

1                   A bill to be entitled  
2           An act relating to the Florida Retirement  
3           System; amending s. 121.053, F.S., relating to  
4           termination requirements and benefits of  
5           elected officers participating in the Deferred  
6           Retirement Option Program; amending s. 121.091,  
7           F.S., regarding Deferred Retirement Option  
8           Program termination requirements for elected  
9           officers; amending s. 121.4501, F.S., relating  
10          to the Public Employee Optional Retirement  
11          Program; amending the definition of "eligible  
12          employee"; providing for an extension of time  
13          to transfer assets from the defined benefit  
14          plan in the event of market disruption;  
15          providing for acceptance of rollovers;  
16          requiring the election be filed with the  
17          third-party administrator; amending the  
18          earnings rate for funds in the suspense account  
19          to be invested by the board; providing for  
20          spousal notification of designation of  
21          beneficiary; providing for spousal rollovers to  
22          an eligible retirement plan; providing  
23          authorization for statements under oath;  
24          amending s. 121.571, F.S., relating to  
25          contributions to participant accounts;  
26          providing for a penalty for late contributions;  
27          providing for an assessment equal to certain  
28          market losses and the calculation thereof;  
29          providing an effective date.  
30  
31   Be It Enacted by the Legislature of the State of Florida:

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

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

5           (1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Section 2. Paragraph (b) of subsection (13) of section  
7 121.091, Florida Statutes, is amended to read:

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

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

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

5 (b) Participation in the DROP.--

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

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

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

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

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

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

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

15 Section 3. Paragraph (d) of subsection (2), paragraph  
16 (c) of subsection (3), paragraphs (a), (b), and (c) of  
17 subsection (4), subsection (6), paragraphs (c) and (e) of  
18 subsection (7), and paragraph (a) of subsection (8) of section  
19 121.4501, Florida Statutes, are amended, and paragraph (c) is  
20 added to subsection (5) of said section, to read:

21 121.4501 Public Employee Optional Retirement  
22 Program.--

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

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

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

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



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

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

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

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

28           2. For purposes of this subsection, the present value  
29 of the member's accumulated benefit obligation is based upon  
30 the member's estimated creditable service and estimated  
31 average final compensation as of midnight of the day prior to

1 the opening of the election window for the employee. The  
2 actuarial present value of the employee's accumulated benefit  
3 obligation shall be based on the following:

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

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

14 (I) Age 62; or

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

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

26 (I) Age 55; or

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

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

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

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

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

29           4. As directed by the participant, the board shall  
30 transfer or cause to be transferred the appropriate amounts to  
31 the designated accounts. The board shall establish transfer

1 procedures by rule, but the actual transfer shall not be later  
2 than 30 days after the effective date of the member's  
3 participation in the optional program unless the major  
4 financial markets for securities available for a transfer are  
5 seriously disrupted by an unforeseen event which also causes  
6 the suspension of trading on any national securities exchange  
7 in the country where the securities were issued. In that  
8 event, such 30-day period of time may be extended by a  
9 resolution of the trustees. Transfers are not commissionable  
10 or subject to other fees and may be in the form of securities  
11 or cash as determined by the state board. Such securities  
12 shall be valued as of the date of receipt in the participant's  
13 account.

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

22           (4) PARTICIPATION; ENROLLMENT.--

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

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

1 ~~personnel officer of the employer within 90 days after June 1,~~  
2 2002, or, in the case of an active employee who is on a leave  
3 of absence on April June 1, 2002, by August 31, 2002, or,  
4 within 90 days after the conclusion of the leave of absence,  
5 whichever is later. This election is irrevocable, except as  
6 provided in paragraph (e). Upon making such election, the  
7 employee shall be enrolled as a participant of the Public  
8 Employee Optional Retirement Program, the employee's  
9 membership in the Florida Retirement System shall be governed  
10 by the provisions of this part, and the employee's membership  
11 in the defined benefit program of the Florida Retirement  
12 System shall terminate. The employee's enrollment in the  
13 Public Employee Optional Retirement Program shall be effective  
14 the first day of the month for which a full month's employer  
15 contribution is made to the optional program.

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

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

26 a. Any such employee shall, by default, be enrolled in  
27 the defined benefit retirement program of the Florida  
28 Retirement System at the commencement of employment, and may,  
29 by the end of the 5th month following the employee's month of  
30 hire ~~within 180 days after employment commences,~~ elect to  
31 participate in the Public Employee Optional Retirement

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

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

10 c. If the employee files such election within the  
11 prescribed time period ~~180 days after employment commences~~,  
12 but after the initial payroll is submitted for the employee,  
13 enrollment in the optional program shall be effective on the  
14 first day of the month for which a full month's employer  
15 contribution is made to the optional program.

