

By Representative Fasano

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; amending ss. 121.052, 121.055, and
4 121.071, F.S.; making the date for payment of
5 retirement contributions consistent under the
6 Florida Retirement System defined benefit and
7 defined contribution programs; amending s.
8 121.4501, F.S., relating to the Public Employee
9 Optional Retirement Program; updating
10 definitions; establishing dates on which
11 present value calculations are based;
12 conforming election provisions for local
13 government employees to provisions applicable
14 to other employees; transferring certain
15 provisions relating to payment of benefits to
16 s. 121.591, F.S., as created in the act;
17 amending s. 121.571, F.S., relating to employer
18 contributions to the Public Employee Optional
19 Retirement Program; adjusting rates; making the
20 date for payment of retirement contributions
21 consistent under the Florida Retirement System
22 defined benefit and defined contribution
23 programs; creating s. 121.591, F.S., relating
24 to benefits payable under the Public Employee
25 Optional Retirement Program; providing for
26 payment of the normal benefit upon termination;
27 providing for disability retirement benefits;
28 providing for transfer of certain funds;
29 specifying eligibility requirements; providing
30 procedure and required documentation; providing
31 for computation of the disability benefit;

1 providing for reapplication; providing for
2 membership; providing an option to cancel;
3 providing for reexamination and other matters
4 relating to recovery from disability; providing
5 nonadmissible causes of disability; providing
6 for disability retirement of justices or
7 judges; providing for payment of death
8 benefits; providing for spousal notification in
9 certain cases; updating death benefit
10 distribution provisions to conform to recent
11 changes in federal law; providing protection of
12 benefits from assignment, execution, etc.;
13 providing a declaration of important state
14 interest; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Subsection (7) of section 121.052, Florida
19 Statutes, as amended by chapter 2001-262, Laws of Florida, is
20 amended to read:

21 121.052 Membership class of elected officers.--

22 (7) CONTRIBUTIONS.--

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

1			
2	Dates of Contribution		
3	Rate Changes	Members	Employers
4	Effective July 1, 2001		
5	Legislators	0%	15.14%
6	Governor, Lt. Governor, Cabinet		
7	Officers	0%	15.14%
8	State Attorneys, Public Defenders	0%	15.14%
9	Justices, Judges	0%	20.61%
10	County Elected Officers	0%	17.61%

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

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

28			
29	Dates of Contribution		Contribution
30	Rate Changes		Rate
31			

1	October 1, 1987, through December 31, 1988	0.24%
2	January 1, 1989, through December 31, 1993	0.48%
3	January 1, 1994, through December 31, 1994	0.56%
4	January 1, 1995, through June 30, 1998	0.66%
5	July 1, 1998, through June 30, 2001	0.94%
6	Effective July 1, 2001	1.11%

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

13 Section 2. Subsection (3) of section 121.055, Florida
14 Statutes, as amended by chapter 2001-262, Laws of Florida, is
15 amended to read:

16 121.055 Senior Management Service Class.--There is
17 hereby established a separate class of membership within the
18 Florida Retirement System to be known as the "Senior
19 Management Service Class," which shall become effective
20 February 1, 1987.

21 (3)(a) The following table states the required
22 retirement contribution rates for members of the Senior
23 Management Service Class and their employers in terms of a
24 percentage of the member's gross compensation. A change in the
25 contribution rate is effective with the first salary paid on
26 or after the beginning date of the change. Contributions
27 shall be made for each pay period and are in addition to the
28 contributions required for social security and the Retiree
29 Health Insurance Subsidy Trust Fund.

30
31

1 Dates of Contribution

2 Rate Changes	Members	Employers
3 Effective July 1, 2001	0%	11.73%

4
5 (b) The employer paying the salary of a member of the
6 Senior Management Service Class shall contribute an amount as
7 specified in this section which shall constitute the entire
8 employer retirement contribution with respect to such member.
9 The employer shall also withhold one-half of the entire
10 contribution of the member required for social security
11 coverage.

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

22 Dates of Contribution	Contribution
23 Rate Changes	Rate
24 October 1, 1987, through December 31, 1988	0.24%
25 January 1, 1989, through December 31, 1993	0.48%
26 January 1, 1994, through December 31, 1994	0.56%
27 January 1, 1995, through June 30, 1998	0.66%
28 July 1, 1998, through June 30, 2001	0.94%
29 Effective July 1, 2001	1.11%

30
31

1 Such contributions are due and payable no later than the 5th
2 working day of the month immediately following the month
3 during which the payroll period ended and shall be deposited
4 by the administrator in the Retiree Health Insurance Subsidy
5 Trust Fund.

