

1 A bill to be entitled
2 An act relating to the Florida Retirement
3 System; amending s. 121.055, F.S.; including
4 reference to the Chief Deputy Court
5 Administrator with respect to compulsory
6 membership in the Senior Management Service
7 Class; amending s. 121.052, F.S.; revising the
8 membership requirements of the Elected
9 Officers' Class of the system to include
10 certain sheriffs and clerks of the circuit
11 court; amending s. 121.091, F.S.; revising
12 language with respect to reemployment of
13 certain retired members of the Florida
14 Retirement System; amending s. 121.0515, F.S.;
15 revising language with respect to special risk
16 membership in the system; including certain
17 periods of service in special risk; amending s.
18 121.055, F.S.; allowing an elected state
19 attorney or public defender to upgrade
20 retirement credit for service as an assistant
21 state attorney or assistant public defender;
22 amending s. 121.053, F.S., relating to
23 termination requirements and benefits of
24 elected officers participating in the Deferred
25 Retirement Option Program; amending s. 121.091,
26 F.S., regarding Deferred Retirement Option
27 Program termination requirements for elected
28 officers; amending s. 121.0515, F.S.;
29 permitting certain special risk members to
30 upgrade service related to fire prevention and
31 firefighter training duties; providing

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

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

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Paragraph (h) of subsection (1) of section
31 121.055, Florida Statutes, is amended to read:

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 (1)

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

22 a. Positions to be included in the class shall be
23 designated by the state attorney or public defender, as
24 appropriate. Notice of intent to designate positions for
25 inclusion in the class shall be published once a week for 2
26 consecutive weeks in a newspaper of general circulation
27 published in the county or counties affected, as provided in
28 chapter 50.

29 b. One nonelective full-time position may be
30 designated for each state attorney and public defender
31 reporting to the Department of Management Services; for

1 agencies with 200 or more regularly established positions
2 under the state attorney or public defender, additional
3 nonelective full-time positions may be designated, not to
4 exceed 0.5 percent of the regularly established positions
5 within the agency.

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

10 (I) Heads an organizational unit; or

11 (II) Has responsibility to effect or recommend
12 personnel, budget, expenditure, or policy decisions in his or
13 her areas of responsibility.

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

25 3. In lieu of participation in the Senior Management
26 Service Class, such members, excluding assistant state
27 attorneys, assistant public defenders, assistant statewide
28 prosecutors, assistant attorneys general, and assistant
29 capital collateral regional counsels, may participate in the
30 Senior Management Service Optional Annuity Program as
31 established in subsection (6).

1 Section 2. Paragraph (d) of subsection (2) of section
2 121.052, Florida Statutes, is amended to read:

3 121.052 Membership class of elected officers.--

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

9 (d) Any constitutional county elected officer assuming
10 office on or after July 1, 1981, including any sheriff, tax
11 collector, property appraiser, supervisor of elections, clerk
12 of the circuit court, county commissioner, school board
13 member, or elected school board superintendent, or any elected
14 officer of any entity with countywide jurisdiction assuming
15 office on or after July 1, 1981, who, pursuant to general or
16 special law, exercises powers and duties that, but for such
17 general or special law, would be exercised by any of the
18 constitutional county elected officers set forth in this
19 paragraph, including the sheriff and clerk of the circuit
20 court in a consolidated government with countywide
21 jurisdiction unless such sheriff or clerk elected to continue
22 to participate in a local retirement system.

23 Section 3. Paragraph (b) of subsection (9) of section
24 121.091, Florida Statutes, is amended to read:

25 121.091 Benefits payable under the system.--Benefits
26 may not be paid under this section unless the member has
27 terminated employment as provided in s. 121.021(39)(a) or
28 begun participation in the Deferred Retirement Option Program
29 as provided in subsection (13), and a proper application has
30 been filed in the manner prescribed by the department. The
31 department may cancel an application for retirement benefits

1 when the member or beneficiary fails to timely provide the
2 information and documents required by this chapter and the
3 department's rules. The department shall adopt rules
4 establishing procedures for application for retirement
5 benefits and for the cancellation of such application when the
6 required information or documents are not received.

