

1
2 An act relating to the Florida Retirement
3 System; amending s. 121.4501, F.S., relating to
4 the Public Employee Optional Retirement
5 Program; amending the definition of "eligible
6 employee"; providing for an extension of time
7 to transfer assets from the defined benefit
8 plan in the event of market disruption;
9 providing for acceptance of rollovers;
10 requiring that the election be filed with the
11 third-party administrator; amending the
12 earnings rate for funds in the suspense account
13 to be invested by the board; providing for
14 spousal notification of designation of
15 beneficiary; providing for spousal rollovers to
16 an eligible retirement plan; providing
17 authorization for statements under oath;
18 amending s. 110.123, F.S.; redefining the term
19 "retired state officer or employee" or
20 "retiree" to include an officer or employee who
21 retires under the Public Employee Optional
22 Retirement Program under certain circumstances;
23 amending s. 110.205, F.S.; granting senior
24 management service benefits to county health
25 department directors and administrators;
26 amending ss. 121.052, 121.055, and 121.071,
27 F.S.; amending s. 121.052, F.S.; revising the
28 membership requirements of the Elected
29 Officers' Class of the system to include
30 certain sheriffs and clerks of the circuit
31 court; making the date for payment of

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

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

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

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (d) of subsection (2), paragraph
26 (c) of subsection (3), paragraphs (a), (b), and (c) of
27 subsection (4), subsection (6), paragraphs (c) and (e) of
28 subsection (7), and paragraph (a) of subsection (8) of section
29 121.4501, Florida Statutes, are amended, and paragraph (c) is
30 added to subsection (5) of said section, to read:

31

1 121.4501 Public Employee Optional Retirement
2 Program.--

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

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

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

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

12 3. Is eligible to participate in, but does not
13 participate in, the State University System Optional
14 Retirement Program established under s. 121.35 or the State
15 Community College System Optional Retirement Program
16 established under s. 121.051(2)(c).

17

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

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

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

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

8 2. For purposes of this subsection, the present value
9 of the member's accumulated benefit obligation is based upon
10 the member's estimated creditable service and estimated
11 average final compensation as of midnight of the day prior to
12 the opening of the election window for the employee. The
13 actuarial present value of the employee's accumulated benefit
14 obligation shall be based on the following:

15 a. The discount rate and other relevant actuarial
16 assumptions used to value the Florida Retirement System Trust
17 Fund at the time the amount to be transferred is determined,
18 consistent with the factors provided in sub-subparagraphs b.
19 and c.

20 b. A benefit commencement age, based on the member's
21 estimated creditable service as of midnight on May 31, 2002.
22 The benefit commencement age shall be the younger of the
23 following, but shall not be younger than the member's age as
24 of midnight on May 31, 2002:

25 (I) Age 62; or

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

31

1 c. For members of the Special Risk Class and for
2 members of the Special Risk Administrative Support Class
3 entitled to retain special risk normal retirement date, the
4 benefit commencement age shall be the younger of the
5 following, but shall not be younger than the member's age as
6 of midnight on May 31, 2002:

7 (I) Age 55; or

8 (II) The age the member would attain if the member
9 completed 25 years of service with an employer, assuming the
10 member worked continuously from May 31, 2002, and disregarding
11 any vesting requirement that would otherwise apply under the
12 defined benefit program of the Florida Retirement System.

13 d. The calculation shall disregard vesting
14 requirements and early retirement reduction factors that would
15 otherwise apply under the defined benefit retirement program.

16 3. For each participant who elects to transfer moneys
17 from the defined benefit program to his or her account in the
18 optional program, the division shall recompute the amount
19 transferred under subparagraph 2. not later than 60 days after
20 the actual transfer of funds based upon the participant's
21 actual creditable service and actual final average
22 compensation as of the initial date of participation in the
23 optional program. If the recomputed amount differs from the
24 amount transferred under subparagraph 2. by \$10 or more, the
25 division shall:

26 a. Transfer, or cause to be transferred, from the
27 Florida Retirement System Trust Fund to the participant's
28 account in the optional program the excess, if any, of the
29 recomputed amount over the previously transferred amount
30 together with interest from the initial date of transfer to
31

1 the date of transfer under this subparagraph, based upon 8
2 percent effective annual interest, compounded annually.

3 b. Transfer, or cause to be transferred, from the
4 participant's account to the Florida Retirement System Trust
5 Fund the excess, if any, of the previously transferred amount
6 over the recomputed amount, together with interest from the
7 initial date of transfer to the date of transfer under this
8 subparagraph, based upon 6 percent effective annual interest,
9 compounded annually, pro rata based on the participant's
10 allocation plan.

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

27 5. If the board or the division receives notification
28 from the United States Internal Revenue Service that this
29 paragraph or any portion of this paragraph will cause the
30 retirement system, or a portion thereof, to be disqualified
31 for tax purposes under the Internal Revenue Code, then the

1 portion that will cause the disqualification does not apply.
2 Upon such notice, the state board and the division shall
3 notify the presiding officers of the Legislature.

4 (4) PARTICIPATION; ENROLLMENT.--

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

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

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

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

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

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

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

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

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

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

4 3. For purposes of this paragraph, "state employer"
5 means any agency, board, branch, commission, community
6 college, department, institution, institution of higher
7 education, or water management district of the state, which
8 participates in the Florida Retirement System for the benefit
9 of certain employees.

10 (b)1. With respect to an eligible employee who is
11 employed in a regularly established position on September 1,
12 2002, by a district school board employer:

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

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

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

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

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

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

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

1 enrollment in the optional program shall be effective on the
2 first day of the month for which a full month's employer
3 contribution is made to the optional program.

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

10 3. For purposes of this paragraph, "district school
11 board employer" means any district school board that
12 participates in the Florida Retirement System for the benefit
13 of certain employees, or a charter school or charter technical
14 career center that participates in the Florida Retirement
15 System as provided in s. 121.051(2)(d).

