

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

Amendment No. Barcode 622674

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Sanderson moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

121.4501 Public Employee Optional Retirement Program.--

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

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

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

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%

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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 to
5 read:

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

11 (1)

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

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

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1 published in the county or counties affected, as provided in
2 chapter 50.

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

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

15 (I) Heads an organizational unit; or

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

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

30 3. In lieu of participation in the Senior Management
31 Service Class, such members, excluding assistant state

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

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

15
 16 Dates of Contribution

17 Rate Changes	Members	Employers
18 Effective July 1, 2001	0%	11.73%

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

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

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

14
15 Such contributions and accompanying payroll data are due and
16 payable no later than the 5th working day of the month
17 immediately following the month during which the payroll
18 period ended and shall be deposited by the administrator in
19 the Retiree Health Insurance Subsidy Trust Fund.

20 (6)

21 (c) Participation.--

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

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1 Class.

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

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

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

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1 5. Effective from July 1, 2002, through September 30,
2 2002, any active employee in a regularly established position
3 who has elected to participate in the Senior Management
4 Service Optional Annuity Program has one opportunity to choose
5 to move from the Senior Management Service Optional Annuity
6 Program to the Florida Retirement System defined benefit
7 program.

8 a. The election must be made in writing and must be
9 filed with the department and the personnel officer of the
10 employer before October 1, 2002, or, in the case of an active
11 employee who is on a leave of absence on July 1, 2002, within
12 90 days after the conclusion of the leave of absence. This
13 election is irrevocable.

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

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

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

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1 121.071 Contributions.--Contributions to the system
2 shall be made as follows:

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

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

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

30 (b) Contributions received in the offices of the
31 department after the prescribed date shall be considered

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

20 Section 7. Section 121.35, Florida Statutes, is
21 amended to read:

22 121.35 Optional retirement program for the State
23 University System.--

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

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

10 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
11 PROGRAM.--

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

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

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

24 3. The Chancellor and the university presidents.

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

31 (c) For purposes of this section, the Department of

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1 Management Services is referred to as the "department."

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

6 (3) ELECTION OF OPTIONAL PROGRAM.--

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

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

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

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

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

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

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

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

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

3 3. Notwithstanding the provisions of this paragraph,
4 effective July 1, 1997, any employee who is eligible to
5 participate in the Optional Retirement Program and who fails
6 to execute a a ~~an annuity~~ contract with one of the approved
7 companies and to notify the department in writing as provided
8 in subsection (4) within 90 days after ~~of~~ the date of
9 eligibility shall be deemed to have elected membership in the
10 Florida Retirement System, except as provided in s.

11 121.051(1)(a). This provision shall also apply to any employee
12 who terminates employment in an eligible position before
13 executing the required annuity contract and notifying the
14 department. Such membership shall be retroactive to the date
15 of eligibility, and all appropriate contributions shall be
16 transferred to the Florida Retirement System Trust Fund and
17 the Health Insurance Subsidy Trust Fund.

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

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

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

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

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

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

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

17 (4) CONTRIBUTIONS.--

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

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

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

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

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

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

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

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1 (5) BENEFITS.--

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

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

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

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

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

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

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

14 3. Periodic distributions;

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

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

22 (c) Survivor benefits shall be payable as:

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

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

31 3. Such other distribution options as are provided for

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

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

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

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

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

30 ~~(e)(e)~~ A participant who chooses to receive his or her
31 benefits upon termination of employment shall have

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1 responsibility to notify the provider company of the date on
2 which he or she wishes benefits ~~the annuity~~ funded by employer
3 contributions to begin. Benefits may be deferred until such
4 time as the participant chooses to make such application.

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

12 (6) ADMINISTRATION OF PROGRAM.--

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

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

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

29 (b) After receiving and considering the
30 recommendations of the State Board of Education ~~Regents~~, the
31 department shall designate no more than four companies from

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1 which ~~annuity~~ contracts may be purchased under the program and
2 shall approve the form and content of the optional retirement
3 program contracts. Upon application by a qualified Florida
4 domestic company, the department shall give reasonable notice
5 to all other such companies that it intends to designate one
6 of such companies as a fifth company from which ~~annuity~~
7 contracts may be purchased pursuant to this section and that
8 they may apply for such designation prior to the deadline
9 established by said notice. At least 60 days after giving such
10 notice and upon receipt of the recommendation of the State
11 Board of Education ~~Regents~~, the department shall so designate
12 one of such companies as the fifth company from which such
13 contracts may be purchased.

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

24 (d) The provisions of each contract applicable to a
25 participant in the optional retirement program shall be
26 contained in a written program description which shall include
27 a report of pertinent financial and actuarial information on
28 the solvency and actuarial soundness of the program and the
29 benefits applicable to the participant. Such description
30 shall be furnished by the companies to each participant in the
31 program and to the department upon commencement of

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1 participation in the program and annually thereafter.

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

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

11 121.4501 Public Employee Optional Retirement
12 Program.--

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

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

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

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

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

16 (d)~~(b)~~ "Department" means the Department of Management
17 Services.