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

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

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

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

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

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

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

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

24 5. The State University System may reemploy a retired
25 member as an adjunct faculty member or as a participant in a
26 phased retirement program within the State University System
27 after the retired member has been retired for 1 calendar
28 month, in accordance with s. 121.021(39). Any retired member
29 who is reemployed within 1 calendar month after retirement
30 shall void his or her application for retirement benefits.
31 The State University System is subject to the retired

1 contribution required in subparagraph 7., as appropriate. A
2 retired member may be reemployed as an adjunct faculty member
3 or a participant in a phased retirement program for no more
4 than 780 hours during the first 12 months of his or her
5 retirement. Any retired member reemployed for more than 780
6 hours during the first 12 months of retirement shall give
7 timely notice in writing to the employer and to the division
8 of the date he or she will exceed the limitation. The
9 division shall suspend his or her retirement benefits for the
10 remainder of the first 12 months of retirement. Any person
11 employed in violation of this subparagraph and any employing
12 agency which knowingly employs or appoints such person without
13 notifying the Division of Retirement to suspend retirement
14 benefits shall be jointly and severally liable for
15 reimbursement to the retirement trust fund of any benefits
16 paid during the reemployment limitation period. To avoid
17 liability, such employing agency shall have a written
18 statement from the retiree that he or she is not retired from
19 a state-administered retirement system. Any retirement
20 benefits received by a retired member while reemployed in
21 excess of 780 hours during the first 12 months of retirement
22 shall be repaid to the Retirement System Trust Fund, and
23 retirement benefits shall remain suspended until repayment is
24 made. Benefits suspended beyond the end of the retired
25 member's first 12 months of retirement shall apply toward
26 repayment of benefits received in violation of the 780-hour
27 reemployment limitation.

28 6. The Board of Trustees of the Florida School for the
29 Deaf and the Blind may reemploy a retired member as a
30 substitute teacher, substitute residential instructor, or
31 substitute nurse on a noncontractual basis after he or she has

1 been retired for 1 calendar month, in accordance with s.
2 121.021(39). Any retired member who is reemployed within 1
3 calendar month after retirement shall void his or her
4 application for retirement benefits. The Board of Trustees of
5 the Florida School for the Deaf and the Blind reemploying such
6 teachers, residential instructors, or nurses is subject to the
7 retirement contribution required by subparagraph 7.
8 Reemployment of a retired member as a substitute teacher,
9 substitute residential instructor, or substitute nurse is
10 limited to 780 hours during the first 12 months of his or her
11 retirement. Any retired member reemployed for more than 780
12 hours during the first 12 months of retirement shall give
13 timely notice in writing to the employer and to the division
14 of the date he or she will exceed the limitation. The division
15 shall suspend his or her retirement benefits for the remainder
16 of the first 12 months of retirement. Any person employed in
17 violation of this subparagraph and any employing agency which
18 knowingly employs or appoints such person without notifying
19 the Division of Retirement to suspend retirement benefits
20 shall be jointly and severally liable for reimbursement to the
21 retirement trust fund of any benefits paid during the
22 reemployment limitation period. To avoid liability, such
23 employing agency shall have a written statement from the
24 retiree that he or she is not retired from a
25 state-administered retirement system. Any retirement benefits
26 received by a retired member while reemployed in excess of 780
27 hours during the first 12 months of retirement shall be repaid
28 to the Retirement System Trust Fund, and his or her retirement
29 benefits shall remain suspended until payment is made.
30 Benefits suspended beyond the end of the retired member's
31 first 12 months of retirement shall apply toward repayment of

1 benefits received in violation of the 780-hour reemployment
2 limitation.

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

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

1 benefit recalculated to include the additional service and
2 compensation earned.

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

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

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

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

23 Section 4. Paragraph (b) of subsection (2) of section
24 121.0515, Florida Statutes, is amended to read:

25 121.0515 Special risk membership.--

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

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

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

19 Section 5. Paragraph (k) is added to subsection (1) of
20 section 121.055, Florida Statutes, to read:

21 121.055 Senior Management Service Class.--There is
22 hereby established a separate class of membership within the
23 Florida Retirement System to be known as the "Senior
24 Management Service Class," which shall become effective
25 February 1, 1987.

26 (1)

27 (k) Any state attorney or public defender in the
28 Elected Officers' Class who has creditable service as an
29 assistant state attorney or assistant public defender may
30 upgrade retirement credit for such service in accordance with
31 the provisions of paragraph (j).

1 Section 6. Paragraph (b) of subsection (1) of section
2 121.053, Florida Statutes, is amended to read:

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

5 (1)

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

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

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

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

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

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

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

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

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

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

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

11 b. Nothing herein shall prevent an elected officer
12 from voluntarily terminating his or her elective office at any
13 time and electing to receive his or her DROP proceeds.