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

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

28 (b)1. With respect to an eligible employee who is  
29 employed in a regularly established position on September 1,  
30 2002, by a district school board employer:

31

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

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

28           2. With respect to employees who become eligible to  
29 participate in the Public Employee Optional Retirement Program  
30 by reason of employment in a regularly established position  
31

1 with a district school board employer commencing after July  
2 ~~September~~ 1, 2002:

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

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

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

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

30 3. For purposes of this paragraph, "district school  
31 board employer" means any district school board that



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

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

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

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

1 Florida Retirement System, and the employee's option to elect  
2 to participate in the optional program is forfeited.

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

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

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

23           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, "local employer"  
5 means any employer not included in paragraph (a) or paragraph  
6 (b).

7 (5) CONTRIBUTIONS.--

8 (c) The Public Employee Optional Retirement Program  
9 may accept for deposit into participant accounts contributions  
10 in the form of rollovers or direct trustee-to-trustee  
11 transfers by or on behalf of participants, reasonably  
12 determined by the board to be eligible for rollover or  
13 transfer to the optional retirement program pursuant to the  
14 Internal Revenue Code, if such contributions are made in  
15 accordance with rules as may be adopted by the board. Such  
16 contributions shall be accounted for in accordance with any  
17 applicable Internal Revenue Code requirements and rules of the  
18 board.

19 (6) VESTING REQUIREMENTS.--

20 (a)1. With respect to employer contributions paid on  
21 behalf of the participant to the Public Employee Optional  
22 Retirement Program, plus interest and earnings thereon and  
23 less investment fees and administrative charges, a participant  
24 shall be vested after completing 1 work year, as defined in s.  
25 121.021(54), with an employer, including any service while the  
26 participant was a member of the defined benefit retirement  
27 program or an optional retirement program authorized under s.  
28 121.051(2)(c) or s. 121.055(6).

29 2. If the participant terminates employment prior to  
30 satisfying the vesting requirements, the nonvested  
31 accumulation shall be transferred from the participant's

1 accounts to the state board for deposit and investment by the  
2 board in the suspense account of the Public Employee Optional  
3 Retirement Program Trust Fund of the board. If the terminated  
4 participant is reemployed as an eligible employee within 5  
5 years, the state board shall transfer to the participant's  
6 account any amount of the moneys previously transferred from  
7 the participant's accounts to the suspense account of the  
8 Public Employee Optional Retirement Program Trust Fund, plus  
9 the actual earnings on such amount while in the suspense  
10 account interest calculated at 3.0 percent per annum,  
11 ~~calculated from the date of transfer to the date of~~  
12 ~~reemployment.~~

13 (b)1. A participant shall be vested in the amount  
14 transferred from the defined benefit program, plus interest  
15 and earnings thereon and less administrative charges and  
16 investment fees, upon meeting the service requirements for the  
17 participant's membership class as set forth in s. 121.021(29).  
18 The third-party administrator shall account for such amounts  
19 for each participant. The division shall notify the  
20 participant and the third-party administrator when the  
21 participant has satisfied the vesting period for Florida  
22 Retirement System purposes.

23 2. If the participant terminates employment prior to  
24 satisfying the vesting requirements, the nonvested  
25 accumulation shall be transferred from the participant's  
26 accounts to the state board for deposit and investment by the  
27 board in the suspense account of the Public Employee Optional  
28 Retirement Program Trust Fund of the board. If the terminated  
29 participant is reemployed as an eligible employee within 5  
30 years, the state board shall transfer to the participant's  
31 account any amount of the moneys previously transferred from

1 the participant's accounts to the suspense account of the  
2 Public Employee Optional Retirement Program Trust Fund, plus  
3 the actual earnings on such amount while in the suspense  
4 account interest calculated at 6.0 percent per annum,  
5 ~~calculated from the date of transfer to the date of~~  
6 ~~reemployment.~~

7 (c) Any nonvested accumulations transferred from a  
8 participant's account to the suspense account shall be  
9 forfeited by the participant if the participant is not  
10 reemployed as an eligible employee within 5 years after  
11 termination.

