

By the Fiscal Responsibility Council and 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; providing for the effective  
15          date of enrollment for certain employers;  
16          providing for the transfer of contributions in  
17          certain circumstances; transferring certain  
18          provisions relating to payment of benefits to  
19          s. 121.591, F.S., as created in the act;  
20          amending s. 121.571, F.S., relating to employer  
21          contributions to the Public Employee Optional  
22          Retirement Program; adjusting rates; making the  
23          date for payment of retirement contributions  
24          consistent under the Florida Retirement System  
25          defined benefit and defined contribution  
26          programs; creating s. 121.591, F.S., relating  
27          to benefits payable under the Public Employee  
28          Optional Retirement Program; providing for  
29          payment of the normal benefit upon termination;  
30          providing for disability retirement benefits;  
31          providing for transfer of certain funds;

1 specifying eligibility requirements; providing  
2 procedure and required documentation; providing  
3 for computation of the disability benefit;  
4 providing for reapplication; providing for  
5 membership; providing an option to cancel;  
6 providing for reexamination and other matters  
7 relating to recovery from disability; providing  
8 nonadmissible causes of disability; providing  
9 for disability retirement of justices or  
10 judges; providing for payment of death  
11 benefits; providing for spousal notification in  
12 certain cases; updating death benefit  
13 distribution provisions to conform to recent  
14 changes in federal law; providing protection of  
15 benefits from assignment, execution, etc.;  
16 amending s. 110.123, F.S.; revising language  
17 with respect to the state group insurance  
18 program; revising a definition; deleting  
19 language with respect to participation in the  
20 plan by retirees; amending s. 110.205, F.S.;  
21 granting Senior Management Service benefits to  
22 county health department directors and  
23 administrators; amending s. 121.35, F.S.;  
24 allowing rollovers into the optional retirement  
25 programs; expanding the methods of disbursement  
26 of benefits; providing a declaration of  
27 important state interest; providing an  
28 effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:  
31

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

4 121.052 Membership class of elected officers.--

5 (7) CONTRIBUTIONS.--

6 (a) The following table states the required retirement  
7 contribution rates for members of the Elected Officers' Class  
8 and their employers in terms of a percentage of the member's  
9 gross compensation. A change in a contribution rate is  
10 effective with the first salary paid on or after the beginning  
11 date of the change. Contributions shall be made or deducted as  
12 may be appropriate for each pay period and are in addition to  
13 the 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		
19 Legislators	0%	15.14%
20 Governor, Lt. Governor, Cabinet		
21 Officers	0%	15.14%
22 State Attorneys, Public Defenders	0%	15.14%
23 Justices, Judges	0%	20.61%
24 County Elected Officers	0%	17.61%

25  
26 (b) The employer paying the salary of a member of the  
27 Elected Officers' Class shall contribute an amount as  
28 specified in this subsection which shall constitute the entire  
29 employer retirement contribution with respect to such member.  
30 The employer shall also withhold one-half of the entire  
31

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

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

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

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

31

1           121.055 Senior Management Service Class.--There is  
2 hereby established a separate class of membership within the  
3 Florida Retirement System to be known as the "Senior  
4 Management Service Class," which shall become effective  
5 February 1, 1987.

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

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:

5	6 Dates of Contribution	7 Contribution
8	9 Rate Changes	10 Rate
11	12 October 1, 1987, through December 31, 1988	13 0.24%
14	15 January 1, 1989, through December 31, 1993	16 0.48%
17	18 January 1, 1994, through December 31, 1994	19 0.56%
20	21 January 1, 1995, through June 30, 1998	22 0.66%
23	24 July 1, 1998, through June 30, 2001	25 0.94%
26	27 Effective July 1, 2001	28 1.11%

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

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

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

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

(a)1. Effective October 1, 1978, such contributions  
are due and payable no later than the 25th day of the month

1 immediately following the month during which the payroll  
2 period ended. The department may, by rule, establish a  
3 different due date, which shall supersede the date specified  
4 herein; however, such due date may not be established earlier  
5 than the 20th day of the month immediately following the month  
6 during which the payroll period ended.