6 Section 3. Subsection (5) of section 121.071, Florida
7 Statutes, as amended by chapter 2001-262, Laws of Florida, is
8 amended to read:

9 121.071 Contributions.--Contributions to the system
10 shall be made as follows:

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

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

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

1 ~~month before the 16th day of the month, such contributions are~~
2 ~~due and payable no later than the 20th day of the month; and,~~
3 ~~for any payroll periods ending any day of the month after the~~
4 ~~15th day of the month, such contributions are due and payable~~
5 ~~no later than the 5th day of the next month.~~

6 (b) Contributions received in the offices of the
7 department after the prescribed date shall be considered
8 delinquent unless, in the opinion of the department,
9 exceptional circumstances beyond an employer's control
10 prevented remittance by the prescribed due date
11 notwithstanding such employer's good faith efforts to effect
12 delivery; and, with respect to retirement contributions due
13 under subsections (1) and (4), each employer shall be assessed
14 a delinquent fee of 1 percent of the contributions due for
15 each calendar month or part thereof that the contributions are
16 delinquent. Such a waiver of the delinquency fee by the
17 department may be granted an employer only one time each
18 fiscal year. Delinquent social security contributions shall be
19 assessed a delinquent fee as authorized by s. 650.05(4). The
20 delinquent fee assessable for an employer's first delinquency
21 after July 1, 1984, shall be as specified in s. 650.05(4),
22 and, beginning with the second delinquency in any fiscal year
23 by the employer subsequent to July 1, 1984, all subsequent
24 delinquency fees shall be assessed against the employer at
25 twice the applicable percentage rate specified in s.
26 650.05(4).

27 Section 4. Subsection (2), paragraph (c) of subsection
28 (3), paragraph (c) of subsection (4), and subsections (7) and
29 (16) of section 121.4501, Florida Statutes, as amended by
30 chapter 2001-235, Laws of Florida, are amended to read:

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1 121.4501 Public Employee Optional Retirement
2 Program.--
3 (2) DEFINITIONS.--As used in this part ~~section~~, the
4 term:
5 (a) "Approved provider" or "provider" means a private
6 sector company that is selected and approved by the state
7 board to offer one or more investment products or services to
8 the Public Employee Optional Retirement Program. The term
9 includes a bundled provider that offers participants a range
10 of individually allocated or unallocated investment products
11 and may offer a range of administrative and customer services,
12 which may include accounting and administration of individual
13 participant benefits and contributions; individual participant
14 recordkeeping; asset purchase, control, and safekeeping;
15 direct execution of the participant's instructions as to asset
16 and contribution allocation; calculation of daily net asset
17 values; direct access to participant account information;
18 periodic reporting to participants, at least quarterly, on
19 account balances and transactions; guidance, advice, and
20 allocation services directly relating to its own investment
21 options or products, but only if the bundled provider complies
22 with the standard of care of s. 404(a)(1)(A-B) of the Employee
23 Retirement Income Security Act of 1974 (ERISA) and if
24 providing such guidance, advice, or allocation services does
25 not constitute a prohibited transaction under s. 4975(c)(1) of
26 the Internal Revenue Code or s. 406 of ERISA, notwithstanding
27 that such prohibited transaction provisions do not apply to
28 the optional retirement program; a broad array of distribution
29 options; asset allocation; and retirement counseling and
30 education. Private sector companies include investment
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1 management companies, insurance companies, depositories, and
2 mutual fund companies.

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

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

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

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

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

13 1. Is a member of, or is eligible for membership in,
14 the Florida Retirement System;

15 2. Participates in, or is eligible to participate in,
16 the Senior Management Service Optional Annuity Program as
17 established under s. 121.055(6); or

18 3. Is eligible to participate in, but does not
19 participate in, the State University System Optional
20 Retirement Program established under s. 121.35 or the State
21 Community College System Optional Retirement Program
22 established under s. 121.051(2)(c).

23
24 The term does not include any renewed member of the Florida
25 Retirement System, any member participating in the Deferred
26 Retirement Option Program established under s. 121.091(13), or
27 any employee participating in an optional retirement program
28 established under s. 121.051(2)(c) or s. 121.35.