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

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

- 22 1. Is a member of, or is eligible for membership in,
23 the Florida Retirement System;
- 24 2. Participates in, or is eligible to participate in,
25 the Senior Management Service Optional Annuity Program as
26 established under s. 121.055(6); or
- 27 3. Is eligible to participate in, but does not
28 participate in, the State University System Optional
29 Retirement Program established under s. 121.35 or the State
30 Community College System Optional Retirement Program
31 established under s. 121.051(2)(c).

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

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

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

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

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

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

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

(3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.--

(c)1. Notwithstanding paragraph (b), each eligible employee who elects to participate in the Public Employee Optional Retirement Program and establishes one or more individual participant accounts under the optional program may elect to transfer to the optional program a sum representing the present value of the employee's accumulated benefit

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1 obligation under the defined benefit retirement program of the
2 Florida Retirement System. Upon such transfer, all service
3 credit previously earned under the defined benefit program of
4 the Florida Retirement System shall be nullified for purposes
5 of entitlement to a future benefit under the defined benefit
6 program of the Florida Retirement System. A participant is
7 precluded from transferring the accumulated benefit obligation
8 balance from the defined benefit program upon the expiration
9 of the period afforded to enroll in the optional program.

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

30 a. The discount rate and other relevant actuarial
31 assumptions used to value the Florida Retirement System Trust

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1 Fund at the time the amount to be transferred is determined,
2 consistent with the factors provided in sub-subparagraphs b.
3 and c.

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

9 (I) Age 62; or

10 (II) The age the member would attain if the member
11 completed 30 years of service with an employer, assuming the
12 member worked continuously from the estimate date ~~May 31,~~
13 ~~2002~~, and disregarding any vesting requirement that would
14 otherwise apply under the defined benefit program of the
15 Florida Retirement System.

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

22 (I) Age 55; or

23 (II) The age the member would attain if the member
24 completed 25 years of service with an employer, assuming the
25 member worked continuously from the estimate date ~~May 31,~~
26 ~~2002~~, and disregarding any vesting requirement that would
27 otherwise apply under the defined benefit program of the
28 Florida Retirement System.

29 d. The calculation shall disregard vesting
30 requirements and early retirement reduction factors that would
31 otherwise apply under the defined benefit retirement program.

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

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

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

26 4. As directed by the participant, the board shall
27 transfer or cause to be transferred the appropriate amounts to
28 the designated accounts. The board shall establish transfer
29 procedures by rule, but the actual transfer shall not be later
30 than 30 days after the effective date of the member's
31 participation in the optional program. Transfers are not

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1 commissionable or subject to other fees and may be in the form
2 of securities or cash as determined by the state board. Such
3 securities shall be valued as of the date of receipt in the
4 participant's account.

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

13 (4) PARTICIPATION; ENROLLMENT.--

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

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

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

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

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

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

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

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

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

18 3. For purposes of this paragraph, "state employer"
19 means any agency, board, branch, commission, community
20 college, department, institution, institution of higher
21 education, or water management district of the state, which
22 participates in the Florida Retirement System for the benefit
23 of certain employees.

24 (b)1. With respect to an eligible employee who is
25 employed in a regularly established position on September 1,
26 2002, by a district school board employer:

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

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

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

23 2. With respect to employees who become eligible to
24 participate in the Public Employee Optional Retirement Program
25 by reason of employment in a regularly established position
26 with a district school board employer commencing after July
27 ~~September~~ 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 5th month following the employee's month of

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1 ~~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 ~~b.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 employment ~~the month for which a full month's~~
17 ~~employer contribution is made to the optional program. The~~
18 employer retirement contributions paid through the month of
19 the employee plan change shall be transferred to the optional
20 program, and, effective the first day of the next month, the
21 employer shall pay the applicable contributions based on the
22 employee membership class in the optional program.

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

29 3. For purposes of this paragraph, "district school
30 board employer" means any district school board that
31 participates in the Florida Retirement System for the benefit

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

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

7 a. Any such employee may elect to participate in the
8 Public Employee Optional Retirement Program in lieu of
9 retaining his or her membership in the defined benefit program
10 of the Florida Retirement System. The election must be made in
11 writing or by electronic means and must be filed with the
12 third-party administrator by February 28, 2003, department and
13 the personnel officer of the employer within 90 days after
14 December 1, 2002 or, in the case of an active employee who is
15 on a leave of absence on October December 1, 2002, by February
16 28, 2003, or within 90 days after the conclusion of the leave
17 of absence, whichever is later. This election is irrevocable,
18 except as provided in paragraph (e). Upon making such
19 election, the employee shall be enrolled as a participant of
20 the Public Employee Optional Retirement Program, the
21 employee's membership in the Florida Retirement System shall
22 be governed by the provisions of this part, and the employee's
23 membership in the defined benefit program of the Florida
24 Retirement System shall terminate. The employee's enrollment
25 in the Public Employee Optional Retirement Program shall be
26 effective the first day of the month for which a full month's
27 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 5th month following the employee's month of
12 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 b.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 employment ~~the month for which a full month's~~
28 ~~employer contribution is made to the optional program. The~~
29 employer retirement contributions paid through the month of
30 the employee plan change shall be transferred to the optional
31 program, and, effective the first day of the next month, the

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1 employer shall pay the applicable contributions based on the
2 employee membership class in the optional program.