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

21 (b) Contributions received in the offices of the  
22 department after the prescribed date shall be considered  
23 delinquent unless, in the opinion of the department,  
24 exceptional circumstances beyond an employer's control  
25 prevented remittance by the prescribed due date  
26 notwithstanding such employer's good faith efforts to effect  
27 delivery; and, with respect to retirement contributions due  
28 under subsections (1) and (4), each employer shall be assessed  
29 a delinquent fee of 1 percent of the contributions due for  
30 each calendar month or part thereof that the contributions are  
31 delinquent. Such a waiver of the delinquency fee by the

1 department may be granted an employer only one time each  
2 fiscal year. Delinquent social security contributions shall be  
3 assessed a delinquent fee as authorized by s. 650.05(4). The  
4 delinquent fee assessable for an employer's first delinquency  
5 after July 1, 1984, shall be as specified in s. 650.05(4),  
6 and, beginning with the second delinquency in any fiscal year  
7 by the employer subsequent to July 1, 1984, all subsequent  
8 delinquency fees shall be assessed against the employer at  
9 twice the applicable percentage rate specified in s.  
10 650.05(4).

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

16 121.4501 Public Employee Optional Retirement  
17 Program.--

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

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



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

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

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

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

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

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

- 27 1. Is a member of, or is eligible for membership in,  
28 the Florida Retirement System;
- 29 2. Participates in, or is eligible to participate in,  
30 the Senior Management Service Optional Annuity Program as  
31 established under s. 121.055(6); or

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

15           (I) Age 62; or

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

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

28           (I) Age 55; or

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

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

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

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

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

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

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

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

19           (4) PARTICIPATION; ENROLLMENT.--

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

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

1 irrevocable, except as provided in paragraph (e). Upon making  
2 such election, the employee shall be enrolled as a participant  
3 of the Public Employee Optional Retirement Program, the  
4 employee's membership in the Florida Retirement System shall  
5 be governed by the provisions of this part, and the employee's  
6 membership in the defined benefit program of the Florida  
7 Retirement System shall terminate. The employee's enrollment  
8 in the Public Employee Optional Retirement Program shall be  
9 effective the first day of the month for which a full month's  
10 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 state employer commencing after June 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       ~~b.c.~~ If the employee files such election within 180  
4 days after employment commences, ~~but after the initial payroll~~  
5 ~~is submitted for the employee,~~ enrollment in the optional  
6 program shall be effective on the first day of employment the  
7 ~~month for which a full month's employer contribution is made~~  
8 ~~to the optional program. The employer retirement contributions~~  
9 ~~paid through the month of the employee plan change shall be~~  
10 ~~transferred to the optional program and effective the first~~  
11 ~~day of the next month the employer shall pay the applicable~~  
12 ~~contributions based on the employee membership class in the~~  
13 ~~optional program.~~

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

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

26       (b)1. With respect to an eligible employee who is  
27 employed in a regularly established position on September 1,  
28 2002, by a district school board employer:

29       a. Any such employee may elect to participate in the  
30 Public Employee Optional Retirement Program in lieu of  
31 retaining his or her membership in the defined benefit program



1 of the Florida Retirement System. The election must be made in  
2 writing or by electronic means and must be filed with the  
3 department and the personnel officer of the employer within 90  
4 days after September 1, 2002, or, in the case of an active  
5 employee who is on a leave of absence on September 1, 2002,  
6 within 90 days after the conclusion of the leave of absence.  
7 This election is irrevocable, except as provided in paragraph  
8 (e). Upon making such election, the employee shall be enrolled  
9 as a participant of the Public Employee Optional Retirement  
10 Program, the employee's membership in the Florida Retirement  
11 System shall be governed by the provisions of this part, and  
12 the employee's membership in the defined benefit program of  
13 the Florida Retirement System shall terminate. The employee's  
14 enrollment in the Public Employee Optional Retirement Program  
15 shall be effective the first day of the month for which a full  
16 month's 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 90 days is deemed to have elected to retain  
20 membership in the defined benefit program of the Florida  
21 Retirement System, and the employee's option to elect to  
22 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  
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 within 180 days after employment commences, elect to

1 participate in the Public Employee Optional Retirement  
2 Program. The employee's election must be made in writing or by  
3 electronic means and must be filed with the personnel officer  
4 of the employer. The election to participate in the optional  
5 program is irrevocable, except as provided in paragraph (e).

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

10 b.c. If the employee files such election within 180  
11 days after employment commences, but after the initial payroll  
12 is submitted for the employee, enrollment in the optional  
13 program shall be effective on the first day of employment the  
14 month for which a full month's employer contribution is made  
15 to the optional program. The employer retirement contributions  
16 paid through the month of the employee plan change shall be  
17 transferred to the optional program and effective the first  
18 day of the next month the employer shall pay the applicable  
19 contributions based on the employee membership class in the  
20 optional program.