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

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

16 1. To the extent vested, benefits shall be payable  
17 only to a participant, or to his or her beneficiaries as  
18 designated by the participant. If a participant designates a  
19 beneficiary who is not the participant's spouse, the  
20 participant's spouse shall be notified. This requirement shall  
21 not apply to the designation of a contingent beneficiary  
22 designated to receive benefits hereunder in the event the  
23 participant's spouse dies before such contingent beneficiary.

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

28 3. To begin receiving the benefits, the participant  
29 must be terminated from all employment with all Florida  
30 Retirement System employers, as provided in s. 121.021(39), or  
31 the participant must be deceased. If a participant elects to

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

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

19           (e) Survivor benefits shall be payable as:

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

22           2. An eligible rollover distribution on behalf of the  
23 surviving spouse of a deceased participant, whereby all  
24 accrued benefits, plus interest and investment earnings, are  
25 paid from the deceased participant's account directly to the  
26 custodian of an eligible retirement plan ~~individual retirement~~  
27 ~~account or an individual retirement annuity~~, as described in  
28 s. 402(c)(8)(B)(~~9~~) of the Internal Revenue Code, on behalf of  
29 the surviving spouse; or

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

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

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

13 (8) ADMINISTRATION OF PROGRAM.--

14 (a) The Public Employee Optional Retirement Program  
15 shall be administered by the state board and affected  
16 employers. The board is authorized to require oaths, by  
17 affidavit or otherwise, and acknowledgments from persons in  
18 connection with the administration of its duties and  
19 responsibilities under this chapter. No oaths, by affidavit or  
20 otherwise, shall be required of an employee participant at the  
21 time of election. Acknowledgment of an employee's election to  
22 participate in the program shall be no greater than necessary  
23 to confirm the employee's election.The board shall adopt  
24 rules establishing the role and responsibilities of affected  
25 state, local government, and education-related employers, the  
26 state board, the department, and third-party contractors in  
27 administering the Public Employee Optional Retirement Program.  
28 The department shall adopt rules necessary to implement the  
29 optional program in coordination with the defined benefit  
30 retirement program and the disability benefits available under  
31 the optional program.

1           Section 4. Paragraph (a) of subsection (2) of section  
2 121.571, Florida Statutes, is amended to read:

3           121.571 Contributions.--Contributions to the Public  
4 Employee Optional Retirement Program shall be made as follows:

5           (2) CONTRIBUTIONS TO PARTICIPANT ACCOUNTS.--Employer  
6 and participant contributions to participant accounts shall be  
7 accounted for separately. Interest and investment earnings on  
8 employer contributions shall accrue on a tax-deferred basis  
9 until proceeds are distributed. Pursuant thereto:

10           (a) All contributions made on behalf of a participant  
11 pursuant to this subsection shall be transferred by the  
12 employer to the third-party administrator for deposit in the  
13 participant's account. All contributions made on behalf of a  
14 participant shall be made timely. Employer contributions  
15 received after the 5th working day of each month shall be  
16 considered late, unless, in the opinion of the division and/or  
17 the board, exceptional circumstances beyond an employer's  
18 control prevented remittance by the prescribed due date  
19 notwithstanding such employer's good faith efforts to effect  
20 delivery. Such a waiver of delinquency by the division and/or  
21 board may be granted an employer only one time each fiscal  
22 year. The employer shall be assessed a penalty of 1 percent of  
23 the contributions due for each calendar month or part thereof  
24 that the contributions are late. If contributions made by an  
25 employer are not received within the calendar month they are  
26 due and if that lateness results in market losses to  
27 participants, the employer shall make each participant whole  
28 for market losses resulting from the late contributions.  
29 Proceeds from the 1-percent assessment and any market loss  
30 shall be deposited into participant accounts by the  
31 third-party administrator. The third-party administrator,



1 hired by the board pursuant to s. 121.4501(8), shall calculate  
2 the market losses for each affected participant. When  
3 contributions are more than 1 calendar month late, the  
4 employer shall also pay the cost of the third-party  
5 administrator calculation and reconciliation adjustments  
6 resulting from the late contributions. The third-party  
7 administrator shall notify the employer of the results of the  
8 calculations and the total amount due from the employer. The  
9 employer shall remit to the third-party administrator the  
10 amount due within 10 working days after the date of the  
11 penalty notice sent by the third-party administrator. The  
12 board is authorized to adopt rules to implement the provisions  
13 regarding late contributions, the process for making  
14 participants whole for resultant market losses, and the  
15 penalties charged to the employers.

16           Section 5. This act shall take effect June 1, 2002.  
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