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

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

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

14 (a) Benefits shall be provided in accordance with s.
15 401(a) of the Internal Revenue Code.

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

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

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

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

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

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

29 ~~3. Periodic distributions, as authorized by the state~~
30 ~~board.~~

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

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

3 ~~2. An eligible rollover distribution on behalf of the~~
4 ~~surviving spouse of a deceased participant, whereby all~~
5 ~~accrued benefits, plus interest and investment earnings, are~~
6 ~~paid from the deceased participant's account directly to the~~
7 ~~custodian of an individual retirement account or an individual~~
8 ~~retirement annuity, as described in s. 402(c)(9) of the~~
9 ~~Internal Revenue Code, on behalf of the surviving spouse; or~~

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

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

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

31 (16) DISABILITY BENEFITS.--For any participant of the

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

15 Section 9. Section 121.591, Florida Statutes, is
16 created to read:

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

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1 application when the required information or documents are not
2 received.

3 (1) NORMAL BENEFITS.--Under the Public Employee
4 Optional Retirement Program:

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

9 1. To the extent vested, benefits shall be payable
10 only to a participant.

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

15 3. To receive benefits under this subsection, the
16 participant must be terminated from all employment with all
17 Florida Retirement System employers, as provided in s.
18 121.021(39).

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

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

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

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

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

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

17 1. All moneys accumulated in the participant's Public
18 Employee Optional Retirement Program accounts, including
19 vested and nonvested accumulations as described in s.
20 121.4501(6), shall be transferred from such individual
21 accounts to the Division of Retirement for deposit in the
22 disability account of the Florida Retirement System Trust
23 Fund. Such moneys shall be separately accounted for. Earnings
24 shall be credited on an annual basis for amounts held in the
25 disability accounts of the Florida Retirement System Trust
26 Fund based on actual earnings of the Florida Retirement System
27 Trust Fund.

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

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

7 (b) Disability retirement; entitlement.--

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

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

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

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

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

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1 represented in the present value amounts transferred will be
2 considered creditable service for purposes of vesting for
3 disability benefits, except as provided in subparagraph d.

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

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

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

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

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

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1 benefits payable to such member shall be paid out of the
2 disability account of the Florida Retirement System Trust Fund
3 established under this subsection.

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

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

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

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

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

31 2. The participant shall be retroactively reinstated

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1 in the Public Employee Optional Retirement Program without
2 hiatus;

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

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

9 (k) Recovery from disability.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 2. If any justice or judge who is a participant of the
28 Public Employee Optional Retirement Program of the Florida
29 Retirement System is retired for disability by order of the
30 Supreme Court upon recommendation of the Judicial
31 Qualifications Commission pursuant to the provisions of

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1 Article V of the State Constitution and elects to receive a
2 monthly disability benefit under the provisions of this
3 paragraph:

4 a. Any present value amount that was transferred to
5 his or her program account and all employer contributions made
6 to such account on his or her behalf, plus interest and
7 earnings thereon, shall be transferred to and deposited in the
8 disability account of the Florida Retirement System Trust
9 Fund; and

10 b. The monthly benefits payable under this paragraph
11 for any affected justice or judge retired from the Florida
12 Retirement System pursuant to Article V of the State
13 Constitution shall be paid from the disability account of the
14 Florida Retirement System Trust Fund.

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

26 (3) DEATH BENEFITS.--Under the Public Employee
27 Optional Retirement Program:

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

30 1. To the extent vested, benefits shall be payable
31 only to a participant's beneficiary or beneficiaries as

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1 designated by the participant. If a participant designates a
2 primary beneficiary other than the participant's spouse, the
3 participant's spouse shall be notified of the designation.
4 This requirement shall not apply to the designation of one or
5 more contingent beneficiaries to receive any benefits
6 remaining upon the death of the primary beneficiary or
7 beneficiaries.

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

12 3. To receive benefits under this subsection, the
13 participant must be deceased.