14 However, until termination requirements are fulfilled as
15 provided in s. 121.021(39), any elected officer whose
16 termination limitations are extended by this section shall be
17 ineligible for renewed membership in the system and shall
18 receive no pension payments, DROP lump sum payments, or any
19 other state payment other than the statutorily determined
20 salary, travel, and per diem for the elective office.

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

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

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

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

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

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

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

5 (b) Participation in the DROP.--

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

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

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

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

1 termination date within the limitations of subparagraph 1.,
2 but only with the written approval of his or her employer;
3 c. A properly completed DROP application for service
4 retirement as provided in this section; and
5 d. Any other information required by the division.
6 3. The DROP participant shall be a retiree under the
7 Florida Retirement System for all purposes, except for
8 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
9 121.053, and 121.122. However, participation in the DROP does
10 not alter the participant's employment status and such
11 employee shall not be deemed retired from employment until his
12 or her deferred resignation is effective and termination
13 occurs as provided in s. 121.021(39).
14 4. Elected officers shall be eligible to participate
15 in the DROP subject to the following:
16 a. An elected officer who reaches normal retirement
17 date during a term of office may defer the election to
18 participate in the DROP until the next succeeding term in that
19 office. Such elected officer who exercises this option may
20 participate in the DROP for up to 60 calendar months or a
21 period of no longer than such succeeding term of office,
22 whichever is less.
23 b. An elected or a nonelected participant may run for
24 a term of office while participating in DROP and, if elected,
25 extend the DROP termination date accordingly, except, however,
26 if such additional term of office exceeds the 60-month
27 limitation established in subparagraph 1., and the officer
28 does not resign from office within such 60-month limitation,
29 the retirement and the participant's DROP shall be null and
30 void as provided in sub-subparagraph (c)5.d.
31

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

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

15 Section 8. Subsection (9) of section 121.0515, Florida
16 Statutes, is amended to read:

17 121.0515 Special risk membership.--

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

1 the date of payment. This service credit may be purchased by
2 the employer on behalf of the member.

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

19 Section 9. It is the intent of the Legislature that
20 any additional cost attributable to the upgrade in the
21 retirement benefits for special risk members who have provided
22 fire prevention or firefighter training above the
23 contributions paid at the time of service shall be funded by
24 recognition of the necessary amount from the excess actuarial
25 assets of the Florida Retirement System Trust Fund.

26 Section 10. Subsection (7) of section 121.052, Florida
27 Statutes, as amended by chapter 2001-262, Laws of Florida, is
28 amended to read:

29 121.052 Membership class of elected officers.--

30 (7) CONTRIBUTIONS.--

31

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

10
 11 Dates of Contribution

12 Rate Changes	Members	Employers
13 Effective July 1, 2001		
14 Legislators	0%	15.14%
15 Governor, Lt. Governor, Cabinet 16 Officers	0%	15.14%
17 State Attorneys, Public Defenders	0%	15.14%
18 Justices, Judges	0%	20.61%
19 County Elected Officers	0%	17.61%

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

28 (c) The following table states the required employer
 29 contribution on behalf of each member of the Elected Officers'
 30 Class in terms of a percentage of the member's gross
 31 compensation. Such contribution constitutes the entire health

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

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

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

22 Section 11. Subsection (3) of section 121.055, Florida
 23 Statutes, as amended by chapter 2001-262, Laws of Florida, is
 24 amended to read:

25 121.055 Senior Management Service Class.--There is
 26 hereby established a separate class of membership within the
 27 Florida Retirement System to be known as the "Senior
 28 Management Service Class," which shall become effective
 29 February 1, 1987.

30 (3)(a) The following table states the required
 31 retirement contribution rates for members of the Senior

1 Management Service Class and their employers in terms of a
 2 percentage of the member's gross compensation. A change in the
 3 contribution rate is effective with the first salary paid on
 4 or after the beginning date of the change. Contributions
 5 shall be made for each pay period and are in addition to the
 6 contributions required for social security and the Retiree
 7 Health Insurance Subsidy Trust Fund.