16 (c)1. With respect to an eligible employee who is
17 employed in a regularly established position on December 1,
18 2002, by a local employer:

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

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

8 b. Any such employee who fails to elect to participate
9 in the Public Employee Optional Retirement Program within the
10 prescribed time period ~~90 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 2. With respect to employees who become eligible to
15 participate in the Public Employee Optional Retirement Program
16 by reason of employment in a regularly established position
17 with a local employer commencing after October ~~December~~ 1,
18 2002:

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

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

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

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

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

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

18 (5) CONTRIBUTIONS.--

19 (c) The Public Employee Optional Retirement Program
20 may accept for deposit into participant accounts contributions
21 in the form of rollovers or direct trustee-to-trustee
22 transfers by or on behalf of participants, reasonably
23 determined by the board to be eligible for rollover or
24 transfer to the optional retirement program pursuant to the
25 Internal Revenue Code, if such contributions are made in
26 accordance with rules as may be adopted by the board. Such
27 contributions shall be accounted for in accordance with any
28 applicable Internal Revenue Code requirements and rules of the
29 board.

30 (6) VESTING REQUIREMENTS.--

31

1 (a)1. With respect to employer contributions paid on
2 behalf of the participant to the Public Employee Optional
3 Retirement Program, plus interest and earnings thereon and
4 less investment fees and administrative charges, a participant
5 shall be vested after completing 1 work year, as defined in s.
6 121.021(54), with an employer, including any service while the
7 participant was a member of the defined benefit retirement
8 program or an optional retirement program authorized under s.
9 121.051(2)(c) or s. 121.055(6).

10 2. If the participant terminates employment prior to
11 satisfying the vesting requirements, the nonvested
12 accumulation shall be transferred from the participant's
13 accounts to the state board for deposit and investment by the
14 board in the suspense account of the Public Employee Optional
15 Retirement Program Trust Fund of the board. If the terminated
16 participant is reemployed as an eligible employee within 5
17 years, the state board shall transfer to the participant's
18 account any amount of the moneys previously transferred from
19 the participant's accounts to the suspense account of the
20 Public Employee Optional Retirement Program Trust Fund, plus
21 the actual earnings on such amount while in the suspense
22 account interest calculated at 3.0 percent per annum,
23 ~~calculated from the date of transfer to the date of~~
24 ~~reemployment.~~

25 (b)1. A participant shall be vested in the amount
26 transferred from the defined benefit program, plus interest
27 and earnings thereon and less administrative charges and
28 investment fees, upon meeting the service requirements for the
29 participant's membership class as set forth in s. 121.021(29).
30 The third-party administrator shall account for such amounts
31 for each participant. The division shall notify the

1 participant and the third-party administrator when the
2 participant has satisfied the vesting period for Florida
3 Retirement System purposes.

4 2. If the participant terminates employment prior to
5 satisfying the vesting requirements, the nonvested
6 accumulation shall be transferred from the participant's
7 accounts to the state board for deposit and investment by the
8 board in the suspense account of the Public Employee Optional
9 Retirement Program Trust Fund of the board. If the terminated
10 participant is reemployed as an eligible employee within 5
11 years, the state board shall transfer to the participant's
12 account any amount of the moneys previously transferred from
13 the participant's accounts to the suspense account of the
14 Public Employee Optional Retirement Program Trust Fund, plus
15 the actual earnings on such amount while in the suspense
16 account interest calculated at 6.0 percent per annum,
17 ~~calculated from the date of transfer to the date of~~
18 ~~reemployment.~~

19 (c) Any nonvested accumulations transferred from a
20 participant's account to the suspense account shall be
21 forfeited by the participant if the participant is not
22 reemployed as an eligible employee within 5 years after
23 termination.

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

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

28 1. To the extent vested, benefits shall be payable
29 only to a participant, or to his or her beneficiaries as
30 designated by the participant. If a participant designates a
31 beneficiary who is not the participant's spouse, the

1 participant's spouse shall be notified. This requirement shall
2 not apply to the designation of a contingent beneficiary
3 designated to receive benefits hereunder in the event the
4 participant's spouse dies before such contingent beneficiary.

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

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

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

31 (e) Survivor benefits shall be payable as:

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

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

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

26 (a) The Public Employee Optional Retirement Program
27 shall be administered by the state board and affected
28 employers. The board is authorized to require oaths, by
29 affidavit or otherwise, and acknowledgments from persons in
30 connection with the administration of its duties and
31 responsibilities under this chapter. No oath, by affidavit or

1 otherwise, shall be required of an employee participant at the
2 time of election. Acknowledgement of an employee's election to
3 participate in the program shall be no greater than necessary
4 to confirm the employee's election.The board shall adopt
5 rules establishing the role and responsibilities of affected
6 state, local government, and education-related employers, the
7 state board, the department, and third-party contractors in
8 administering the Public Employee Optional Retirement Program.
9 The department shall adopt rules necessary to implement the
10 optional program in coordination with the defined benefit
11 retirement program and the disability benefits available under
12 the optional program.

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

16 110.123 State group insurance program.--

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

18 (g) "Retired state officer or employee" or "retiree"
19 means any state officer or state employee who retires under a
20 state retirement system or a state optional annuity or
21 retirement program or is placed on disability retirement, and
22 who was insured under the state group insurance program at the
23 time of retirement, and who begins receiving retirement
24 benefits immediately after retirement from state office or
25 employment. In addition to these requirements, any state
26 officer or state employee who retires under the Public
27 Employee Optional Retirement Program established under part II
28 of chapter 121 shall be considered a "retired state officer or
29 employee" or "retiree" as used in this section if he or she:
30 1. Meets the age and service requirements to qualify
31 for normal retirement as set forth in s. 121.021(29); or

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

4 (3) STATE GROUP INSURANCE PROGRAM.--

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

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

19 ~~(h) State employees may participate in the state group~~
20 ~~health insurance plan at the time of receiving their state~~
21 ~~retirement benefits.~~

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

24 110.205 Career service; exemptions.--

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

27 (j) The appointed secretaries, assistant secretaries,
28 deputy secretaries, and deputy assistant secretaries of all
29 departments; the executive directors, assistant executive
30 directors, deputy executive directors, and deputy assistant
31 executive directors of all departments; ~~and~~ the directors of

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

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

29 Section 4. Paragraph (d) of subsection (2) and
30 subsection (7) of section 121.052, Florida Statutes, as
31

1 amended by chapter 2001-262, Laws of Florida, are amended to
2 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 (7) CONTRIBUTIONS.--

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

1 the contributions required for social security and the Retiree
2 Health Insurance Subsidy Trust Fund.