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

26 (c) Upon receipt by the third-party administrator of a
27 properly executed application for distribution of benefits,
28 the total accumulated benefit shall be payable by the
29 third-party administrator to the participant's surviving
30 beneficiary or beneficiaries, as:

31 1. A lump-sum distribution payable to the beneficiary

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1 or beneficiaries, or to the deceased participant's estate;

2 2. An eligible rollover distribution on behalf of the
3 surviving spouse of a deceased participant, whereby all
4 accrued benefits, plus interest and investment earnings, are
5 paid from the deceased participant's account directly to the
6 custodian of an eligible retirement plan, as described in s.
7 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
8 surviving spouse; or

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

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

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

29 Section 10. The Legislature finds that a proper and
30 legitimate state purpose is served when employees and retirees
31 of the state and of its political subdivisions, and the

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1 dependents, survivors, and beneficiaries of such employees and
2 retirees, are extended the basic protections afforded by
3 governmental retirement systems that provide fair and adequate
4 benefits that are managed, administered, and funded in an
5 actuarially sound manner, as required by s. 14, Art. X of the
6 State Constitution and part VII of chapter 112, Florida
7 Statutes. Therefore, the Legislature hereby determines and
8 declares that this act fulfills an important state interest.

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

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

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1 Section 13. Paragraph (b) of subsection (1) of section
2 121.053, Florida Statutes, is amended to read:

3 121.053 Participation in the Elected Officers' Class
4 for retired members.--

5 (1)

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

15 1. Any such retired member shall be eligible to
16 continue to receive retirement benefits as well as
17 compensation for the elected officer service for as long as he
18 or she remains in an elective office covered by the Elected
19 Officers' Class.

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

25 3. Such member shall be entitled to purchase
26 additional retirement credit in the Elected Officers' Class
27 for any postretirement service performed in an elected
28 position eligible for the Elected Officers' Class prior to
29 July 1, 1990, or in the Regular Class for any postretirement
30 service performed in any other regularly established position
31 prior to July 1, 1991, by paying the applicable Elected

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

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

25 5. An elected officer who is elected or appointed to
26 an elective office and is participating in the Deferred
27 Retirement Option Program is not subject to termination as
28 provided in s. 121.021(39)(b), or reemployment limitations as
29 provided in s. 121.091(9), until the end of his or her current
30 term of office or, if the officer is consecutively elected or
31 reelected to an elective office eligible for coverage under

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1 the Florida Retirement System, until he or she no longer holds
2 such an elective office, as follows:

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

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

7 (II) No retirement contributions shall be required of
8 the employer of the elected officer and no additional
9 retirement credit shall be earned under the Florida Retirement
10 System.

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

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

25
26 However, an officer electing to participate in the Deferred
27 Retirement Option Program on or before June 30, 2002, shall
28 not be required to terminate and shall remain subject to the
29 provisions of this subparagraph as adopted in section 1 of
30 chapter 2001-235, Laws of Florida ~~Any elected officer who is a~~
31 ~~participating member of DROP may terminate participation at~~

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1 ~~any time during the 60-month DROP participation period and~~
2 ~~elect to enroll in the appropriate subclass of the Elected~~
3 ~~Officers' Class, including participating in the Senior~~
4 ~~Management Service Class, effective the first day of the~~
5 ~~following month.~~

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

8 121.091 Benefits payable under the system.--Benefits
9 may not be paid under this section unless the member has
10 terminated employment as provided in s. 121.021(39)(a) or
11 begun participation in the Deferred Retirement Option Program
12 as provided in subsection (13), and a proper application has
13 been filed in the manner prescribed by the department. The
14 department may cancel an application for retirement benefits
15 when the member or beneficiary fails to timely provide the
16 information and documents required by this chapter and the
17 department's rules. The department shall adopt rules
18 establishing procedures for application for retirement
19 benefits and for the cancellation of such application when the
20 required information or documents are not received.

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

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

5 (b) Participation in the DROP.--

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

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

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

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1 but only with the written approval of his or her employer;

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

4 d. Any other information required by the division.

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

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

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

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

30 c. An elected officer who is dually employed and
31 elects to participate in DROP shall be required to satisfy the

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1 definition of termination within the 60-month limitation
 2 period as provided in subparagraph 1. for the nonelected
 3 position and may continue employment as an elected officer as
 4 provided in s. 121.053. The elected officer will be enrolled
 5 as a renewed member in the Elected Officers' Class or the
 6 Regular Class, as provided in ss. 121.053 and 121.22, on the
 7 first day of the month after termination of employment in the
 8 nonelected position and termination of DROP. Distribution of
 9 the DROP benefits shall be made as provided in paragraph (c).

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

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

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

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

30 (b)1. Any person who is retired under this chapter,
 31 except under the disability retirement provisions of

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

12 2. Any person to whom the limitation in subparagraph
13 1. applies who violates such reemployment limitation and who
14 is reemployed with any agency participating in the Florida
15 Retirement System before completion of the 12-month limitation
16 period shall give timely notice of this fact in writing to the
17 employer and to the division and shall have his or her
18 retirement benefits suspended for the balance of the 12-month
19 limitation period. Any person employed in violation of this
20 paragraph and any employing agency which knowingly employs or
21 appoints such person without notifying the Division of
22 Retirement to suspend retirement benefits shall be jointly and
23 severally liable for reimbursement to the retirement trust
24 fund of any benefits paid during the reemployment limitation
25 period. To avoid liability, such employing agency shall have
26 a written statement from the retiree that he or she is not
27 retired from a state-administered retirement system. Any
28 retirement benefits received while reemployed during this
29 reemployment limitation period shall be repaid to the
30 retirement trust fund, and retirement benefits shall remain
31 suspended until such repayment has been made. Benefits

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1 suspended beyond the reemployment limitation shall apply
2 toward repayment of benefits received in violation of the
3 reemployment limitation.