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

31

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

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

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

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

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

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

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

3 2. For purposes of this subsection, the present value
4 of the member's accumulated benefit obligation is based upon
5 the member's estimated creditable service and estimated
6 average final compensation under the defined benefit program,
7 subject to recomputation under subparagraph 3. For state
8 employees enrolling under subparagraph (4)(a)1., initial
9 estimates will be based upon creditable service and average
10 final compensation as of midnight on June 30, 2002; for
11 district school board employees enrolling under subparagraph
12 (4)(b)1., initial estimates will be based upon creditable
13 service and average final compensation as of midnight on
14 September 30, 2002; and for local government employees
15 enrolling under subparagraph (4)(c)1., initial estimates will
16 be based upon creditable service and average final
17 compensation as of midnight on December 31, 2002. The dates
18 respectively specified above shall be construed as the
19 "estimate date" for these employees. For employees who are
20 hired after the election window has opened for their
21 particular employee group and who elect to enroll in the
22 optional program under subparagraph (4)(a)2., subparagraph
23 (4)(b)2., or subparagraph (4)(c)2., the actuarial present
24 value of the employee's accumulated benefit obligation shall
25 be transferred to the participant's optional program accounts.
26 Such value will be based upon the participant's actual
27 creditable service and actual final average compensation as of
28 midnight on the last day of the month before the employee's
29 enrollment in the optional program, which date shall be
30 construed as the "estimate date" for such employees ~~of the day~~
31 ~~prior to the opening of the election window for the employee.~~

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

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

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

13 (I) Age 62; or

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

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

26 (I) Age 55; or

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

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

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

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

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

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

31

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

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

19 (4) PARTICIPATION; ENROLLMENT.--

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

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

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

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

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

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

30 b. If the employee files such election before the
31 initial payroll is submitted for the employee, enrollment in

1 the Public Employee Optional Retirement Program shall be
2 effective on the first day of employment.

3 c. If the employee files such election within 180 days
4 after employment commences, but after the initial payroll is
5 submitted for the employee, enrollment in the optional program
6 shall be effective on the first day of the month for which a
7 full month's employer contribution is made to the optional
8 program.

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

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

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

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

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

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

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

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

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

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

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

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

- 29 1. ~~A lump-sum distribution to the participant;~~
30 2. ~~A lump-sum direct rollover distribution whereby all~~
31 ~~accrued benefits, plus interest and investment earnings, are~~

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

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

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

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

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

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

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

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

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

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

21 Section 5. Subsections (3) and (7) of section 121.571,
22 Florida Statutes, are amended to read:

23 121.571 Contributions.--Contributions to the Public
24 Employee Optional Retirement Program shall be made as follows:

25 (3) CONTRIBUTIONS TO DISABILITY ACCOUNT.--

26 (a) All contributions made on behalf of a participant
27 pursuant to this subsection shall be transferred by the
28 employer to the third-party administrator for deposit in the
29 disability account of the Florida Retirement System Public
30 ~~Employee Disability~~ Trust Fund administered by the Division of
31 Retirement. Such contributions, less any fees or charges

1 authorized by the Legislature to offset the costs of
2 administering the disability component of the optional
3 retirement program, shall be separately accounted for and
4 shall be used to provide disability coverage for participants
5 in the optional retirement program.

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

8
9 Dates of Contribution Employers
10 Rate Changes
11 Effective July 1, 2002: 0.25%~~0.39%~~

12
13 (c) Disability contributions for Special Risk Class
14 members of the optional retirement plan are as follows:

15
16 Dates of Contribution Employers
17 Rate Changes
18 Effective July 1, 2002: 1.33%~~1.25%~~

19
20 (d) Disability contributions for Special Risk
21 Administrative Support Class members of the optional
22 retirement plan are as follows:

23
24 Dates of Contribution Employers
25 Rate Changes
26 Effective July 1, 2002: 0.45%~~0.73%~~

27
28 (e) Disability contributions for Elected Officers'
29 Class members of the optional retirement plan are as follows:

30
31

1	Dates of Contribution	Employers
2	Rate Changes	
3	Effective July 1, 2002:	
4	Legislators	<u>0.41%</u> 0.61%
5	Governor, Lt. Governor,	<u>0.41%</u> 0.61%
6	Cabinet Officers	
7	State Attorneys, Public	<u>0.41%</u> 0.61%
8	Defenders	
9	Justices, Judges	<u>0.73%</u> 1.45%
10	County Elected Officers	<u>0.41%</u> 0.86%

11
12 (f) Disability contributions for Senior Management
13 Service Class members of the optional retirement plan are as
14 follows:

15		
16	Dates of Contribution	Employers
17	Rate Changes	
18	Effective July 1, 2002:	<u>0.26%</u> 0.50%

19
20 (7) PAYMENT AND DISTRIBUTION OF
21 CONTRIBUTIONS.--Contributions made pursuant to this section
22 shall be paid by the employer to the third-party administrator
23 by electronic funds transfer no later than the 5th working day
24 of the month immediately following the month during which the
25 payroll period ended. The board and the third-party
26 administrator shall ensure that the contributions are
27 distributed to the appropriate trust funds or participant
28 accounts in a timely manner.