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

27 3. For purposes of this paragraph, "district school  
28 board employer" means any district school board that  
29 participates in the Florida Retirement System for the benefit  
30 of certain employees, or a charter school or charter technical  
31

1 career center that participates in the Florida Retirement  
2 System as provided in s. 121.051(2)(d).

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

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

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

31

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

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

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

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

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

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

9 (a) Benefits shall be provided in accordance with s.  
10 401(a) of the Internal Revenue Code.

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

14 (c) Benefits shall be payable in accordance with the  
15 provisions of s. 121.591.~~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.~~

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

23 3. ~~To begin receiving the benefits, the participant~~  
24 ~~must be terminated from all employment with all Florida~~  
25 ~~Retirement System employers, as provided in s. 121.021(39), or~~  
26 ~~the participant must be deceased. If a participant elects to~~  
27 ~~receive his or her benefits upon termination of employment,~~  
28 ~~the participant must submit a written application to the~~  
29 ~~third-party administrator indicating his or her preferred~~  
30 ~~distribution date and selecting an authorized method of~~  
31 ~~distribution as provided in paragraph (d). The participant may~~

1 ~~defer receipt of benefits until he or she chooses to make such~~  
2 ~~application, subject to federal requirements.~~

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

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

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

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

24 ~~3. Periodic distributions, as authorized by the state~~  
25 ~~board.~~

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

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

29 ~~2. An eligible rollover distribution on behalf of the~~  
30 ~~surviving spouse of a deceased participant, whereby all~~  
31 ~~accrued benefits, plus interest and investment earnings, are~~

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

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

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

26       (16) DISABILITY BENEFITS.--For any participant of the  
27 optional retirement program who becomes totally and  
28 permanently disabled, benefits shall be paid in accordance  
29 with the provisions of s. 121.591 as defined in s.  
30 ~~121.091(4)(b), the participant shall be entitled to receive~~  
31 ~~those moneys that have accrued in his or her participant~~

1 ~~account. It is the intent of the Legislature to design a~~  
2 ~~disability benefit for participants of the optional program~~  
3 ~~similar to those disability benefits afforded defined benefit~~  
4 ~~program members. The department is directed to study the~~  
5 ~~potential options of such coverage, including self-insurance~~  
6 ~~and commercial coverage, the alternative methods of~~  
7 ~~administering such benefits, and the fiscal impacts on the~~  
8 ~~employees and employers, and to make recommendations to the~~  
9 ~~Legislature by January 15, 2001.~~

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

12 121.571 Contributions.--Contributions to the Public  
13 Employee Optional Retirement Program shall be made as follows:

14 (3) CONTRIBUTIONS TO DISABILITY ACCOUNT.--

15 (a) All contributions made on behalf of a participant  
16 pursuant to this subsection shall be transferred by the  
17 employer to the third-party administrator for deposit in the  
18 disability account of the Florida Retirement System ~~Public~~  
19 ~~Employee Disability~~ Trust Fund administered by the Division of  
20 Retirement. Such contributions, less any fees or charges  
21 authorized by the Legislature to offset the costs of  
22 administering the disability component of the optional  
23 retirement program, shall be separately accounted for and  
24 shall be used to provide disability coverage for participants  
25 in the optional retirement program.

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

28	
29 Dates of Contribution	Employers
30 Rate Changes	
31 Effective July 1, 2002:	<u>0.25%</u> <del>0.39%</del>



1  
2 (c) Disability contributions for Special Risk Class  
3 members of the optional retirement plan are as follows:

4  
5 Dates of Contribution Employers  
6 Rate Changes  
7 Effective July 1, 2002: 1.33%~~1.25%~~

8  
9 (d) Disability contributions for Special Risk  
10 Administrative Support Class members of the optional  
11 retirement plan are as follows:

12  
13 Dates of Contribution Employers  
14 Rate Changes  
15 Effective July 1, 2002: 0.45%~~0.73%~~

16  
17 (e) Disability contributions for Elected Officers'  
18 Class members of the optional retirement plan are as follows:

19  
20 Dates of Contribution Employers  
21 Rate Changes  
22 Effective July 1, 2002:  
23 Legislators 0.41%~~0.61%~~  
24 Governor, Lt. Governor, 0.41%~~0.61%~~  
25 Cabinet Officers  
26 State Attorneys, Public 0.41%~~0.61%~~  
27 Defenders  
28 Justices, Judges 0.73%~~1.45%~~  
29 County Elected Officers 0.41%~~0.86%~~