8
 9 Dates of Contribution

10	Rate Changes	Members	Employers
11	Effective July 1, 2001	0%	11.73%

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

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

30	Dates of Contribution	Contribution
31	Rate Changes	Rate

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

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

13 Section 12. Subsection (5) of section 121.071, Florida
 14 Statutes, as amended by chapter 2001-262, Laws of Florida, is
 15 amended to read:

16 121.071 Contributions.--Contributions to the system
 17 shall be made as follows:

18 (5) Contributions made in accordance with subsections
 19 (1), (2), (3), and (4) shall be paid by the employer into the
 20 system trust funds in accordance with rules adopted by the
 21 administrator pursuant to chapter 120, except as may be
 22 otherwise specified herein.

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

31

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

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

1 by the employer subsequent to July 1, 1984, all subsequent
2 delinquency fees shall be assessed against the employer at
3 twice the applicable percentage rate specified in s.
4 650.05(4).

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

10 121.4501 Public Employee Optional Retirement
11 Program.--

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

14 (a) "Approved provider" or "provider" means a private
15 sector company that is selected and approved by the state
16 board to offer one or more investment products or services to
17 the Public Employee Optional Retirement Program. The term
18 includes a bundled provider that offers participants a range
19 of individually allocated or unallocated investment products
20 and may offer a range of administrative and customer services,
21 which may include accounting and administration of individual
22 participant benefits and contributions; individual participant
23 recordkeeping; asset purchase, control, and safekeeping;
24 direct execution of the participant's instructions as to asset
25 and contribution allocation; calculation of daily net asset
26 values; direct access to participant account information;
27 periodic reporting to participants, at least quarterly, on
28 account balances and transactions; guidance, advice, and
29 allocation services directly relating to its own investment
30 options or products, but only if the bundled provider complies
31 with the standard of care of s. 404(a)(1)(A-B) of the Employee

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

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

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

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

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

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

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

31

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

6 (g)~~(e)~~ "Employer" means an employer, as defined in s.
7 121.021(10), of an eligible employee.

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

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

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

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

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

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

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

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

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

29 a. The discount rate and other relevant actuarial
30 assumptions used to value the Florida Retirement System Trust
31 Fund at the time the amount to be transferred is determined,

1 consistent with the factors provided in sub-subparagraphs b.
2 and c.

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

8 (I) Age 62; or

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

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

21 (I) Age 55; or

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

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

31

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

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

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

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

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

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

13 (4) PARTICIPATION; ENROLLMENT.--

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

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

1 Retirement System shall terminate. The employee's enrollment
2 in the Public Employee Optional Retirement Program shall be
3 effective the first day of the month for which a full month's
4 employer contribution is made to the optional program.

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

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

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

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

28 b.c. If the employee files such election within 180
29 days after employment commences, ~~but after the initial payroll~~
30 ~~is submitted for the employee,~~ enrollment in the optional
31 program shall be effective on the first day of employment ~~the~~

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

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

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

20 (b)1. With respect to an eligible employee who is
21 employed in a regularly established position on September 1,
22 2002, by a district school board 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 September 1, 2002, or, in the case of an active
30 employee who is on a leave of absence on September 1, 2002,
31 within 90 days after the conclusion of the leave of absence.

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

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

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

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

31

1 ~~b. If the employee files such election before the~~
2 ~~initial payroll is submitted for the employee, enrollment in~~
3 ~~the Public Employee Optional Retirement Program shall be~~
4 ~~effective on the first day of employment.~~

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

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

22 3. For purposes of this paragraph, "district school
23 board employer" means any district school board that
24 participates in the Florida Retirement System for the benefit
25 of certain employees, or a charter school or charter technical
26 career center that participates in the Florida Retirement
27 System as provided in s. 121.051(2)(d).

28 (c)1. With respect to an eligible employee who is
29 employed in a regularly established position on December 1,
30 2002, by a local employer:

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

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

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

30 a. Any such employee shall, by default, be enrolled in
31 the defined benefit retirement program of the Florida

1 Retirement System at the commencement of employment, and may,
 2 within 180 days after employment commences, elect to
 3 participate in the Public Employee Optional Retirement
 4 Program. The employee's election must be made in writing or by
 5 electronic means and must be filed with the personnel officer
 6 of the employer. The election to participate in the optional
 7 program is irrevocable, except as provided in paragraph (e).
 8 ~~b. If the employee files such election before the~~
 9 ~~initial payroll is submitted for the employee, enrollment in~~
 10 ~~the Public Employee Optional Retirement Program shall be~~
 11 ~~effective on the first day of employment.~~

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

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

29 3. For purposes of this paragraph, "local employer"
 30 means any employer not included in paragraph (a) or paragraph
 31 (b).