3
4 Dates of Contribution

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

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

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

30
31

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

10

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

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

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

27 (1)

28 (h)1. Except as provided in subparagraph 3., effective
 29 January 1, 1994, participation in the Senior Management
 30 Service Class shall be compulsory for the State Courts
 31 Administrator and the Deputy State Courts Administrators, the

1 Clerk of the Supreme Court, the Marshal of the Supreme Court,
2 the Executive Director of the Justice Administrative
3 Commission, the Capital Collateral Regional Counsels, the
4 clerks of the district courts of appeals, the marshals of the
5 district courts of appeals, and the trial court administrator
6 and the Chief Deputy Court Administrator in each judicial
7 circuit. Effective January 1, 1994, additional positions in
8 the offices of the state attorney and public defender in each
9 judicial circuit may be designated for inclusion in the Senior
10 Management Service Class of the Florida Retirement System,
11 provided that:

12 a. Positions to be included in the class shall be
13 designated by the state attorney or public defender, as
14 appropriate. Notice of intent to designate positions for
15 inclusion in the class shall be published once a week for 2
16 consecutive weeks in a newspaper of general circulation
17 published in the county or counties affected, as provided in
18 chapter 50.

19 b. One nonelective full-time position may be
20 designated for each state attorney and public defender
21 reporting to the Department of Management Services; for
22 agencies with 200 or more regularly established positions
23 under the state attorney or public defender, additional
24 nonelective full-time positions may be designated, not to
25 exceed 0.5 percent of the regularly established positions
26 within the agency.

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

31 (I) Heads an organizational unit; or

1 (II) Has responsibility to effect or recommend
2 personnel, budget, expenditure, or policy decisions in his or
3 her areas of responsibility.

4 2. Participation in this class shall be compulsory,
5 except as provided in subparagraph 3., for any judicial
6 employee who holds a position designated for coverage in the
7 Senior Management Service Class, and such participation shall
8 continue until the employee terminates employment in a covered
9 position. Effective January 1, 2001, participation in this
10 class is compulsory for assistant state attorneys, assistant
11 statewide prosecutors, assistant public defenders, and
12 assistant capital collateral regional counsels. Effective
13 January 1, 2002, participation in this class is compulsory for
14 assistant attorneys general.

15 3. In lieu of participation in the Senior Management
16 Service Class, such members, excluding assistant state
17 attorneys, assistant public defenders, assistant statewide
18 prosecutors, assistant attorneys general, and assistant
19 capital collateral regional counsels, may participate in the
20 Senior Management Service Optional Annuity Program as
21 established in subsection (6).

22 (k) Any state attorney or public defender in the
23 Elected Officers' Class who has creditable service as an
24 assistant state attorney or assistant public defender may
25 upgrade retirement credit for such service in accordance with
26 the provisions of paragraph (j).

27 (3)(a) The following table states the required
28 retirement contribution rates for members of the Senior
29 Management Service Class and their employers in terms of a
30 percentage of the member's gross compensation. A change in the
31 contribution rate is effective with the first salary paid on

1 or after the beginning date of the change. Contributions
 2 shall be made for each pay period and are in addition to the
 3 contributions required for social security and the Retiree
 4 Health Insurance Subsidy Trust Fund.

5

6 Dates of Contribution

7 Rate Changes	Members	Employers
8 Effective July 1, 2001	0%	11.73%

9

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

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

26

27 Dates of Contribution	Contribution
28 Rate Changes	Rate
29 October 1, 1987, through December 31, 1988	0.24%
30 January 1, 1989, through December 31, 1993	0.48%
31 January 1, 1994, through December 31, 1994	0.56%

1	January 1, 1995, through June 30, 1998	0.66%
2	July 1, 1998, through June 30, 2001	0.94%
3	Effective July 1, 2001	1.11%

4

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

10 (6)

11 (c) Participation.--

12 1. Any eligible employee who is employed on or before
13 February 1, 1987, may elect to participate in the optional
14 annuity program in lieu of participation in the Senior
15 Management Service Class. Such election shall be made in
16 writing and filed with the department and the personnel
17 officer of the employer on or before May 1, 1987. Any
18 eligible employee who is employed on or before February 1,
19 1987, and who fails to make an election to participate in the
20 optional annuity program by May 1, 1987, shall be deemed to
21 have elected membership in the Senior Management Service
22 Class.

23 2. Any employee who becomes eligible to participate in
24 the optional annuity program by reason of initial employment
25 commencing after February 1, 1987, may, within 90 days after
26 the date of commencement of employment, elect to participate
27 in the optional annuity program. Such election shall be made
28 in writing and filed with the personnel officer of the
29 employer. Any eligible employee who does not within 90 days
30 after commencement of such employment elect to participate in
31

1 the optional annuity program shall be deemed to have elected
2 membership in the Senior Management Service Class.

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

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

23 5. Effective from July 1, 2002, through September 30,
24 2002, any active employee in a regularly established position
25 who has elected to participate in the Senior Management
26 Service Optional Annuity Program has one opportunity to choose
27 to move from the Senior Management Service Optional Annuity
28 Program to the Florida Retirement System defined benefit
29 program.

30 a. The election must be made in writing and must be
31 filed with the department and the personnel officer of the

1 employer before October 1, 2002, or, in the case of an active
2 employee who is on a leave of absence on July 1, 2002, within
3 90 days after the conclusion of the leave of absence. This
4 election is irrevocable.

5 b. The employee will receive service credit under the
6 defined benefit program of the Florida Retirement System equal
7 to his or her years of service under the Senior Management
8 Service Optional Annuity Program. The cost for such credit
9 shall be an amount representing the present value of that
10 employee's accumulated benefit obligation for the affected
11 period of service.

12 c. The employee must transfer the total accumulated
13 employer contributions and earnings on deposit in his or her
14 Senior Management Service Optional Annuity Program account. If
15 the transferred amount is not sufficient to pay the amount
16 due, the employee must pay a sum representing the remainder of
17 the amount due. In no case may the employee retain any
18 employer contributions or earnings thereon from the Senior
19 Management Service Optional Annuity Program account.

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

23 121.071 Contributions.--Contributions to the system
24 shall be made as follows:

25 (5) Contributions made in accordance with subsections
26 (1), (2), (3), and (4) shall be paid by the employer into the
27 system trust funds in accordance with rules adopted by the
28 administrator pursuant to chapter 120, except as may be
29 otherwise specified herein.