4 3. A district school board may reemploy a retired
5 member as a substitute or hourly teacher, education
6 paraprofessional, transportation assistant, bus driver, or
7 food service worker on a noncontractual basis after he or she
8 has been retired for 1 calendar month, in accordance with s.
9 121.021(39). Any retired member who is reemployed within 1
10 calendar month after retirement shall void his or her
11 application for retirement benefits. District school boards
12 reemploying such teachers, education paraprofessionals,
13 transportation assistants, bus drivers, or food service
14 workers are subject to the retirement contribution required by
15 subparagraph 7. Reemployment of a retired member as a
16 substitute or hourly teacher, education paraprofessional,
17 transportation assistant, bus driver, or food service worker
18 is limited to 780 hours during the first 12 months of his or
19 her retirement. Any retired member reemployed for more than
20 780 hours during his or her first 12 months of retirement
21 shall give timely notice in writing to the employer and to the
22 division of the date he or she will exceed the limitation.
23 The division shall suspend his or her retirement benefits for
24 the remainder of the first 12 months of retirement. Any
25 person employed in violation of this subparagraph and any
26 employing agency which knowingly employs or appoints such
27 person without notifying the Division of Retirement to suspend
28 retirement benefits shall be jointly and severally liable for
29 reimbursement to the retirement trust fund of any benefits
30 paid during the reemployment limitation period. To avoid
31 liability, such employing agency shall have a written

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1 statement from the retiree that he or she is not retired from
2 a state-administered retirement system. Any retirement
3 benefits received by a retired member while reemployed in
4 excess of 780 hours during the first 12 months of retirement
5 shall be repaid to the Retirement System Trust Fund, and his
6 or her retirement benefits shall remain suspended until
7 repayment is made. Benefits suspended beyond the end of the
8 retired member's first 12 months of retirement shall apply
9 toward repayment of benefits received in violation of the
10 780-hour reemployment limitation.

11 4. A community college board of trustees may reemploy
12 a retired member as an adjunct instructor, that is, an
13 instructor who is noncontractual and part-time, or as a
14 participant in a phased retirement program within the Florida
15 Community College System, after he or she has been retired for
16 1 calendar month, in accordance with s. 121.021(39). Any
17 retired member who is reemployed within 1 calendar month after
18 retirement shall void his or her application for retirement
19 benefits. Boards of trustees reemploying such instructors are
20 subject to the retirement contribution required in
21 subparagraph 7. A retired member may be reemployed as an
22 adjunct instructor for no more than 780 hours during the first
23 12 months of retirement. Any retired member reemployed for
24 more than 780 hours during the first 12 months of retirement
25 shall give timely notice in writing to the employer and to the
26 division of the date he or she will exceed the limitation.
27 The division shall suspend his or her retirement benefits for
28 the remainder of the first 12 months of retirement. Any
29 person employed in violation of this subparagraph and any
30 employing agency which knowingly employs or appoints such
31 person without notifying the Division of Retirement to suspend

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1 retirement benefits shall be jointly and severally liable for
2 reimbursement to the retirement trust fund of any benefits
3 paid during the reemployment limitation period. To avoid
4 liability, such employing agency shall have a written
5 statement from the retiree that he or she is not retired from
6 a state-administered retirement system. Any retirement
7 benefits received by a retired member while reemployed in
8 excess of 780 hours during the first 12 months of retirement
9 shall be repaid to the Retirement System Trust Fund, and
10 retirement benefits shall remain suspended until repayment is
11 made. Benefits suspended beyond the end of the retired
12 member's first 12 months of retirement shall apply toward
13 repayment of benefits received in violation of the 780-hour
14 reemployment limitation.

15 5. The State University System may reemploy a retired
16 member as an adjunct faculty member or as a participant in a
17 phased retirement program within the State University System
18 after the retired member has been retired for 1 calendar
19 month, in accordance with s. 121.021(39). Any retired member
20 who is reemployed within 1 calendar month after retirement
21 shall void his or her application for retirement benefits.
22 The State University System is subject to the retired
23 contribution required in subparagraph 7., as appropriate. A
24 retired member may be reemployed as an adjunct faculty member
25 or a participant in a phased retirement program for no more
26 than 780 hours during the first 12 months of his or her
27 retirement. Any retired member reemployed for more than 780
28 hours during the first 12 months of retirement shall give
29 timely notice in writing to the employer and to the division
30 of the date he or she will exceed the limitation. The
31 division shall suspend his or her retirement benefits for the