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

3 (a) Benefits shall be provided in accordance with s.
4 401(a) of the Internal Revenue Code.

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

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

10 ~~1. To the extent vested, benefits shall be payable~~
11 ~~only to a participant, or to his or her beneficiaries as~~
12 ~~designated by the participant.~~

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

17 ~~3. To begin receiving the benefits, the participant~~
18 ~~must be terminated from all employment with all Florida~~
19 ~~Retirement System employers, as provided in s. 121.021(39), or~~
20 ~~the participant must be deceased. If a participant elects to~~
21 ~~receive his or her benefits upon termination of employment,~~
22 ~~the participant must submit a written application to the~~
23 ~~third-party administrator indicating his or her preferred~~
24 ~~distribution date and selecting an authorized method of~~
25 ~~distribution as provided in paragraph (d). The participant may~~
26 ~~defer receipt of benefits until he or she chooses to make such~~
27 ~~application, subject to federal requirements.~~

28 ~~4. In the event of a participant's death, moneys~~
29 ~~accumulated by, or on behalf of, the participant, less~~
30 ~~withholding taxes remitted to the Internal Revenue Service,~~
31 ~~shall be distributed to the participant's designated~~

1 ~~beneficiary or beneficiaries, or to the participant's estate,~~
2 ~~as if the participant retired on the date of death, as~~
3 ~~provided in paragraph (e). No other death benefits shall be~~
4 ~~available for survivors of participants under the Public~~
5 ~~Employee Optional Retirement Program, except for such~~
6 ~~benefits, or coverage for such benefits, as are separately~~
7 ~~afforded by the employer, at the employer's discretion.~~

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

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

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

18 ~~3. Periodic distributions, as authorized by the state~~
19 ~~board.~~

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

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

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

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

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

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

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

20 (16) DISABILITY BENEFITS.--For any participant of the
21 optional retirement program who becomes totally and
22 permanently disabled, benefits shall be paid in accordance
23 with the provisions of s. 121.591 as defined in s.
24 ~~121.091(4)(b), the participant shall be entitled to receive~~
25 ~~those moneys that have accrued in his or her participant~~
26 ~~account. It is the intent of the Legislature to design a~~
27 ~~disability benefit for participants of the optional program~~
28 ~~similar to those disability benefits afforded defined benefit~~
29 ~~program members. The department is directed to study the~~
30 ~~potential options of such coverage, including self-insurance~~
31 ~~and commercial coverage, the alternative methods of~~

1 ~~administering such benefits, and the fiscal impacts on the~~
2 ~~employees and employers, and to make recommendations to the~~
3 ~~Legislature by January 15, 2001.~~

4 Section 14. Subsections (3) and (7) of section
5 121.571, Florida Statutes, are amended to read:

6 121.571 Contributions.--Contributions to the Public
7 Employee Optional Retirement Program shall be made as follows:

8 (3) CONTRIBUTIONS TO DISABILITY ACCOUNT.--

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

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

22		
23	Dates of Contribution	Employers
24	Rate Changes	
25	Effective July 1, 2002:	<u>0.25%</u> 0.39%
26		

27 (c) Disability contributions for Special Risk Class
28 members of the optional retirement plan are as follows:

29		
30	Dates of Contribution	Employers
31	Rate Changes	

1 Effective July 1, 2002: 1.33%~~1.25%~~
2
3 (d) Disability contributions for Special Risk
4 Administrative Support Class members of the optional
5 retirement plan are as follows:
6
7 Dates of Contribution Employers
8 Rate Changes
9 Effective July 1, 2002: 0.45%~~0.73%~~
10
11 (e) Disability contributions for Elected Officers'
12 Class members of the optional retirement plan are as follows:
13
14 Dates of Contribution Employers
15 Rate Changes
16 Effective July 1, 2002:
17 Legislators 0.41%~~0.61%~~
18 Governor, Lt. Governor, 0.41%~~0.61%~~
19 Cabinet Officers
20 State Attorneys, Public 0.41%~~0.61%~~
21 Defenders
22 Justices, Judges 0.73%~~1.45%~~
23 County Elected Officers 0.41%~~0.86%~~
24
25 (f) Disability contributions for Senior Management
26 Service Class members of the optional retirement plan are as
27 follows:
28
29 Dates of Contribution Employers
30 Rate Changes
31 Effective July 1, 2002: 0.26%~~0.50%~~

1
2 (7) PAYMENT AND DISTRIBUTION OF
3 CONTRIBUTIONS.--Contributions made pursuant to this section
4 and accompanying payroll data are due and payable ~~shall be~~
5 ~~paid~~ by the employer to the third-party administrator by
6 electronic funds transfer or electronic data transfer no later
7 than the 5th working day of the month immediately following
8 the month during which the payroll period ended. The board and
9 the third-party administrator shall ensure that the
10 contributions are distributed to the appropriate trust funds
11 or participant accounts in a timely manner.