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

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

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

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

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

11 Section 7. Section 121.35, Florida Statutes, is
12 amended to read:

13 121.35 Optional retirement program for the State
14 University System.--

15 (1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.--The
16 Department of Management Services shall establish an optional
17 retirement program under which contracts providing retirement
18 and death benefits may be purchased for eligible members of
19 the State University System who elect to participate in the
20 program. The benefits to be provided for or on behalf of
21 participants in such optional retirement program shall be
22 provided through individual contracts or individual
23 certificates issued for group annuity or other contracts,
24 which may be fixed, variable, or a combination thereof, in
25 accordance with s. 403(b) of the Internal Revenue Code. Any
26 individual contract or certificate shall state the annuity
27 plan on its face page, and shall include, but not be limited
28 to, a statement of ownership, the contract benefits, annuity
29 income options, limitations, expense charges, and surrender
30 charges, if any. The state shall contribute, as provided in
31 this section, toward the purchase of such optional benefits.

1 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
2 PROGRAM.--

3 (a) Participation in the optional retirement program
4 provided by this section shall be limited to persons who are
5 otherwise eligible for membership in the Florida Retirement
6 System; who are employed or appointed for no less than one
7 academic year; and who are employed in one of the following
8 State University System positions:

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

12 2. Positions classified as administrative and
13 professional which are exempt from the career service under
14 the provisions of s. 110.205(2)(d).

15 3. The Chancellor and the university presidents.

16 (b) For purposes of this section, both the appointees
17 and employees are referred to as "employees," and the
18 "employer" of an appointee or employee is the individual
19 institution within the State University System or the State
20 Board of Education Regents, whichever is appropriate with
21 respect to the particular employee or appointee.

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

24 (d) For purposes of this section, the authority
25 granted to the State Board of Education Regents may be
26 exercised by the board or by the Chancellor of the Division of
27 Colleges and Universities State University System.

28 (3) ELECTION OF OPTIONAL PROGRAM.--

29 (a) Any eligible employee who is employed on or before
30 March 1, 1984, may elect to participate in the optional
31 retirement program in lieu of participation in the Florida

1 Retirement System. Such election shall be made in writing and
2 filed with the division and the personnel officer of the
3 employer on or before June 1, 1984. Upon such election,
4 participation in the optional program will take effect July 1,
5 1984, and election to so participate will terminate the
6 membership of the employee in the Florida Retirement System.
7 Any eligible employee who is employed on or before March 1,
8 1984, and who fails to make an election to participate in the
9 optional program by June 1, 1984, shall be deemed to have
10 elected to retain membership in the Florida Retirement System.

11 (b)1. Any employee who becomes eligible to participate
12 in the optional retirement program by reason of initial
13 employment commencing after March 1, 1984, but before January
14 1, 1993, may, within 90 days after the date of commencement of
15 employment, elect to participate in the optional program. Such
16 election shall be made in writing and filed with the personnel
17 officer of the employer. The eligible employees described in
18 this subparagraph shall be enrolled in the Florida Retirement
19 System at the commencement of employment, with the exception
20 of those employees who file an election with the personnel
21 officer of the employer prior to the submission of the initial
22 payroll for the employee. For such employees, participation
23 will be effective on the first day of employment or on July 1,
24 1984, whichever is later. If an eligible employee, as
25 described in this subparagraph, files an election to
26 participate in the optional program within 90 days after the
27 commencement of employment, but after the submission by the
28 employer of the initial payroll for the employee, the
29 employee's participation in the optional program will not be
30 effective until the first day of the month for which a full
31 month's employer contribution may be made, or until July 1,

1 1984, whichever is later. Any eligible employee who does not
2 within 90 days after commencement of such employment elect to
3 participate in the optional program shall be deemed to have
4 elected to retain membership in the Florida Retirement System.

5 2. Any employee who after March 1, 1984, but before
6 January 1, 1993, becomes eligible to participate in the
7 optional program by reason of a change in status due to the
8 subsequent designation of the employee's position as one of
9 those specified in paragraph (2)(a) or due to the employee's
10 appointment, promotion, transfer, or reclassification to a
11 position specified in paragraph (2)(a) may elect to
12 participate in the optional program. Such employee shall be
13 notified by the employer of the change in his or her
14 eligibility status. Such employee may, within 90 days after
15 the date of such notification, file with the personnel officer
16 of the employer an election in writing to participate in the
17 optional program in lieu of participation in the Florida
18 Retirement System. Upon such election, participation in the
19 optional program will be effective on the first day of the
20 month for which a full month's employer contribution may be
21 made or on July 1, 1984, whichever is later. Election to so
22 participate shall terminate the membership of the employee in
23 the Florida Retirement System. Any eligible employee who does
24 not within 90 days after notification of his or her
25 eligibility to participate in the optional program elect to
26 participate in the program shall be deemed to have elected to
27 retain membership in the Florida Retirement System.

28 (c) Any employee who becomes eligible to participate
29 in the optional retirement program on or after January 1,
30 1993, shall be a compulsory participant of the program unless
31 such employee elects membership in the Florida Retirement

1 System. Such election shall be made in writing and filed with
2 the personnel officer of the employer. Any eligible employee
3 who fails to make such election within the prescribed time
4 period shall be deemed to have elected to participate in the
5 optional retirement program.

6 1. Any employee whose optional retirement program
7 eligibility results from initial employment shall be enrolled
8 in the program at the commencement of employment. If, within
9 90 days after commencement of employment, the employee elects
10 membership in the Florida Retirement System, such membership
11 shall be effective retroactive to the date of commencement of
12 employment.

13 2. Any employee whose optional retirement program
14 eligibility results from a change in status due to the
15 subsequent designation of the employee's position as one of
16 those specified in paragraph (2)(a) or due to the employee's
17 appointment, promotion, transfer, or reclassification to a
18 position specified in paragraph (2)(a) shall be enrolled in
19 the optional retirement program upon such change in status and
20 shall be notified by the employer of such action. If, within
21 90 days after the date of such notification, the employee
22 elects to retain membership in the Florida Retirement System,
23 such continuation of membership shall be retroactive to the
24 date of the change in status.

25 3. Notwithstanding the provisions of this paragraph,
26 effective July 1, 1997, any employee who is eligible to
27 participate in the Optional Retirement Program and who fails
28 to execute a ~~an annuity~~ contract with one of the approved
29 companies and to notify the department in writing as provided
30 in subsection (4) within 90 days after ~~of~~ the date of
31 eligibility shall be deemed to have elected membership in the

1 Florida Retirement System, except as provided in s.
2 121.051(1)(a). This provision shall also apply to any employee
3 who terminates employment in an eligible position before
4 executing the required annuity contract and notifying the
5 department. Such membership shall be retroactive to the date
6 of eligibility, and all appropriate contributions shall be
7 transferred to the Florida Retirement System Trust Fund and
8 the Health Insurance Subsidy Trust Fund.