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

19 6. The Board of Trustees of the Florida School for the
20 Deaf and the Blind may reemploy a retired member as a
21 substitute teacher, substitute residential instructor, or
22 substitute nurse on a noncontractual basis after he or she has
23 been retired for 1 calendar month, in accordance with s.
24 121.021(39). Any retired member who is reemployed within 1
25 calendar month after retirement shall void his or her
26 application for retirement benefits. The Board of Trustees of
27 the Florida School for the Deaf and the Blind reemploying such
28 teachers, residential instructors, or nurses is subject to the
29 retirement contribution required by subparagraph 7.
30 Reemployment of a retired member as a substitute teacher,
31 substitute residential instructor, or substitute nurse is

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

25 7. The employment by an employer of any retiree or
26 DROP participant of any state-administered retirement system
27 shall have no effect on the average final compensation or
28 years of creditable service of the retiree or DROP
29 participant. Prior to July 1, 1991, upon employment of any
30 person, other than an elected officer as provided in s.
31 121.053, who has been retired under any state-administered

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1 retirement program, the employer shall pay retirement
2 contributions in an amount equal to the unfunded actuarial
3 liability portion of the employer contribution which would be
4 required for regular members of the Florida Retirement System.
5 Effective July 1, 1991, contributions shall be made as
6 provided in s. 121.122 for retirees with renewed membership or
7 subsection (13) with respect to DROP participants.

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

25 9. Any person who is holding an elective public office
26 which is covered by the Florida Retirement System and who is
27 concurrently employed in nonelected covered employment may
28 elect to retire while continuing employment in the elective
29 public office, provided that he or she shall be required to
30 terminate his or her nonelected covered employment. Any
31 person who exercises this election shall receive his or her

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1 retirement benefits in addition to the compensation of the
 2 elective office without regard to the time limitations
 3 otherwise provided in this subsection. No person who seeks to
 4 exercise the provisions of this subparagraph, as the same
 5 existed prior to May 3, 1984, shall be deemed to be retired
 6 under those provisions, unless such person is eligible to
 7 retire under the provisions of this subparagraph, as amended
 8 by chapter 84-11, Laws of Florida.

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

13 11. An employing agency may reemploy a retired member
 14 as a firefighter or paramedic after the retired member has
 15 been retired for 1 calendar month, in accordance with s.
 16 121.021(39). Any retired member who is reemployed within 1
 17 calendar month after retirement shall void his or her
 18 application for retirement benefits. The employing agency
 19 reemploying such firefighter or paramedic is subject to the
 20 retired contribution required in subparagraph 8. Reemployment
 21 of a retired firefighter or paramedic is limited to no more
 22 than 780 hours during the first 12 months of his or her
 23 retirement. Any retired member reemployed for more than 780
 24 hours during the first 12 months of retirement shall give
 25 timely notice in writing to the employer and to the division
 26 of the date he or she will exceed the limitation. The division
 27 shall suspend his or her retirement benefits for the remainder
 28 of the first 12 months of retirement. Any person employed in
 29 violation of this subparagraph and any employing agency which
 30 knowingly employs or appoints such person without notifying
 31 the Division of Retirement to suspend retirement benefits

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1 shall be jointly and severally liable for reimbursement to the
2 Retirement System Trust Fund of any benefits paid during the
3 reemployment limitation period. To avoid liability, such
4 employing agency shall have a written statement from the
5 retiree that he or she is not retired from a
6 state-administered retirement system. Any retirement benefits
7 received by a retired member while reemployed in excess of 780
8 hours during the first 12 months of retirement shall be repaid
9 to the Retirement System Trust Fund, and retirement benefits
10 shall remain suspended until repayment is made. Benefits
11 suspended beyond the end of the retired member's first 12
12 months of retirement shall apply toward repayment of benefits
13 received in violation of the 780-hour reemployment limitation.

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

29 (b) Participation in the DROP.--

30 1. An eligible member may elect to participate in the
31 DROP for a period not to exceed a maximum of 60 calendar

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

16 2. Upon deciding to participate in the DROP, the
17 member shall submit, on forms required by the division:
18 a. A written election to participate in the DROP;
19 b. Selection of the DROP participation and termination
20 dates, which satisfy the limitations stated in paragraph (a)
21 and subparagraph 1. Such termination date shall be in a
22 binding letter of resignation with the employer, establishing
23 a deferred termination date. The member may change the
24 termination date within the limitations of subparagraph 1.,
25 but only with the written approval of his or her employer;
26 c. A properly completed DROP application for service
27 retirement as provided in this section; and
28 d. Any other information required by the division.
29 3. The DROP participant shall be a retiree under the
30 Florida Retirement System for all purposes, except for
31 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,

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1 121.053, and 121.122. However, participation in the DROP does
2 not alter the participant's employment status and such
3 employee shall not be deemed retired from employment until his
4 or her deferred resignation is effective and termination
5 occurs as provided in s. 121.021(39).

6 4. Elected officers shall be eligible to participate
7 in the DROP subject to the following:

8 a. An elected officer who reaches normal retirement
9 date during a term of office may defer the election to
10 participate in the DROP until the next succeeding term in that
11 office. Such elected officer who exercises this option may
12 participate in the DROP for up to 60 calendar months or a
13 period of no longer than such succeeding term of office,
14 whichever is less.

