class codes
5 5308 and 5309).

6 20. Registered nursing consultant (class codes 5312
7 and 5313).

8 21. Quality management program supervisor (class code
9 5314).

10 22. Executive nursing director (class codes 5320 and
11 5321).

12 23. Speech and hearing therapist (class code 5406); or

13 24. Pharmacy manager (class code 5251).

14 (g) The member must be employed as a youth custody
15 officer and be certified, or required to be certified, in
16 compliance with s. 943.1395. In addition, the member's primary
17 duties and responsibilities must be the supervised custody,
18 surveillance, control, investigation, apprehension, arrest,
19 and counseling of assigned juveniles within the community.

20 (9) CREDIT FOR UPGRADED SERVICE.--

21 (a) Any member of the Special Risk Class who has
22 earned creditable service in another membership class of the
23 Florida Retirement System as an emergency medical technician
24 or paramedic, which service is within the purview of the
25 Special Risk Class, may purchase additional retirement credit
26 to upgrade such service to Special Risk Class service, to the
27 extent of the percentages of the member's average final
28 compensation provided in s. 121.091(1)(a)2. Contributions for
29 upgrading such service to Special Risk Class credit under this
30 subsection shall be equal to the difference in the
31 contributions paid and the Special Risk Class contribution

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1 rate as a percentage of gross salary in effect for the period
2 being claimed, plus interest thereon at the rate of 6.5
3 percent a year, compounded annually until the date of payment.
4 This service credit may be purchased by the employer on behalf
5 of the member.

6 (b) Any member of the Special Risk Class who has
7 earned creditable service in another membership class of the
8 Florida Retirement System whose responsibilities included fire
9 prevention or firefighter training, which service is within
10 the purview of the Special Risk Class, may purchase additional
11 retirement credit to upgrade such service to Special Risk
12 Class service, to the extent of the percentages of the
13 member's average final compensation provided in s.
14 121.091(1)(a)2. Contributions for upgrading such service to
15 Special Risk Class credit under this subsection shall be equal
16 to the difference in the contributions paid and the Special
17 Risk Class contribution rate as a percentage of gross salary
18 in effect for the period being claimed, plus interest thereon
19 at the rate of 6.5 percent a year, compounded annually until
20 the date of payment. This service credit may be purchased by
21 the employer on behalf of the member.

22 Section 17. It is the intent of the Legislature that
23 any additional cost attributable to the upgrade in the
24 retirement benefits for special risk members who have provided
25 fire prevention or firefighter training above the
26 contributions paid at the time of service shall be funded by
27 recognition of the necessary amount from the excess actuarial
28 assets of the Florida Retirement System Trust Fund.

29 Section 18. Paragraph (a) of subsection (22) and
30 paragraph (b) of subsection (47) of section 121.021, Florida
31 Statutes, are amended to read:

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1 121.021 Definitions.--The following words and phrases
2 as used in this chapter have the respective meanings set forth
3 unless a different meaning is plainly required by the context:

4 (22) "Compensation" means the monthly salary paid a
5 member by his or her employer for work performed arising from
6 that employment.

7 (a) Compensation shall include:

8 1. Overtime payments paid from a salary fund.

9 2. Accumulated annual leave payments.

10 3. Payments in addition to the employee's base rate of
11 pay if all the following apply:

12 a. The payments are paid according to a formal written
13 policy that applies to all eligible employees equally;

14 b. The policy provides that payments shall commence no
15 later than the 11th year of employment;

16 c. The payments are paid for as long as the employee
17 continues his or her employment; and

18 d. The payments are paid at least annually.

19 4. Amounts withheld for tax sheltered annuities or
20 deferred compensation programs, or any other type of salary
21 reduction plan authorized under the Internal Revenue Code.

22 5. Payments made in lieu of a permanent increase in
23 the base rate of pay, whether made annually or in 12 or 26
24 equal payments within a 12-month period, when the member's
25 base pay is at the maximum of his or her pay range. When a
26 portion of a member's annual increase raises his or her pay
27 range and the excess is paid as a lump sum payment, such lump
28 sum payment shall be compensation for retirement purposes.

29 6. Effective July 1, 2002, salary supplements made
30 pursuant to ss. 231.700 and 236.08106 requiring a valid
31 National Board for Professional Standards certificate or

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1 equivalent status as provided in s. 231.700(3)(e)5.,
2 notwithstanding the provisions of subparagraph 3.

3 (47) "Bonus" means a payment made in addition to an
4 employee's regular or overtime salary. A bonus is usually
5 nonrecurring, does not increase the employee's base rate of
6 pay, and includes no commitment for payment in a subsequent
7 year. Such payments are not considered compensation. Effective
8 July 1, 1989, employers may not report such payments to the
9 division as salary, and may not make retirement contributions
10 on such payments.

11 (b) Bonuses shall include, but not be limited to, the
12 following:

13 1. Exit bonus or severance pay.

14 2. Longevity payments in conformance with the
15 provisions of paragraph (a).