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

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

26 (f) If an employee becomes ineligible to continue
27 participation in the optional retirement program under
28 subsection (2), the employee shall thereafter participate in
29 the Florida Retirement System if he or she is otherwise
30 eligible.

31

1 (g) An eligible employee who is a member of the
2 Florida Retirement System at the time of election to
3 participate in the optional retirement program shall retain
4 all retirement service credit earned under the Florida
5 Retirement System, at the rate earned. No additional service
6 credit in the Florida Retirement System shall be earned while
7 the employee participates in the optional program, nor shall
8 the employee be eligible for disability retirement under the
9 Florida Retirement System.

10 (h) A participant in the optional retirement program
11 may not participate in more than one state-administered
12 retirement system, plan, or class simultaneously. Except as
13 provided in s. 121.052(6)(d), a participant who is or becomes
14 dually employed in two or more positions covered by the
15 Florida Retirement System, one of which is eligible for the
16 optional program and one of which is not, may remain a member
17 of the optional program and contributions shall be paid as
18 required only on the salary earned in the position eligible
19 for the optional program during such period of dual
20 employment; or, within 90 days after becoming dually employed,
21 he or she may elect membership in the Regular Class of the
22 Florida Retirement System in lieu of the optional program and
23 contributions shall be paid as required on the total salary
24 received for all employment. At retirement, the average final
25 compensation used to calculate any benefits for which the
26 member becomes eligible under the Florida Retirement System
27 shall be based on all salary reported for both positions
28 during such period of dual employment. When such member
29 ceases to be dually employed, he or she may, within 90 days,
30 elect to remain in the Florida Retirement System class for
31 which he or she is eligible or to again become a participant

1 in the optional retirement program. Failure to elect
2 membership in the optional program within 90 days shall result
3 in compulsory membership in the Florida Retirement System,
4 except that a member filling a faculty position under a
5 faculty practice plan at the University of Florida or the
6 Medical Center at the University of South Florida shall again
7 participate in the optional retirement program as required in
8 s. 121.051(1)(a).

9 (4) CONTRIBUTIONS.--

10 (a) Through June 30, 2001, each employer shall
11 contribute on behalf of each participant in the optional
12 retirement program an amount equal to the normal cost portion
13 of the employer retirement contribution which would be
14 required if the participant were a regular member of the
15 Florida Retirement System defined benefit program, plus the
16 portion of the contribution rate required in s. 112.363(8)
17 that would otherwise be assigned to the Retiree Health
18 Insurance Subsidy Trust Fund. Effective July 1, 2001, each
19 employer shall contribute on behalf of each participant in the
20 optional program an amount equal to 10.43 percent of the
21 participant's gross monthly compensation. The department shall
22 deduct an amount approved by the Legislature to provide for
23 the administration of this program. The payment of the
24 contributions to the optional program which is required by
25 this paragraph for each participant shall be made by the
26 employer to the department, which shall forward the
27 contributions to the designated company or companies
28 contracting for payment of benefits for the participant under
29 the program. However, such contributions paid on behalf of an
30 employee described in paragraph (3)(c) shall not be forwarded
31 to a company and shall not begin to accrue interest until the

1 employee has executed an annuity contract and notified the
2 department.

3 (b) Each employer shall contribute on behalf of each
4 participant in the optional retirement program an amount equal
5 to the unfunded actuarial accrued liability portion of the
6 employer contribution which would be required for members of
7 the Florida Retirement System. This contribution shall be
8 paid to the department for transfer to the Florida Retirement
9 System Trust Fund.

10 (c) An Optional Retirement Program Trust Fund shall be
11 established in the State Treasury and administered by the
12 department to make payments to the provider companies on
13 behalf of the optional retirement program participants, and to
14 transfer the unfunded liability portion of the state optional
15 retirement program contributions to the Florida Retirement
16 System Trust Fund.

17 (d) Contributions required for social security by each
18 employer and each participant, in the amount required for
19 social security coverage as now or hereafter may be provided
20 by the federal Social Security Act, shall be maintained for
21 each participant in the optional retirement program and shall
22 be in addition to the retirement contributions specified in
23 this subsection.

24 (e) Each participant in the optional retirement
25 program who has executed a ~~an annuity~~ contract may contribute
26 by way of salary reduction or deduction a percentage amount of
27 the participant's gross compensation not to exceed the
28 percentage amount contributed by the employer to the optional
29 program, but in no case may such contribution exceed federal
30 limitations. Payment of the participant's contributions shall
31 be made by the financial officer of the employer to the

1 division which shall forward the contributions to the
2 designated company or companies contracting for payment of
3 benefits for the participant under the program. A participant
4 may not make, through salary reduction, any voluntary employee
5 contributions to any other plan under s. 403(b) of the
6 Internal Revenue Code, with the exception of a custodial
7 account under s. 403(b)(7) of the Internal Revenue Code, until
8 he or she has made an employee contribution to his or her
9 optional program equal to the employer contribution. A
10 participant is responsible for monitoring his or her
11 individual tax-deferred income to ensure he or she does not
12 exceed the maximum deferral amounts permitted under the
13 Internal Revenue Code.

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

24 (5) BENEFITS.--

25 (a) Benefits shall be payable under the optional
26 retirement program only to vested participants in the program,
27 or their beneficiaries as designated by the participant in the
28 contract with a provider company, and such benefits shall be
29 paid only by the designated company in accordance with s.
30 403(b) of the Internal Revenue Code and in accordance with the
31 terms of the annuity contract or contracts applicable to the

1 participant. Benefits shall accrue in individual accounts that
2 are participant-directed, portable, and funded by employer
3 contributions and the earnings thereon.The participant must
4 be terminated from all employment with all Florida Retirement
5 System employers, as provided in s. 121.021(39), to begin
6 receiving the employer-funded benefit. Benefits funded by
7 employer contributions shall be payable in accordance with the
8 following terms and conditions ~~only as a lifetime annuity to~~
9 ~~the participant, his or her beneficiary, or his or her estate,~~
10 ~~except for:~~

11 1. Benefits shall be payable only to a participant, to
12 his or her beneficiaries, or to his or her estate, as
13 designated by the participant.