12 Section 15. Section 121.591, Florida Statutes, is
13 created to read:

14 121.591 Benefits payable under the Public Employee
15 Optional Retirement Program of the Florida Retirement
16 System.--Benefits may not be paid under this section unless
17 the member has terminated employment as provided in s.
18 121.021(39)(a) or is deceased, and a proper application has
19 been filed in the manner prescribed by the state board or the
20 department. The state board or department, as appropriate, may
21 cancel an application for retirement benefits when the member
22 or beneficiary fails to timely provide the information and
23 documents required by this chapter and the rules of the state
24 board and department. In accordance with their respective
25 responsibilities as provided herein, the State Board of
26 Administration and the Department of Management Services shall
27 adopt rules establishing procedures for application for
28 retirement benefits and for the cancellation of such
29 application when the required information or documents are not
30 received.

31

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

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

7 1. To the extent vested, benefits shall be payable
8 only to a participant.

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

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

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

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

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

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

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

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

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

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

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

26 2. If the participant has retained retirement credit
27 he or she had earned under the defined benefit program of the
28 Florida Retirement System as provided in s. 121.4501(3)(b), a
29 sum representing the actuarial present value of such credit
30 within the Florida Retirement System Trust Fund shall be
31 reassigned by the Division of Retirement from the defined

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

5 (b) Disability retirement; entitlement.--

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

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

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

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

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

1 considered creditable service for purposes of vesting for
2 disability benefits, except as provided in subparagraph d.

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

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

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

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

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

1 disability account of the Florida Retirement System Trust Fund
2 established under this subsection.

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

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

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

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

28 1. The participant's transfer to the defined benefit
29 program under paragraph (i) shall be nullified;
30
31

1 2. The participant shall be retroactively reinstated
2 in the Public Employee Optional Retirement Program without
3 hiatus;

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

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

10 (k) Recovery from disability.--

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

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

30 a. An amount equal to the total benefits paid shall be
31 subtracted from that portion of the transferred account

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

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

12 c. If the recipient returns to covered employment,
13 transferred amounts shall be deposited in individual accounts
14 under the Public Employee Optional Retirement Program, as
15 directed by the participant. Vested and nonvested amounts
16 shall be separately accounted for as provided in s.
17 121.4501(6).

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

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

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

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

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

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

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

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

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

1 Qualifications Commission pursuant to the provisions of Art. V
2 of the State Constitution and elects to receive a monthly
3 disability benefit under the provisions of this paragraph,
4 then:

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

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

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

28 (3) DEATH BENEFITS.--Under the Public Employee
29 Optional Retirement Program:

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

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

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

14 3. To receive benefits under this subsection, the
15 participant must be deceased.

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

28 (c) Upon receipt by the third-party administrator of a
29 properly executed application for distribution of benefits,
30 the total accumulated benefit shall be payable by the
31

1 third-party administrator to the participant's surviving
2 beneficiary or beneficiaries, as:

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

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

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

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

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

1 Section 16. Paragraph (g) of subsection (2), paragraph
2 (g) of subsection (3), and paragraph (h) of subsection (4) of
3 section 110.123, Florida Statutes, are amended to read:

4 110.123 State group insurance program.--

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

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

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

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

24 (3) STATE GROUP INSURANCE PROGRAM.--

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

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

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

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

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

22 Section 18. Notwithstanding any provision to the
23 contrary and the authority of the department, the Department
24 of Management Services may contract with a private sector
25 company selected and approved by the department for services
26 to administer the disability benefit program. Not later than
27 March 1, 2003, the department may provide to the Legislature
28 for its approval an alternative method to administer and fund
29 disability benefits for participants in the Public Employee
30 Optional Retirement Program and the Florida Retirement System,
31 including through commercial insurance coverage.