30  
31

1 (f) Disability contributions for Senior Management  
2 Service Class members of the optional retirement plan are as  
3 follows:

4		
5	Dates of Contribution	Employers
6	Rate Changes	
7	Effective July 1, 2002:	<u>0.26%</u> <del>0.50%</del>

8  
9 (7) PAYMENT AND DISTRIBUTION OF  
10 CONTRIBUTIONS.--Contributions made pursuant to this section  
11 and accompanying payroll data are due and payable shall be  
12 paid by the employer to the third-party administrator by  
13 electronic funds transfer or electronic data transfer no later  
14 than the 5th working day of the month immediately following  
15 the month during which the payroll period ended. The board and  
16 the third-party administrator shall ensure that the  
17 contributions are distributed to the appropriate trust funds  
18 or participant accounts in a timely manner.

19 Section 6. Section 121.591, Florida Statutes, is  
20 created to read:

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

1 responsibilities as provided herein, the State Board of  
2 Administration and the Department of Management Services shall  
3 adopt rules establishing procedures for application for  
4 retirement benefits and for the cancellation of such  
5 application when the required information or documents are not  
6 received.

7 (1) NORMAL BENEFITS.--Under the Public Employee  
8 Optional Retirement Program:

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

13 1. To the extent vested, benefits shall be payable  
14 only to a participant.

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

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

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

31

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

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

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

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

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

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

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

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

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

13 (b) Disability retirement; entitlement.--

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

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

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

29 b. If the participant has elected to retain credit for  
30 his or her service under the defined benefit program of the  
31

1 Florida Retirement System as provided under s. 121.4501(3)(b),  
2 all such service will be considered creditable service.  
3 c. If the participant has elected to transfer to his  
4 or her participant accounts a sum representing the present  
5 value of his or her retirement credit under the defined  
6 benefit program as provided under s. 121.4501(3)(c), the  
7 period of service under the defined benefit program  
8 represented in the present value amounts transferred will be  
9 considered creditable service for purposes of vesting for  
10 disability benefits, except as provided in subparagraph d.  
11 d. Whenever a participant has terminated employment  
12 and has taken distribution of his or her funds as provided in  
13 subsection (1), all creditable service represented by such  
14 distributed funds is forfeited for purposes of this  
15 subsection.  
16 (c) Disability retirement effective date.--The  
17 effective retirement date for a participant who applies and is  
18 approved for disability retirement shall be established as  
19 provided under s. 121.091(4)(a)2. and 3.  
20 (d) Total and permanent disability.--A participant  
21 shall be considered totally and permanently disabled if, in  
22 the opinion of the division, he or she is prevented, by reason  
23 of a medically determinable physical or mental impairment,  
24 from rendering useful and efficient service as an officer or  
25 employee.  
26 (e) Proof of disability.--The division, before  
27 approving payment of any disability retirement benefit, shall  
28 require proof that the participant is totally and permanently  
29 disabled in the same manner as provided for members of the  
30 defined benefit program of the Florida Retirement System under  
31 s. 121.091(4)(c).

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

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

19       (h) Reapplication.--A participant whose initial  
20 application for disability retirement has been denied may  
21 reapply for disability benefits in the same manner, and under  
22 the same conditions, as provided for members of the defined  
23 benefit program of the Florida Retirement System under s.  
24 121.091(4)(g).

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

30       (j) Option to cancel.--Any participant whose  
31 application for disability benefits is approved may cancel his

1 or her application for disability benefits, provided that the  
2 cancellation request is received by the division before a  
3 disability retirement warrant has been deposited, cashed, or  
4 received by direct deposit. Upon such cancellation:

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

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

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

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

16 (k) Recovery from disability.--

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

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



1 to the Florida Retirement System Trust Fund, including  
2 earnings, under paragraph (a) and total disability benefits  
3 paid to such recipient, if any, shall be determined as  
4 provided in sub-subparagraph a.

5 a. An amount equal to the total benefits paid shall be  
6 subtracted from that portion of the transferred account  
7 balance consisting of vested accumulations as described under  
8 s. 121.4501(6), if any, and an amount equal to the remainder  
9 of benefit amounts paid, if any, shall then be subtracted from  
10 any remaining portion consisting of nonvested accumulations as  
11 described under s. 121.4501(6).

12 b. Amounts subtracted under sub-subparagraph a. shall  
13 be retained within the disability account of the Florida  
14 Retirement System Trust Fund. Any remaining account balance  
15 shall be transferred to the third-party administrator for  
16 disposition as provided under sub-subparagraph c. or  
17 sub-subparagraph d., as appropriate.