16 3. Salary increases granted pursuant to an employee's
17 agreement to retire, including increases paid over several
18 months or years prior to retirement.

19 4. Payments for accumulated overtime or compensatory
20 time, reserve time, or holiday time worked, if not made within
21 11 months of the month in which the work was performed.

22 ~~5. Quality Instruction Incentives Program (QUIIP)~~
23 ~~Payments.~~

24 ~~5.6. Lump sum payments in recognition of employees'~~
25 ~~accomplishments.~~

26 Section 19. This act shall take effect June 1, 2002.

27
28

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

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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1 and insert:

2 An act relating to the Florida Retirement
3 System; amending s. 121.4501, F.S., relating to
4 the Public Employee Optional Retirement
5 Program; amending the definition of "eligible
6 employee"; providing for an extension of time
7 to transfer assets from the defined benefit
8 plan in the event of market disruption;
9 providing for acceptance of rollovers;
10 requiring that the election be filed with the
11 third-party administrator; amending the
12 earnings rate for funds in the suspense account
13 to be invested by the board; providing for
14 spousal notification of designation of
15 beneficiary; providing for spousal rollovers to
16 an eligible retirement plan; providing
17 authorization for statements under oath;
18 amending s. 110.123, F.S.; redefining the term
19 "retired state officer or employee" or
20 "retiree" to include an officer or employee who
21 retires under the Public Employee Optional
22 Retirement Program under certain circumstances;
23 amending s. 110.205, F.S.; granting senior
24 management service benefits to county health
25 department directors and administrators;
26 amending ss. 121.052, 121.055, and 121.071,
27 F.S.; amending s. 121.052, F.S.; revising the
28 membership requirements of the Elected
29 Officers' Class of the system to include
30 certain sheriffs and clerks of the circuit
31 court; making the date for payment of

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1 retirement contributions consistent under the
2 Florida Retirement System defined benefit and
3 defined contribution programs; providing
4 eligibility of certain officials for membership
5 in the Senior Management Service Class of the
6 Florida Retirement System; revising provisions
7 governing contributions to the Senior
8 Management Service Optional Annuity Program;
9 amending s. 121.35, F.S.; authorizing
10 contributions to the optional retirement
11 program in the form of rollovers or direct
12 trustee-to-trustee transfers; expanding the
13 methods for disbursing benefits; amending s.
14 121.4501, F.S., relating to the Public Employee
15 Optional Retirement Program; updating
16 definitions; establishing dates on which
17 present value calculations are based;
18 conforming election provisions for local
19 government employees to provisions applicable
20 to other employees; providing for the effective
21 date of enrollment for certain employers;
22 providing for the transfer of contributions
23 under certain circumstances; transferring
24 certain provisions relating to payment of
25 benefits to s. 121.591, F.S., as created in the
26 act; amending s. 121.571, F.S., relating to
27 employer contributions to the Public Employee
28 Optional Retirement Program; adjusting rates;
29 making the date for payment of retirement
30 contributions consistent under the Florida
31 Retirement System defined benefit and defined

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1 contribution programs; creating s. 121.591,
2 F.S., relating to benefits payable under the
3 Public Employee Optional Retirement Program;
4 providing for payment of the normal benefit
5 upon termination; providing for disability
6 retirement benefits; providing for transfer of
7 certain funds; specifying eligibility
8 requirements; providing procedure and required
9 documentation; providing for computation of the
10 disability benefit; providing for
11 reapplication; providing for membership;
12 providing an option to cancel; providing for
13 reexamination and other matters relating to
14 recovery from disability; providing
15 nonadmissible causes of disability; providing
16 for disability retirement of justices or
17 judges; providing for payment of death
18 benefits; providing for spousal notification in
19 certain cases; updating death benefit
20 distribution provisions to conform to recent
21 changes in federal law; providing protection of
22 benefits from assignment, execution, etc.;
23 providing a declaration of important state
24 interest; authorizing the Department of
25 Management Services to contract with a private
26 company to administer the disability benefit
27 program; authorizing the department to provide
28 for an alternative method to administer and
29 fund disability benefits; requiring the
30 department to seek a private letter ruling from
31 the Internal Revenue Service with respect to

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1 the disability retirement program; providing
2 rulemaking authority; amending s. 121.053,
3 F.S., relating to termination requirements and
4 benefits of elected officers participating in
5 the Deferred Retirement Option Program
6 termination requirements for elected officers;
7 amending s. 121.091, F.S.; authorizing an
8 employing agency to reemploy a retired member
9 as a firefighter or paramedic after a specified
10 period; eliminating an exemption from
11 termination limitations provided for elected
12 officers; amending s. 121.0515, F.S.; providing
13 for including service in fire prevention or
14 firefighter training as creditable service;
15 authorizing certain employees to purchase
16 additional retirement credit; providing
17 legislative intent with respect to funding
18 retirement benefits; amending s. 121.021, F.S.;
19 redefining the terms "compensation" and "bonus"
20 for purposes of the system; providing an
21 effective date.

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