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

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

15 110.205 Career service; exemptions.--

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

18 (j) The appointed secretaries, assistant secretaries,
19 deputy secretaries, and deputy assistant secretaries of all
20 departments; the executive directors, assistant executive
21 directors, deputy executive directors, and deputy assistant
22 executive directors of all departments; and the directors of
23 all divisions and those positions determined by the department
24 to have managerial responsibilities comparable to such
25 positions, which positions include, but are not limited to,
26 program directors, assistant program directors, district
27 administrators, deputy district administrators, the Director
28 of Central Operations Services of the Department of Children
29 and Family Services, and the State Transportation Planner,
30 State Highway Engineer, State Public Transportation
31 Administrator, district secretaries, district directors of

1 planning and programming, production, and operations, and the
2 managers of the offices specified in s. 20.23(3)(d)2., of the
3 Department of Transportation, and the county health department
4 directors and county health department administrators of the
5 Department of Health. Unless otherwise fixed by law, the
6 department shall set the salary and benefits of these
7 positions in accordance with the rules of the Senior
8 Management Service.

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

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

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

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

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

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

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

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

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

24 3. The Chancellor and the university presidents.

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

31

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

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

7 (3) ELECTION OF OPTIONAL PROGRAM.--

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

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

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

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

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

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

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

23 2. Any employee whose optional retirement program
24 eligibility results from 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) shall be enrolled in
29 the optional retirement program upon such change in status and
30 shall be notified by the employer of such action. If, within
31 90 days after the date of such notification, the employee

1 elects to retain membership in the Florida Retirement System,
2 such continuation of membership shall be retroactive to the
3 date of the change in status.

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

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

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

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

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

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

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

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

18 (4) CONTRIBUTIONS.--

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

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

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

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

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

1 be in addition to the retirement contributions specified in
2 this subsection.

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

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

1 be accounted for in accordance with any applicable Internal
 2 Revenue Code requirements and rules of the department.

3 (5) BENEFITS.--

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

21 1. Benefits shall be payable only to a participant, or
 22 to his or her beneficiaries, or his or her estate, as
 23 designated by the participant;~~A lump-sum payment to the~~
 24 ~~beneficiary upon the death of the participant; or~~

25 2. Benefits shall be paid by the provider company or
 26 companies in accordance with the law, the provisions of the
 27 contract, and any applicable board rule or policy; ~~or~~ ~~A~~
 28 ~~cash-out of a de minimis account upon the request of a former~~
 29 ~~participant who has been terminated for a minimum of 6 months~~
 30 ~~from the employment that entitled him or her to optional~~
 31 ~~retirement program participation. A de minimis account is an~~

1 ~~account with a provider company containing employer~~
2 ~~contributions and accumulated earnings of not more than \$5,000~~
3 ~~made under the provisions of this chapter. Such cash-out must~~
4 ~~be a complete liquidation of the account balance with that~~
5 ~~company and is subject to the provisions of the Internal~~
6 ~~Revenue Code.~~

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

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

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

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

27 3. Periodic distributions;

28 4. A partial lump-sum payment whereby a portion of the
29 accrued benefit is paid to the participant and the remaining
30 amount is transferred to an eligible retirement plan, as

31

1 defined in s. 402(c)(8)(B) of the Internal Revenue Code, on
2 behalf of the participant; or

3 5. Such other distribution options provided for in the
4 participant's optional retirement program contract.

5 (c) Survivor benefits shall be payable as:

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

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

14 3. Such other distribution options provided for in the
15 participant's optional retirement program contract; or

16 4. A partial lump-sum payment whereby a portion of the
17 accrued benefit is paid to the deceased participant's
18 surviving spouse or other designated beneficiaries, less
19 withholding taxes remitted to the Internal Revenue Service, if
20 any, and the remaining amount is transferred 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 The proportions must be specified by the participant or the
24 surviving beneficiary.

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

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

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

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

14 (6) ADMINISTRATION OF PROGRAM.--

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

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

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

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

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

27 (d) The provisions of each contract applicable to a
28 participant in the optional retirement program shall be
29 contained in a written program description which shall include
30 a report of pertinent financial and actuarial information on
31 the solvency and actuarial soundness of the program and the

1 benefits applicable to the participant. Such description
2 shall be furnished by the companies to each participant in the
3 program and to the department upon commencement of
4 participation in the program and annually thereafter.

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

9 Section 22. This act shall take effect July 1, 2002.

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