18 c. If the recipient returns to covered employment,  
19 transferred amounts shall be deposited in individual accounts  
20 under the Public Employee Optional Retirement Program, as  
21 directed by the participant. Vested and nonvested amounts  
22 shall be separately accounted for as provided in s.  
23 121.4501(6).

24 d. If the recipient fails to return to covered  
25 employment upon recovery from disability:

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

30  
31

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

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

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

17       (m) Disability retirement of justice or judge by order  
18 of Supreme Court.--

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

1 an actuarially adjusted disability retirement benefit under  
2 any other option as provided in s. 121.091(6)(a), or to  
3 receive the normal benefit payable under the Public Employee  
4 Optional Retirement Program as set forth in subsection (1).  
5 2. If any justice or judge who is a participant of the  
6 Public Employee Optional Retirement Program of the Florida  
7 Retirement System is retired for disability by order of the  
8 Supreme Court upon recommendation of the Judicial  
9 Qualifications Commission pursuant to the provisions of Art. V  
10 of the State Constitution and elects to receive a monthly  
11 disability benefit under the provisions of this paragraph,  
12 then:  
13 a. Any present value amount which was transferred to  
14 his or her program account and all employer contributions made  
15 to such account on his or her behalf, plus interest and  
16 earnings thereon, shall be transferred to and deposited in the  
17 disability account of the Florida Retirement System Trust  
18 Fund; and  
19 b. The monthly benefits payable under this paragraph  
20 for any affected justice or judge retired from the Florida  
21 Retirement System pursuant to Art. V of the State Constitution  
22 shall be paid from the disability account of the Florida  
23 Retirement System Trust Fund.  
24 (n) Upon the death of a disabled retiree or  
25 beneficiary thereof who is receiving monthly benefits under  
26 this subsection, the monthly benefits shall be paid through  
27 the last day of the month of death and shall terminate, or be  
28 adjusted, if applicable, as of that date in accordance with  
29 the optional form of benefit selected at the time of  
30 retirement. The deceased disabled retiree's beneficiary shall  
31 also receive the amount of the participant's remaining account

1 balance, if any, in the Florida Retirement System Trust Fund.  
2 The Department of Management Services is hereby authorized to  
3 promulgate such rules as may be needed to implement the  
4 provisions of this paragraph.

5 (3) DEATH BENEFITS.--Under the Public Employee  
6 Optional Retirement Program:

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

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

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

22 3. To receive benefits under this subsection, the  
23 participant must be deceased.

24 (b) In the event of a participant's death, all vested  
25 accumulations as described in s. 121.4501(6), less withholding  
26 taxes remitted to the Internal Revenue Service, shall be  
27 distributed, as provided in paragraph (c), to the  
28 participant's designated beneficiary or beneficiaries, or to  
29 the participant's estate, as if the participant retired on the  
30 date of death. No other death benefits shall be available for  
31 survivors of participants under the Public Employee Optional

1 Retirement Program, except for such benefits, or coverage for  
2 such benefits, as are otherwise provided by law or are  
3 separately afforded by the employer, at the employer's  
4 discretion.

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

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

12 2. An eligible rollover distribution on behalf of the  
13 surviving spouse of a deceased participant, whereby all  
14 accrued benefits, plus interest and investment earnings, are  
15 paid from the deceased participant's account directly to the  
16 custodian of an eligible retirement plan, as described in s.  
17 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
18 surviving spouse; or

19 3. A partial lump-sum payment whereby a portion of the  
20 accrued benefit is paid to the deceased participant's  
21 surviving spouse or other designated beneficiaries, less  
22 withholding taxes remitted to the Internal Revenue Service,  
23 and the remaining amount is transferred directly to the  
24 custodian of an eligible retirement plan, as described in s.  
25 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
26 surviving spouse. The proportions must be specified by the  
27 participant or the surviving beneficiary.

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

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

8           Section 7. Paragraph (g) of subsection (2), paragraph  
9 (g) of subsection (3), and paragraph (h) of subsection (4) of  
10 section 110.123, Florida Statutes, are amended to read:

11           110.123 State group insurance program.--

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

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

25           1. He or she meets the age and service requirements to  
26 qualify for normal retirement as set forth in s. 121.021(29);  
27 or

28           2. He or she has attained the age specified by the  
29 Internal Revenue Code section 72(t)(2)(A)(i) and has 6 years  
30 of creditable service.