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

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

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

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

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

6 3. Periodic distributions;

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

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

14 (c) Survivor benefits shall be payable as:

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

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

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

25 4. A partial lump-sum payment whereby a portion of the
26 accrued benefit is paid to the deceased participant's
27 surviving spouse or other designated beneficiaries, less
28 withholding taxes remitted to the Internal Revenue Service, if
29 any, and the remaining amount is transferred directly to an
30 eligible retirement plan, as described in s.402(c)(8)(B) of
31 the Internal Revenue Code, on behalf of the surviving spouse.

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

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

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

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

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

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

28 ~~(f)(d)~~ Benefits funded by the participant's personal
29 contributions may be paid out at any time and in any form
30 within the limits provided in the contract between the
31 participant and his or her provider company. The participant

1 shall notify the provider company regarding the date and
2 provisions under which he or she wants to receive the
3 employee-funded portion of the plan.

4 (6) ADMINISTRATION OF PROGRAM.--

5 (a) The optional retirement program authorized by this
6 section shall be administered by the department. The
7 department shall adopt rules establishing the responsibilities
8 of the State Board of Education Regents and institutions in
9 the State University System in administering the optional
10 retirement program. The State Board of Education Regents
11 shall, no more than 90 days after July 1, 1983, submit to the
12 department its recommendations for the ~~annuity~~ contracts to be
13 offered by the companies chosen by the department. The
14 recommendations of the board shall include the following:

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

17 2. The suitability of the rights and benefits to the
18 needs of the participants and the interests of the
19 institutions in the recruitment and retention of eligible
20 employees.

21 (b) After receiving and considering the
22 recommendations of the State Board of Education Regents, the
23 department shall designate no more than four companies from
24 which ~~annuity~~ contracts may be purchased under the program and
25 shall approve the form and content of the optional retirement
26 program contracts. Upon application by a qualified Florida
27 domestic company, the department shall give reasonable notice
28 to all other such companies that it intends to designate one
29 of such companies as a fifth company from which ~~annuity~~
30 contracts may be purchased pursuant to this section and that
31 they may apply for such designation prior to the deadline

1 established by said notice. At least 60 days after giving such
2 notice and upon receipt of the recommendation of the State
3 Board of Education ~~Regents~~, the department shall so designate
4 one of such companies as the fifth company from which such
5 contracts may be purchased.

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

16 (d) The provisions of each contract applicable to a
17 participant in the optional retirement program shall be
18 contained in a written program description which shall include
19 a report of pertinent financial and actuarial information on
20 the solvency and actuarial soundness of the program and the
21 benefits applicable to the participant. Such description
22 shall be furnished by the companies to each participant in the
23 program and to the department upon commencement of
24 participation in the program and annually thereafter.

25 (e) The department shall ensure that each participant
26 in the optional retirement program is provided an accounting
27 of the total contribution and the annual contribution made by
28 and on behalf of such participant.

29 Section 8. Subsection (2), paragraph (c) of subsection
30 (3), paragraphs (a), (b), and (c) of subsection (4), and
31 subsections (7) and (16) of section 121.4501, Florida

1 Statutes, as amended by chapter 2001-235, Laws of Florida, are
2 amended to read:

3 121.4501 Public Employee Optional Retirement
4 Program.--

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

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

1 education. Private sector companies include investment
2 management companies, insurance companies, depositories, and
3 mutual fund companies.

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

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

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

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

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

- 14 1. Is a member of, or is eligible for membership in,
15 the Florida Retirement System;
- 16 2. Participates in, or is eligible to participate in,
17 the Senior Management Service Optional Annuity Program as
18 established under s. 121.055(6); or
- 19 3. Is eligible to participate in, but does not
20 participate in, the State University System Optional
21 Retirement Program established under s. 121.35 or the State
22 Community College System Optional Retirement Program
23 established under s. 121.051(2)(c).

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

30 (g)~~(e)~~ "Employer" means an employer, as defined in s.
31 121.021(10), of an eligible employee.

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

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

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

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

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

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

18 (c)1. Notwithstanding paragraph (b), each eligible
19 employee who elects to participate in the Public Employee
20 Optional Retirement Program and establishes one or more
21 individual participant accounts under the optional program may
22 elect to transfer to the optional program a sum representing
23 the present value of the employee's accumulated benefit
24 obligation under the defined benefit retirement program of the
25 Florida Retirement System. Upon such transfer, all service
26 credit previously earned under the defined benefit program of
27 the Florida Retirement System shall be nullified for purposes
28 of entitlement to a future benefit under the defined benefit
29 program of the Florida Retirement System. A participant is
30 precluded from transferring the accumulated benefit obligation
31

1 balance from the defined benefit program upon the expiration
2 of the period afforded to enroll in the optional program.

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

23 a. The discount rate and other relevant actuarial
24 assumptions used to value the Florida Retirement System Trust
25 Fund at the time the amount to be transferred is determined,
26 consistent with the factors provided in sub-subparagraphs b.
27 and c.

28 b. A benefit commencement age, based on the member's
29 estimated creditable service as of the estimate date ~~midnight~~
30 ~~on May 31, 2002.~~ The benefit commencement age shall be the

31

1 younger of the following, but shall not be younger than the
2 member's age as of the estimate date ~~midnight on May 31, 2002~~:

3 (I) Age 62; or

4 (II) The age the member would attain if the member
5 completed 30 years of service with an employer, assuming the
6 member worked continuously from the estimate date ~~May 31,~~
7 ~~2002~~, and disregarding any vesting requirement that would
8 otherwise apply under the defined benefit program of the
9 Florida Retirement System.

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

16 (I) Age 55; or

17 (II) The age the member would attain if the member
18 completed 25 years of service with an employer, assuming the
19 member worked continuously from the estimate date ~~May 31,~~
20 ~~2002~~, and disregarding any vesting requirement that would
21 otherwise apply under the defined benefit program of the
22 Florida Retirement System.

23 d. The calculation shall disregard vesting
24 requirements and early retirement reduction factors that would
25 otherwise apply under the defined benefit retirement program.

26 3. For each participant who elects to transfer moneys
27 from the defined benefit program to his or her account in the
28 optional program, the division shall recompute the amount
29 transferred under subparagraph 2. not later than 60 days after
30 the actual transfer of funds based upon the participant's
31 actual creditable service and actual final average

1 compensation as of the initial date of participation in the
2 optional program. If the recomputed amount differs from the
3 amount transferred under subparagraph 2. by \$10 or more, the
4 division shall:

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

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

20 4. As directed by the participant, the board shall
21 transfer or cause to be transferred the appropriate amounts to
22 the designated accounts. The board shall establish transfer
23 procedures by rule, but the actual transfer shall not be later
24 than 30 days after the effective date of the member's
25 participation in the optional program. Transfers are not
26 commissionable or subject to other fees and may be in the form
27 of securities or cash as determined by the state board. Such
28 securities shall be valued as of the date of receipt in the
29 participant's account.