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

23 c. An elected officer who is dually employed and
24 elects to participate in DROP shall be required to satisfy the
25 definition of termination within the 60-month limitation
26 period as provided in subparagraph 1. for the nonelected
27 position and may continue employment as an elected officer as
28 provided in s. 121.053. The elected officer will be enrolled
29 as a renewed member in the Elected Officers' Class or the
30 Regular Class, as provided in ss. 121.053 and 121.22, on the
31 first day of the month after termination of employment in the

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1 nonelected position and termination of DROP. Distribution of
2 the DROP benefits shall be made as provided in paragraph (c).

3 ~~d. An elected officer who is elected or appointed to~~
4 ~~an elective office is not subject to termination limitations~~
5 ~~as provided in chapter 121.~~

6 Section 16. Subsections (2) and (9) of section
7 121.0515, Florida Statutes, are amended to read:

8 121.0515 Special risk membership.--

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

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

27 (b) The member must be employed as a firefighter and
28 be certified, or required to be certified, in compliance with
29 s. 633.35 and be employed solely within the fire department of
30 a local government employer or an agency of state government
31 with firefighting responsibilities. In addition, the member's

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1 duties and responsibilities must include on-the-scene fighting
2 of fires, fire prevention, or firefighter training; direct
3 supervision of firefighting units, fire prevention, or
4 firefighter training; or aerial firefighting surveillance
5 performed by fixed-wing aircraft pilots employed by the
6 Division of Forestry of the Department of Agriculture and
7 Consumer Services; or the member must be the supervisor or
8 command officer of a member or members who have such
9 responsibilities; provided, however, administrative support
10 personnel, including, but not limited to, those whose primary
11 duties and responsibilities are in accounting, purchasing,
12 legal, and personnel, shall not be included and further
13 provided that all periods of creditable service in fire
14 prevention or firefighter training, or as the supervisor or
15 command officer of a member or members who have such
16 responsibilities, and for which the employer paid the special
17 risk contribution rate, shall be included;

18 (c) The member must be employed as a correctional
19 officer and be certified, or required to be certified, in
20 compliance with s. 943.1395. In addition, the member's
21 primary duties and responsibilities must be the custody, and
22 physical restraint when necessary, of prisoners or inmates
23 within a prison, jail, or other criminal detention facility,
24 or while on work detail outside the facility, or while being
25 transported; or the member must be the supervisor or command
26 officer of a member or members who have such responsibilities;
27 provided, however, administrative support personnel,
28 including, but not limited to, those whose primary duties and
29 responsibilities are in accounting, purchasing, legal, and
30 personnel, shall not be included; however, wardens and
31 assistant wardens, as defined by rule, shall participate in

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1 the Special Risk Class;

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

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

28 (f) The member must be employed in one of the
29 following classes and must spend at least 75 percent of his or
30 her time performing duties which involve contact with patients
31 or inmates in a correctional or forensic facility or

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- 1 institution:
- 2 1. Dietitian (class codes 5203 and 5204).
- 3 2. Public health nutrition consultant (class code
- 4 5224).
- 5 3. Psychological specialist (class codes 5230 and
- 6 5231).
- 7 4. Psychologist (class code 5234).
- 8 5. Senior psychologist (class codes 5237 and 5238).
- 9 6. Regional mental health consultant (class code
- 10 5240).
- 11 7. Psychological Services Director--DCF (class code
- 12 5242).
- 13 8. Pharmacist (class codes 5245 and 5246).
- 14 9. Senior pharmacist (class codes 5248 and 5249).
- 15 10. Dentist (class code 5266).
- 16 11. Senior dentist (class code 5269).
- 17 12. Registered nurse (class codes 5290 and 5291).
- 18 13. Senior registered nurse (class codes 5292 and
- 19 5293).
- 20 14. Registered nurse specialist (class codes 5294 and
- 21 5295).
- 22 15. Clinical associate (class codes 5298 and 5299).
- 23 16. Advanced registered nurse practitioner (class
- 24 codes 5297 and 5300).
- 25 17. Advanced registered nurse practitioner specialist
- 26 (class codes 5304 and 5305).
- 27 18. Registered nurse supervisor (class codes 5306 and
- 28 5307).
- 29 19. Senior registered nurse supervisor (class codes
- 30 5308 and 5309).
- 31 20. Registered nursing consultant (class codes 5312

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1 and 5313).

2 21. Quality management program supervisor (class code
3 5314).

4 22. Executive nursing director (class codes 5320 and
5 5321).

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

7 24. Pharmacy manager (class code 5251).

8 (g) The member must be employed as a youth custody
9 officer and be certified, or required to be certified, in
10 compliance with s. 943.1395. In addition, the member's primary
11 duties and responsibilities must be the supervised custody,
12 surveillance, control, investigation, apprehension, arrest,
13 and counseling of assigned juveniles within the community.