31           (3) STATE GROUP INSURANCE PROGRAM.--

1           (g) Participation by individuals in the program shall  
2 be available to all state officers, full-time state employees,  
3 and part-time state employees; and such participation in the  
4 program or any plan thereof shall be voluntary. Participation  
5 in the program shall also be available to retired state  
6 officers and employees, as defined in subsection (2)(g), who  
7 elect at the time of retirement to continue coverage under the  
8 program, but they may elect to continue all or only part of  
9 the coverage they had at the time of retirement. A surviving  
10 spouse may elect to continue coverage only under the state  
11 group health insurance plan or a health maintenance  
12 organization plan.

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

15           ~~(h) State employees may participate in the state group~~  
16 ~~health insurance plan at the time of receiving their state~~  
17 ~~retirement benefits.~~

18           Section 8. The Legislature finds that a proper and  
19 legitimate state purpose is served when employees and retirees  
20 of the state and of its political subdivisions, and the  
21 dependents, survivors, and beneficiaries of such employees and  
22 retirees, are extended the basic protections afforded by  
23 governmental retirement systems that provide fair and adequate  
24 benefits that are managed, administered, and funded in an  
25 actuarially sound manner, as required by s. 14, Art. X of the  
26 State Constitution and part VII of chapter 112, Florida  
27 Statutes. Therefore, the Legislature hereby determines and  
28 declares that this act fulfills an important state interest.

29           Section 9. Notwithstanding any provision to the  
30 contrary and the authority of the department, the Department  
31 of Management Services may contract with a private sector

1 company selected and approved by the department for services  
2 to administer the disability benefit program. Not later than  
3 March 1, 2003, the department may provide to the Legislature  
4 for its approval an alternative method to administer and fund  
5 disability benefits for participants in the Public Employee  
6 Optional Retirement Program and the Florida Retirement System,  
7 including through commercial insurance coverage.

8       Section 10. It is the intent of the Legislature that  
9 the disability retirement program for participants of the  
10 Public Employee Optional Retirement Program as created herein  
11 must meet all applicable requirements of federal law for a  
12 qualified plan. The Department of Management Services shall  
13 seek a private letter ruling from the Internal Revenue Service  
14 on the disability retirement program for participants of the  
15 Public Employee Optional Retirement Program. Consistent with  
16 the private letter ruling, the Department of Management  
17 Services shall adopt any necessary rules required to maintain  
18 the qualified status of the disability retirement program and  
19 the Florida Retirement System defined benefit plan.

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

22       110.205 Career service; exemptions.--

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

25       (j) The appointed secretaries, assistant secretaries,  
26 deputy secretaries, and deputy assistant secretaries of all  
27 departments; the executive directors, assistant executive  
28 directors, deputy executive directors, and deputy assistant  
29 executive directors of all departments; and the directors of  
30 all divisions and those positions determined by the department  
31 to have managerial responsibilities comparable to such



1 positions, which positions include, but are not limited to,  
2 program directors, assistant program directors, district  
3 administrators, deputy district administrators, the Director  
4 of Central Operations Services of the Department of Children  
5 and Family Services, and the State Transportation Planner,  
6 State Highway Engineer, State Public Transportation  
7 Administrator, district secretaries, district directors of  
8 planning and programming, production, and operations, and the  
9 managers of the offices specified in s. 20.23(3)(d)2., of the  
10 Department of Transportation, and the county health department  
11 directors and county health department administrators of the  
12 Department of Health. Unless otherwise fixed by law, the  
13 department shall set the salary and benefits of these  
14 positions in accordance with the rules of the Senior  
15 Management Service.

16 (q) The staff directors, assistant staff directors,  
17 district program managers, district program coordinators,  
18 district subdistrict administrators, district administrative  
19 services directors, district attorneys, and the Deputy  
20 Director of Central Operations Services of the Department of  
21 Children and Family Services ~~and the county health department~~  
22 ~~directors and county health department administrators of the~~  
23 ~~Department of Health~~. Unless otherwise fixed by law, the  
24 department shall establish the salary range and benefits for  
25 these positions in accordance with the rules of the Selected  
26 Exempt Service.

27 Section 12. Section 121.35, Florida Statutes, is  
28 amended to read:

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

31

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

18           (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL  
19 PROGRAM.--

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

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

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

1           3. The Chancellor and the university presidents.

2           (b) For purposes of this section, both the appointees  
3 and employees are referred to as "employees," and the  
4 "employer" of an appointee or employee is the individual  
5 institution within the State University System or the Board of  
6 Education Regents, whichever is appropriate with respect to  
7 the particular employee or appointee.