30 5. If the board or the division receives notification
31 from the United States Internal Revenue Service that this

1 paragraph or any portion of this paragraph will cause the
2 retirement system, or a portion thereof, to be disqualified
3 for tax purposes under the Internal Revenue Code, then the
4 portion that will cause the disqualification does not apply.
5 Upon such notice, the state board and the division shall
6 notify the presiding officers of the Legislature.

7 (4) PARTICIPATION; ENROLLMENT.--

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

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

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

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

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

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

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

1 employer retirement contributions paid through the month of
2 the employee plan change shall be transferred to the optional
3 program, and, effective the first day of the next month, the
4 employer shall pay the applicable contributions based on the
5 employee membership class in the optional program.

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

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

18 (b)1. With respect to an eligible employee who is
19 employed in a regularly established position on September 1,
20 2002, by a district school board employer:

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

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

11 b. Any such employee who fails to elect to participate
12 in the Public Employee Optional Retirement Program within the
13 prescribed time period ~~90 days~~ is deemed to have elected to
14 retain membership in the defined benefit program of the
15 Florida Retirement System, and the employee's option to elect
16 to 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 July
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 by the end of the 5th month following the employee's month of
26 hire ~~within 180 days after employment commences~~, elect to
27 participate in the Public Employee Optional Retirement
28 Program. The employee's election must be made in writing or by
29 electronic means and must be filed with the third-party
30 administrator ~~personnel officer of the employer~~. The election
31

1 to participate in the optional program is irrevocable, except
2 as provided in paragraph (e).

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

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

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

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

30
31

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

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

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

31

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

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

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

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

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

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

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

12 (a) Benefits shall be provided in accordance with s.
13 401(a) of the Internal Revenue Code.

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

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

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

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

26 ~~3. To begin receiving the benefits, the participant~~
27 ~~must be terminated from all employment with all Florida~~
28 ~~Retirement System employers, as provided in s. 121.021(39), or~~
29 ~~the participant must be deceased. If a participant elects to~~
30 ~~receive his or her benefits upon termination of employment,~~
31 ~~the participant must submit a written application to the~~

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

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

17 ~~(d) Upon receipt by the third-party administrator of a~~
18 ~~properly executed application for distribution of benefits,~~
19 ~~the total accumulated benefit shall be payable to the~~
20 ~~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 the custodian~~
25 ~~of an eligible retirement plan, as defined in s. 402(c)(8)(B)~~
26 ~~of the Internal Revenue Code, on behalf of the participant; or~~

27 ~~3. Periodic distributions, as authorized by the state~~
28 ~~board.~~

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

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

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

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

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

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

29 (16) DISABILITY BENEFITS.--For any participant of the
30 optional retirement program who becomes totally and
31 permanently disabled, benefits shall be paid in accordance

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

13 Section 9. Section 121.591, Florida Statutes, is
14 created to read:

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

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 Article
16 V 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 Article V of the State Constitution, the participant's
20 Option 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
2 Article V of the State Constitution and elects to receive a
3 monthly disability benefit under the provisions of this
4 paragraph:

5 a. Any present value amount that 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 Article V of the State
14 Constitution shall be paid from the disability account of the
15 Florida 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 may adopt rules
26 necessary to administer this paragraph.

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

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

31

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

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

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

1 Services shall adopt any necessary rules required to maintain
2 the qualified status of the disability retirement program and
3 the Florida Retirement System defined benefit plan.

4 Section 13. Paragraph (b) of subsection (1) of section
5 121.053, Florida Statutes, is amended to read:

6 121.053 Participation in the Elected Officers' Class
7 for retired members.--

8 (1)

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

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

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

28 3. Such member shall be entitled to purchase
29 additional retirement credit in the Elected Officers' Class
30 for any postretirement service performed in an elected
31 position eligible for the Elected Officers' Class prior to

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

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

28 5. An elected officer who is elected or appointed to
29 an elective office and is participating in the Deferred
30 Retirement Option Program is not subject to termination as
31 provided in s. 121.021(39)(b), or reemployment limitations as

1 provided in s. 121.091(9), until the end of his or her current
2 term of office or, if the officer is consecutively elected or
3 reelected to an elective office eligible for coverage under
4 the Florida Retirement System, until he or she no longer holds
5 such an elective office, as follows:

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

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

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

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

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

28
29 However, an officer electing to participate in the Deferred
30 Retirement Option Program on or before June 30, 2002, shall
31 not be required to terminate and shall remain subject to the

1 provisions of this subparagraph as adopted in section 1 of
2 chapter 2001-235, Laws of Florida ~~Any elected officer who is a~~
3 ~~participating member of DROP may terminate participation at~~
4 ~~any time during the 60-month DROP participation period and~~
5 ~~elect to enroll in the appropriate subclass of the Elected~~
6 ~~Officers' Class, including participating in the Senior~~
7 ~~Management Service Class, effective the first day of the~~
8 ~~following month.~~

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

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

24 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
25 and subject to the provisions of this section, the Deferred
26 Retirement Option Program, hereinafter referred to as the
27 DROP, is a program under which an eligible member of the
28 Florida Retirement System may elect to participate, deferring
29 receipt of retirement benefits while continuing employment
30 with his or her Florida Retirement System employer. The
31 deferred monthly benefits shall accrue in the System Trust

1 Fund on behalf of the participant, plus interest compounded
2 monthly, for the specified period of the DROP participation,
3 as provided in paragraph (c). Upon termination of employment,
4 the participant shall receive the total DROP benefits and
5 begin to receive the previously determined normal retirement
6 benefits. Participation in the DROP does not guarantee
7 employment for the specified period of DROP.

8 (b) Participation in the DROP.--

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

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

- 28 a. A written election to participate in the DROP;
29 b. Selection of the DROP participation and termination
30 dates, which satisfy the limitations stated in paragraph (a)
31 and subparagraph 1. Such termination date shall be in a

1 binding letter of resignation with the employer, establishing
2 a deferred termination date. The member may change the
3 termination date within the limitations of subparagraph 1.,
4 but only with the written approval of his or her employer;

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

7 d. Any other information required by the division.