29 Section 6. Section 121.591, Florida Statutes, is
30 created to read:

31

1 121.591 Benefits payable under the Public Employee
2 Optional Retirement Program of the Florida Retirement
3 System.--Benefits may not be paid under this section unless
4 the member has terminated employment as provided in s.
5 121.021(39)(a) or is deceased, and a proper application has
6 been filed in the manner prescribed by the state board or the
7 department. The state board or department, as appropriate, may
8 cancel an application for retirement benefits when the member
9 or beneficiary fails to timely provide the information and
10 documents required by this chapter and the rules of the state
11 board and department. In accordance with their respective
12 responsibilities as provided herein, the State Board of
13 Administration and the Department of Management Services shall
14 adopt rules establishing procedures for application for
15 retirement benefits and for the cancellation of such
16 application when the required information or documents are not
17 received.

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

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

24 1. To the extent vested, benefits shall be payable
25 only to a participant.

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

30 3. To receive benefits under this subsection, the
31 participant must be terminated from all employment with all

1 Florida Retirement System employers, as provided in s.
2 121.021(39).

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

11 (c) Upon receipt by the third-party administrator of a
12 properly executed application for distribution of benefits,
13 the total accumulated benefit shall be payable to the
14 participant, as:

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

23 (2) DISABILITY RETIREMENT BENEFITS.--Benefits provided
24 under this subsection are payable in lieu of the benefits
25 which would otherwise be payable under the provisions of
26 subsection (1). Such benefits shall be funded entirely from
27 employer contributions made under s. 121.571, transferred
28 participant funds accumulated pursuant to paragraph (a), and
29 interest and earnings thereon. Pursuant thereto:

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

1 1. All moneys accumulated in the participant's Public
2 Employee Optional Retirement Program accounts, including
3 vested and nonvested accumulations as described in s.
4 121.4501(6), shall be transferred from such individual
5 accounts to the Division of Retirement for deposit in the
6 disability account of the Florida Retirement System Trust
7 Fund. Such moneys shall be separately accounted for.

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

18 (b) Disability retirement; entitlement.--

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

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

31

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

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

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

16 d. Whenever a participant has terminated employment
17 and has taken distribution of his or her funds as provided in
18 subsection (1), all creditable service represented by such
19 distributed funds is forfeited for purposes of this
20 subsection.

21 (c) Disability retirement effective date.--The
22 effective retirement date for a participant who applies and is
23 approved for disability retirement shall be established as
24 provided under s. 121.091(4)(a)2. and 3.

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

31

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

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

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

25 (h) Reapplication.--A participant whose initial
26 application for disability retirement has been denied may
27 reapply for disability benefits in the same manner, and under
28 the same conditions, as provided for members of the defined
29 benefit program of the Florida Retirement System under s.
30 121.091(4)(g).

31

1 (i) Membership.--Upon approval of an application for
2 disability benefits under this subsection, the applicant shall
3 be transferred to the defined benefit program of the Florida
4 Retirement System, effective upon his or her disability
5 retirement effective date.

6 (j) Option to cancel.--Any participant whose
7 application for disability benefits is approved may cancel his
8 or her application for disability benefits, provided that the
9 cancellation request is received by the division before a
10 disability retirement warrant has been deposited, cashed, or
11 received by direct deposit. Upon such cancellation:

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

14 2. The participant shall be retroactively reinstated
15 in the Public Employee Optional Retirement Program without
16 hiatus;

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

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

23 (k) Recovery from disability.--

24 1. The division may require periodic reexaminations at
25 the expense of the disability program account of the Florida
26 Retirement System Trust Fund. Except as otherwise provided in
27 subparagraph 2., the requirements, procedures, and
28 restrictions relating to the conduct and review of such
29 reexaminations, discontinuation or termination of benefits,
30 reentry into employment, disability retirement after reentry
31 into covered employment, and all other matters relating to

1 recovery from disability shall be the same as are set forth
2 under s. 121.091(4)(h).