14 (9) CREDIT FOR UPGRADED SERVICE.--

15 (a) Any member of the Special Risk Class who has
16 earned creditable service in another membership class of the
17 Florida Retirement System as an emergency medical technician
18 or paramedic, which service is within the purview of the
19 Special Risk Class, may purchase additional retirement credit
20 to upgrade such service to Special Risk Class service, to the
21 extent of the percentages of the member's average final
22 compensation provided in s. 121.091(1)(a)2. Contributions for
23 upgrading such service to Special Risk Class credit under this
24 subsection shall be equal to the difference in the
25 contributions paid and the Special Risk Class contribution
26 rate as a percentage of gross salary in effect for the period
27 being claimed, plus interest thereon at the rate of 6.5
28 percent a year, compounded annually until the date of payment.
29 This service credit may be purchased by the employer on behalf
30 of the member.

31 (b) Any member of the Special Risk Class who has

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

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

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

26 121.021 Definitions.--The following words and phrases
27 as used in this chapter have the respective meanings set forth
28 unless a different meaning is plainly required by the context:

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

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- 1 (a) Compensation shall include:
- 2 1. Overtime payments paid from a salary fund.
- 3 2. Accumulated annual leave payments.
- 4 3. Payments in addition to the employee's base rate of
- 5 pay if all the following apply:
- 6 a. The payments are paid according to a formal written
- 7 policy that applies to all eligible employees equally;
- 8 b. The policy provides that payments shall commence no
- 9 later than the 11th year of employment;
- 10 c. The payments are paid for as long as the employee
- 11 continues his or her employment; and
- 12 d. The payments are paid at least annually.
- 13 4. Amounts withheld for tax sheltered annuities or
- 14 deferred compensation programs, or any other type of salary
- 15 reduction plan authorized under the Internal Revenue Code.
- 16 5. Payments made in lieu of a permanent increase in
- 17 the base rate of pay, whether made annually or in 12 or 26
- 18 equal payments within a 12-month period, when the member's
- 19 base pay is at the maximum of his or her pay range. When a
- 20 portion of a member's annual increase raises his or her pay
- 21 range and the excess is paid as a lump sum payment, such lump
- 22 sum payment shall be compensation for retirement purposes.
- 23 6. Effective July 1, 2002, salary supplements made
- 24 pursuant to ss. 231.700 and 236.08106 requiring a valid
- 25 National Board for Professional Standards certificate or
- 26 equivalent status as provided in s. 231.700(3)(e)5.,
- 27 notwithstanding the provisions of subparagraph 3.
- 28 (47) "Bonus" means a payment made in addition to an
- 29 employee's regular or overtime salary. A bonus is usually
- 30 nonrecurring, does not increase the employee's base rate of
- 31 pay, and includes no commitment for payment in a subsequent

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1 year. Such payments are not considered compensation. Effective
2 July 1, 1989, employers may not report such payments to the
3 division as salary, and may not make retirement contributions
4 on such payments.

5 (b) Bonuses shall include, but not be limited to, the
6 following:

7 1. Exit bonus or severance pay.

8 2. Longevity payments in conformance with the
9 provisions of paragraph (a).

10 3. Salary increases granted pursuant to an employee's
11 agreement to retire, including increases paid over several
12 months or years prior to retirement.

13 4. Payments for accumulated overtime or compensatory
14 time, reserve time, or holiday time worked, if not made within
15 11 months of the month in which the work was performed.

16 ~~5. Quality Instruction Incentives Program (QUIIP)~~
17 ~~Payments.~~

18 ~~5.6.~~ Lump sum payments in recognition of employees'
19 accomplishments.

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

21
22

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

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26

27 and insert:

28 An act relating to the Florida Retirement
29 System; amending s. 121.4501, F.S., relating to
30 the Public Employee Optional Retirement
31 Program; amending the definition of "eligible

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

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

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1 retirement benefits; providing for transfer of
2 certain funds; specifying eligibility
3 requirements; providing procedure and required
4 documentation; providing for computation of the
5 disability benefit; providing for
6 reapplication; providing for membership;
7 providing an option to cancel; providing for
8 reexamination and other matters relating to
9 recovery from disability; providing
10 nonadmissible causes of disability; providing
11 for disability retirement of justices or
12 judges; providing for payment of death
13 benefits; providing for spousal notification in
14 certain cases; updating death benefit
15 distribution provisions to conform to recent
16 changes in federal law; providing protection of
17 benefits from assignment, execution, etc.;
18 providing a declaration of important state
19 interest; authorizing the Department of
20 Management Services to contract with a private
21 company to administer the disability benefit
22 program; authorizing the department to provide
23 for an alternative method to administer and
24 fund disability benefits; requiring the
25 department to seek a private letter ruling from
26 the Internal Revenue Service with respect to
27 the disability retirement program; providing
28 rulemaking authority; amending s. 121.053,
29 F.S., relating to termination requirements and
30 benefits of elected officers participating in
31 the Deferred Retirement Option Program

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

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