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

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

14           (3) ELECTION OF OPTIONAL PROGRAM.--

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

28           (b)1. Any employee who becomes eligible to participate  
29 in the optional retirement program by reason of initial  
30 employment commencing after March 1, 1984, but before January  
31 1, 1993, may, within 90 days after the date of commencement of

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

22         2. Any employee who after March 1, 1984, but before  
23 January 1, 1993, becomes eligible to participate in the  
24 optional program by reason of a change in status due to the  
25 subsequent designation of the employee's position as one of  
26 those specified in paragraph (2)(a) or due to the employee's  
27 appointment, promotion, transfer, or reclassification to a  
28 position specified in paragraph (2)(a) may elect to  
29 participate in the optional program. Such employee shall be  
30 notified by the employer of the change in his or her  
31 eligibility status. Such employee may, within 90 days after

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

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

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

30 2. Any employee whose optional retirement program  
31 eligibility results from a change in status due to the

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

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

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

29 (e) The election by an eligible employee to  
30 participate in the optional retirement program shall be  
31 irrevocable for so long as the employee continues to meet the

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

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

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

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

1 optional program and one of which is not, may remain a member  
2 of the optional program and contributions shall be paid as  
3 required only on the salary earned in the position eligible  
4 for the optional program during such period of dual  
5 employment; or, within 90 days after becoming dually employed,  
6 he or she may elect membership in the Regular Class of the  
7 Florida Retirement System in lieu of the optional program and  
8 contributions shall be paid as required on the total salary  
9 received for all employment. At retirement, the average final  
10 compensation used to calculate any benefits for which the  
11 member becomes eligible under the Florida Retirement System  
12 shall be based on all salary reported for both positions  
13 during such period of dual employment. When such member  
14 ceases to be dually employed, he or she may, within 90 days,  
15 elect to remain in the Florida Retirement System class for  
16 which he or she is eligible or to again become a participant  
17 in the optional retirement program. Failure to elect  
18 membership in the optional program within 90 days shall result  
19 in compulsory membership in the Florida Retirement System,  
20 except that a member filling a faculty position under a  
21 faculty practice plan at the University of Florida or the  
22 Medical Center at the University of South Florida shall again  
23 participate in the optional retirement program as required in  
24 s. 121.051(1)(a).

25 (4) CONTRIBUTIONS.--

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



1 portion of the contribution rate required in s. 112.363(8)  
2 that would otherwise be assigned to the Retiree Health  
3 Insurance Subsidy Trust Fund. Effective July 1, 2001, each  
4 employer shall contribute on behalf of each participant in the  
5 optional program an amount equal to 10.43 percent of the  
6 participant's gross monthly compensation. The department shall  
7 deduct an amount approved by the Legislature to provide for  
8 the administration of this program. The payment of the  
9 contributions to the optional program which is required by  
10 this paragraph for each participant shall be made by the  
11 employer to the department, which shall forward the  
12 contributions to the designated company or companies  
13 contracting for payment of benefits for the participant under  
14 the program. However, such contributions paid on behalf of an  
15 employee described in paragraph (3)(c) shall not be forwarded  
16 to a company and shall not begin to accrue interest until the  
17 employee has executed a ~~an annuity~~ contract and notified the  
18 department.

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

26 (c) An Optional Retirement Program Trust Fund shall be  
27 established in the State Treasury and administered by the  
28 department to make payments to the provider companies on  
29 behalf of the optional retirement program participants, and to  
30 transfer the unfunded liability portion of the state optional  
31

1 retirement program contributions to the Florida Retirement  
2 System Trust Fund.

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

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

31

1           (f) The Optional Retirement Program Trust Fund may  
2 accept for deposit into participant contracts contributions in  
3 the form of rollovers or direct trustee-to-trustee transfers  
4 by or on behalf of participants, reasonably determined by the  
5 department to be eligible for rollover or transfer to the  
6 optional retirement program pursuant to the Internal Revenue  
7 Code, if such contributions are made in accordance with rules  
8 as may be adopted by the department. Such contributions shall  
9 be accounted for in accordance with any applicable Internal  
10 Revenue Code requirements and rules of the department.