3 2. Upon recovery from disability, any recipient of
4 disability retirement benefits under this subsection shall be
5 a compulsory member of the Public Employee Optional Retirement
6 Program of the Florida Retirement System. The net difference
7 between the recipient's original account balance transferred
8 to the Florida Retirement System Trust Fund under paragraph
9 (a) and total disability benefits paid to such recipient, if
10 any, shall be determined as provided in sub-subparagraph a.

11 a. An amount equal to the total benefits paid shall be
12 subtracted from that portion of the transferred account
13 balance consisting of vested accumulations as described under
14 s. 121.4501(6), if any, and an amount equal to the remainder
15 of benefit amounts paid, if any, shall then be subtracted from
16 any remaining portion consisting of nonvested accumulations as
17 described under s. 121.4501(6).

18 b. Amounts subtracted under sub-subparagraph a. shall
19 be retained within the disability account of the Florida
20 Retirement System Trust Fund. Any remaining account balance
21 shall be transferred to the third-party administrator for
22 disposition as provided under sub-subparagraph c. or
23 sub-subparagraph d., as appropriate.

24 c. If the recipient returns to covered employment,
25 transferred amounts shall be deposited in individual accounts
26 under the Public Employee Optional Retirement Program, as
27 directed by the participant. Vested and nonvested amounts
28 shall be separately accounted for as provided in s.
29 121.4501(6).

30 d. If the recipient fails to return to covered
31 employment upon recovery from disability:

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

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

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

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

21 (m) Disability retirement of justice or judge by order
22 of Supreme Court.--

23 1. For any participating justice or judge who is
24 retired for disability pursuant to the provisions of Art. V of
25 the State Constitution as described in s. 121.091(4)(j), the
26 participant's monthly disability benefit amount shall be
27 calculated as provided in s. 121.091(4)(j), except that he or
28 she may alternatively elect to receive the normal benefit
29 payable under subsection (1).

30
31

1 2. For any such justice or judge who elects to receive
2 a monthly disability benefit under the provisions of this
3 paragraph:

4 a. With respect to retirement credit retained under
5 the defined benefit program of the Florida Retirement System
6 as permitted under s. 121.4501(3)(b), all employee or employer
7 contributions made to the member's retirement account under
8 the defined benefit program shall be transferred to and
9 deposited in the General Revenue Fund of the state.

10 b. Any present value amount which was transferred to
11 the participant's individual account and all employer
12 contributions made to such account on his or her behalf, plus
13 interest and earnings thereon, shall be transferred to and
14 deposited in the General Revenue Fund of the state.

15
16 There is hereby appropriated annually out of the General
17 Revenue Fund, to be paid into appropriate accounts of the
18 Florida Retirement System Trust Fund and accounted for
19 separately, an amount necessary to pay the benefits of all
20 such justices and judges.

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

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

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

1 remaining upon the death of the primary beneficiary or
2 beneficiaries.

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

7 3. To receive benefits under this subsection, the
8 participant must be deceased.

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

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

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

28 2. An eligible rollover distribution on behalf of the
29 surviving spouse of a deceased participant, whereby all
30 accrued benefits, plus interest and investment earnings, are
31 paid from the deceased participant's account directly to the

1 custodian of an eligible retirement plan, as described in s.
2 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
3 surviving spouse; or

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

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

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

24 Section 7. The Legislature finds that a proper and
25 legitimate state purpose is served when employees and retirees
26 of the state and of its political subdivisions, and the
27 dependents, survivors, and beneficiaries of such employees and
28 retirees, are extended the basic protections afforded by
29 governmental retirement systems that provide fair and adequate
30 benefits that are managed, administered, and funded in an
31 actuarially sound manner, as required by s. 14, Art. X of the

1 State Constitution and part VII of chapter 112, Florida
2 Statutes. Therefore, the Legislature hereby determines and
3 declares that this act fulfills an important state interest.

4 Section 8. This act shall take effect July 1, 2002.

5
6 *****

7 HOUSE SUMMARY

8 Revises provisions of the Florida Retirement System to:
9 1. Provide that the date for payment of retirement
10 contributions be consistent under the defined benefit and
11 defined contribution programs.
12 2. Revise language with respect to the Public
13 Employee Optional Retirement Program to establish dates
14 upon which present value calculations are made.
15 3. Create a provision with respect to benefits
16 payable under the Public Employee Optional Retirement
17 Program.

18 See bill for details.
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