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

16 4. Elected officers shall be eligible to participate
17 in the DROP subject to the following:

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

25 b. An elected or a nonelected participant may run for
26 a term of office while participating in DROP and, if elected,
27 extend the DROP termination date accordingly, except, however,
28 if such additional term of office exceeds the 60-month
29 limitation established in subparagraph 1., and the officer
30 does not resign from office within such 60-month limitation,
31

1 the retirement and the participant's DROP shall be null and
2 void as provided in sub-subparagraph (c)5.d.

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

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

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

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

31

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

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

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

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

1 retired from a state-administered retirement system. Any
2 retirement benefits received while reemployed during this
3 reemployment limitation period shall be repaid to the
4 retirement trust fund, and retirement benefits shall remain
5 suspended until such repayment has been made. Benefits
6 suspended beyond the reemployment limitation shall apply
7 toward repayment of benefits received in violation of the
8 reemployment limitation.

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

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

16 4. A community college board of trustees may reemploy
17 a retired member as an adjunct instructor, that is, an
18 instructor who is noncontractual and part-time, or as a
19 participant in a phased retirement program within the Florida
20 Community College System, after he or she has been retired for
21 1 calendar month, in accordance with s. 121.021(39). Any
22 retired member who is reemployed within 1 calendar month after
23 retirement shall void his or her application for retirement
24 benefits. Boards of trustees reemploying such instructors are
25 subject to the retirement contribution required in
26 subparagraph 7. A retired member may be reemployed as an
27 adjunct instructor for no more than 780 hours during the first
28 12 months of retirement. Any retired member reemployed for
29 more than 780 hours during the 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
15 retirement benefits shall remain suspended until repayment is
16 made. Benefits suspended beyond the end of the retired
17 member's first 12 months of retirement shall apply toward
18 repayment of benefits received in violation of the 780-hour
19 reemployment limitation.

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

1 retirement. Any retired member reemployed for more than 780
2 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
5 division shall suspend his or her retirement benefits for the
6 remainder of the first 12 months of retirement. Any person
7 employed in violation of this subparagraph and any employing
8 agency which knowingly employs or appoints such person without
9 notifying the Division of Retirement to suspend retirement
10 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 6. The Board of Trustees of the Florida School for the
25 Deaf and the Blind may reemploy a retired member as a
26 substitute teacher, substitute residential instructor, or
27 substitute nurse on a noncontractual basis after he or she has
28 been retired for 1 calendar month, in accordance with s.
29 121.021(39). Any retired member who is reemployed within 1
30 calendar month after retirement shall void his or her
31 application for retirement benefits. The Board of Trustees of

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

30 7. The employment by an employer of any retiree or
31 DROP participant of any state-administered retirement system

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

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

30 9. Any person who is holding an elective public office
31 which is covered by the Florida Retirement System and who is

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

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

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

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

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

1 benefits. Participation in the DROP does not guarantee
2 employment for the specified period of DROP.

3 (b) Participation in the DROP.--

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

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

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

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

3 d. Any other information required by the division.

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

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

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

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

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

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

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

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

14 121.0515 Special risk membership.--

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

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

31

1 accounting, purchasing, legal, and personnel, shall not be
2 included;

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

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

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

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

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

1 services, and personnel management, shall not be included;
2 however, probation and parole circuit and deputy circuit
3 administrators shall participate in the Special Risk Class; or

4 (f) The member must be employed in one of the
5 following classes and must spend at least 75 percent of his or
6 her time performing duties which involve contact with patients
7 or inmates in a correctional or forensic facility or
8 institution:

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

- 1 17. Advanced registered nurse practitioner specialist
2 (class codes 5304 and 5305).
- 3 18. Registered nurse supervisor (class codes 5306 and
4 5307).
- 5 19. Senior registered nurse supervisor (class codes
6 5308 and 5309).
- 7 20. Registered nursing consultant (class codes 5312
8 and 5313).
- 9 21. Quality management program supervisor (class code
10 5314).
- 11 22. Executive nursing director (class codes 5320 and
12 5321).
- 13 23. Speech and hearing therapist (class code 5406); or
14 24. Pharmacy manager (class code 5251).
- 15 (g) The member must be employed as a youth custody
16 officer and be certified, or required to be certified, in
17 compliance with s. 943.1395. In addition, the member's primary
18 duties and responsibilities must be the supervised custody,
19 surveillance, control, investigation, apprehension, arrest,
20 and counseling of assigned juveniles within the community.
- 21 (9) CREDIT FOR UPGRADED SERVICE.--
- 22 (a) Any member of the Special Risk Class who has
23 earned creditable service in another membership class of the
24 Florida Retirement System as an emergency medical technician
25 or paramedic, which service is within the purview of the
26 Special Risk Class, may purchase additional retirement credit
27 to upgrade such service to Special Risk Class service, to the
28 extent of the percentages of the member's average final
29 compensation provided in s. 121.091(1)(a)2. Contributions for
30 upgrading such service to Special Risk Class credit under this
31 subsection shall be equal to the difference in the

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

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

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

30

31

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

4 121.021 Definitions.--The following words and phrases
5 as used in this chapter have the respective meanings set forth
6 unless a different meaning is plainly required by the context:

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

10 (a) Compensation shall include:

11 1. Overtime payments paid from a salary fund.

12 2. Accumulated annual leave payments.

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

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

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

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

21 d. The payments are paid at least annually.

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

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

1 6. Effective July 1, 2002, salary supplements made
2 pursuant to ss. 231.700 and 236.08106 requiring a valid
3 National Board for Professional Standards certificate or
4 equivalent status as provided in s. 231.700(3)(e)5.,
5 notwithstanding the provisions of subparagraph 3.

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

14 (b) Bonuses shall include, but not be limited to, the
15 following:

16 1. Exit bonus or severance pay.

17 2. Longevity payments in conformance with the
18 provisions of paragraph (a).

19 3. Salary increases granted pursuant to an employee's
20 agreement to retire, including increases paid over several
21 months or years prior to retirement.

22 4. Payments for accumulated overtime or compensatory
23 time, reserve time, or holiday time worked, if not made within
24 11 months of the month in which the work was performed.

25 ~~5. Quality Instruction Incentives Program (QUIIP)~~
26 ~~Payments.~~

27 ~~5.6.~~ Lump sum payments in recognition of employees'
28 accomplishments.

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