11           (5) BENEFITS.--

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

29           1. Benefits shall be payable only to a participant, or  
30 to his or her beneficiaries, or his or her estate, as  
31

1 ~~designated by the participant; A lump-sum payment to the~~  
2 ~~beneficiary upon the death of the participant; or~~

3       2. Benefits shall be paid by the provider company or  
4 companies in accordance with the law, the provisions of the  
5 contract, and any applicable board rule or policy; or A  
6 ~~cash-out of a de minimis account upon the request of a former~~  
7 ~~participant who has been terminated for a minimum of 6 months~~  
8 ~~from the employment that entitled him or her to optional~~  
9 ~~retirement program participation. A de minimis account is an~~  
10 ~~account with a provider company containing employer~~  
11 ~~contributions and accumulated earnings of not more than \$5,000~~  
12 ~~made under the provisions of this chapter. Such cash-out must~~  
13 ~~be a complete liquidation of the account balance with that~~  
14 ~~company and is subject to the provisions of the Internal~~  
15 ~~Revenue Code.~~

16       3. In the event of a participant's death, moneys  
17 accumulated by, or on behalf of, the participant, less  
18 withholding taxes remitted to the Internal Revenue Service, if  
19 any, shall be distributed to the participant's designated  
20 beneficiary or beneficiaries, or to the participant's estate,  
21 as if the participant retired on the date of death, as  
22 provided in paragraph (c). No other death benefits shall be  
23 available for survivors of participants under the optional  
24 retirement program, except for such benefits, or coverage for  
25 such benefits, as are separately afforded by the employer, at  
26 the employer's discretion.

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

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

31

- 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 an eligible  
4 retirement plan, as defined in s. 402(c)(8)(B) of the Internal  
5 Revenue Code, on behalf of the participant;
- 6           3. Periodic distributions;
- 7           4. A partial lump-sum payment whereby a portion of the  
8 accrued benefit is paid to the participant and the remaining  
9 amount is transferred to an eligible retirement plan, as  
10 defined in s. 402(c)(8)(B) of the Internal Revenue Code, on  
11 behalf of the participant; or
- 12           5. Such other distribution options provided for in the  
13 participant's optional retirement program contract.
- 14           (c) Survivor benefits shall be payable as:
- 15           1. A lump-sum distribution payable to the  
16 beneficiaries, or to the deceased participant's estate;
- 17           2. An eligible rollover distribution on behalf of the  
18 surviving spouse of a deceased participant, whereby all  
19 accrued benefits, plus interest and investment earnings, are  
20 paid from the deceased participant's account directly to an  
21 eligible retirement plan, as described in s. 402(c)(8)(B) of  
22 the Internal Revenue Code, on behalf of the surviving spouse;
- 23           3. Such other distribution options provided for in the  
24 participant's optional retirement program contract; or
- 25           4. A partial lump-sum payment whereby a portion of the  
26 accrued benefit is paid to the deceased participant's  
27 surviving spouse or other designated beneficiaries, less  
28 withholding taxes remitted to the Internal Revenue Service, if  
29 any, and the remaining amount is transferred directly to an  
30 eligible retirement plan, as described in s. 402(c)(8)(B) of  
31 the Internal Revenue Code, on behalf of the surviving spouse.

1 The proportions must be specified by the participant or the  
2 surviving beneficiary.

3  
4 This paragraph does not abrogate other applicable provisions  
5 of state or federal law providing payment of death benefits.

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

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

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

23 (6) ADMINISTRATION OF PROGRAM.--

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

1 the companies chosen by the department. The recommendations  
2 of the board shall include the following:

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

5 2. The suitability of the rights and benefits to the  
6 needs of the participants and the interests of the  
7 institutions in the recruitment and retention of eligible  
8 employees.

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

25 (c) Effective July 1, 1997, the State Board of  
26 Administration shall review and make recommendations to the  
27 department on the acceptability of all investment products  
28 proposed by provider companies of the optional retirement  
29 program before they are offered through annuity contracts to  
30 the participants and may advise the department of any changes  
31 necessary to ensure that the optional retirement program

1 offers an acceptable mix of investment products. The  
2 department shall make the final determination as to whether an  
3 investment product will be approved for the program.

4 (d) The provisions of each contract applicable to a  
5 participant in the optional retirement program shall be  
6 contained in a written program description which shall include  
7 a report of pertinent financial and actuarial information on  
8 the solvency and actuarial soundness of the program and the  
9 benefits applicable to the participant. Such description  
10 shall be furnished by the companies to each participant in the  
11 program and to the department upon commencement of  
12 participation in the program and annually thereafter.

13 (e) The department shall ensure that each participant  
14 in the optional retirement program is provided an accounting  
15 of the total contribution and the annual contribution made by  
16 and on behalf of such participant.

17 Section 13. This act shall take effect July 1, 2002.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31