

By the Committee on Governmental Oversight and Productivity;
and Senator Bennett

302-2138-03

1 A bill to be entitled
2 An act relating to agency reorganization;
3 transferring the Division of Retirement and its
4 powers, duties, functions, components, and
5 assets from the Department of Management
6 Services to the State Board of Administration;
7 amending s. 110.205, F.S.; providing status of
8 division personnel under the Career Service
9 System; amending ss. 20.22, 20.28, 112.05,
10 112.3173, 112.352, 112.354, 112.356, 112.358,
11 112.361, 112.362, 112.363, 112.625, 112.63,
12 112.64, 112.658, 112.661, 112.665, 121.021,
13 121.025, 121.031, 121.051, 121.0511, 121.0515,
14 121.052, 121.055, 121.081, 121.085, 121.091,
15 121.101, 121.111, 121.133, 121.135, 121.136,
16 121.1815, 121.1905, 121.192, 121.193, 121.22,
17 121.23, 121.24, 121.30, 121.35, 121.40, 121.45,
18 121.4501, 121.403, 121.591, 121.5911, 121.72,
19 121.73, 121.74, 175.032, 175.1215, 185.02,
20 185.105, 185.23, 215.28, 215.44, 215.50,
21 215.52, 238.01, 238.05, 238.06, 238.181,
22 238.32, and 650.02, F.S., to conform to such
23 transfer; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. The Division of Retirement of the
28 Department of Management Services is transferred to the State
29 Board of Administration. All powers, duties, functions,
30 records, personnel, property, and unexpended balances of
31 appropriations, allocations, and other funds relating to the

1 Division of Retirement are transferred by a type one transfer,
2 as defined in s. 20.06, Florida Statutes, to the State Board
3 of Administration. This act does not alter or amend the
4 powers, operations, or functioning of the State Board of
5 Administration with respect to its duties, responsibilities,
6 and authority existing prior to the enactment of this
7 legislation.

8 Section 2. Paragraphs (g) and (h) of subsection (2) of
9 section 20.22, Florida Statutes, are amended to read:

10 20.22 Department of Management Services.--There is
11 created a Department of Management Services.

12 (2) The following divisions and programs within the
13 Department of Management Services are established:

14 ~~(g) Division of Retirement.~~

15 (g)~~(h)~~ Division of State Group Insurance.

16 Section 3. Section 20.28, Florida Statutes, is amended
17 to read:

18 20.28 State Board of Administration.--The State Board
19 of Administration, continued by s. 9, Art. XII of the State
20 Constitution, retains all of its powers, duties, and functions
21 as prescribed by law. There is established under the State
22 Board of Administration a Division of Retirement, which shall
23 be subject to the direction of the executive director of the
24 board who is the agency head of the division for purposes of
25 chapter 120.

26 Section 4. Paragraph (u) of subsection (2) of section
27 110.205, Florida Statutes, is amended to read:

28 110.205 Career service; exemptions.--

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

31

1 (u) All officers and employees of the State Board of
2 Administration, including its Division of Retirement. The
3 State Board of Administration shall set the salaries and
4 benefits of these positions.

5 Section 5. Paragraph (b) of subsection (4) of section
6 112.05, Florida Statutes, is amended to read:

7 112.05 Retirement; cost-of-living adjustment;
8 employment after retirement.--

9 (4)

10 (b) Any person to whom the limitation in paragraph (a)
11 applies who violates such reemployment limitation and is
12 reemployed with any agency participating in the Florida
13 Retirement System prior to completion of the 12-month
14 limitation period shall give timely notice of this fact in
15 writing to the employer and to the Department of Management
16 Services Division; and the person's retirement benefits shall
17 be suspended for the balance of the 12-month limitation
18 period. Any person employed in violation of this subsection
19 and any employing agency which knowingly employs or appoints
20 such person without notifying the Department of Management
21 Services to suspend retirement benefits shall be jointly and
22 severally liable for reimbursement to the retirement trust
23 fund of any benefits paid during the reemployment limitation
24 period. To avoid liability, such employing agency shall have a
25 written statement from the retiree that he or she is not
26 retired from a state-administered retirement system. Any
27 retirement benefits received by such person while reemployed
28 during this limitation period shall be repaid to the
29 retirement trust fund, and the retirement benefits shall
30 remain suspended until such repayment has been made. Any
31 benefits suspended beyond the reemployment limitation period

1 shall apply toward the repayment of benefits received in
2 violation of the reemployment limitation.

3 Section 6. Paragraph (d) of subsection (4) of section
4 112.3173, Florida Statutes, is amended to read:

5 112.3173 Felonies involving breach of public trust and
6 other specified offenses by public officers and employees;
7 forfeiture of retirement benefits.--

8 (4) NOTICE.--

9 (d) The Commission on Ethics shall forward any notice
10 and any other document received by it pursuant to this
11 subsection to the governing body of the public retirement
12 system of which the public officer or employee is a member or
13 from which the public officer or employee may be entitled to
14 receive a benefit. When called on by the Commission on Ethics,
15 the Division of Retirement of the State Board of
16 Administration ~~Department of Management Services~~ shall assist
17 the commission in identifying the appropriate public
18 retirement system.

19 Section 7. Subsections (2), (4), (7), and (8) of
20 section 112.363, Florida Statutes, are amended to read:

21 112.363 Retiree health insurance subsidy.--

22 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
23 SUBSIDY.--

24 (a) A person who is retired under a state-administered
25 retirement system, or a beneficiary who is a spouse or
26 financial dependent entitled to receive benefits under a
27 state-administered retirement system, is eligible for health
28 insurance subsidy payments provided under this section; except
29 that pension recipients under ss. 121.40, 238.07(16)(a), and
30 250.22, recipients of health insurance coverage under s.

31

1 110.1232, or any other special pension or relief act shall not
2 be eligible for such payments.

3 (b) For purposes of this section, a person is deemed
4 retired from a state-administered retirement system when he or
5 she terminates employment with all employers participating in
6 the Florida Retirement System as described in s. 121.021(39)
7 and:

8 1. For a participant of the Public Employee Optional
9 Retirement Program established under part II of chapter 121,
10 the participant meets the age or service requirements to
11 qualify for normal retirement as set forth in s. 121.021(29).

12 2. For a member of the Florida Retirement System
13 defined benefit program, or any employee who maintains
14 creditable service under both the defined benefit program and
15 the Public Employee Optional Retirement Program, the member
16 begins drawing retirement benefits from the defined benefit
17 program of the Florida Retirement System.

18 (c)1. Effective July 1, 2001, any person retiring on
19 or after such date as a member of the Florida Retirement
20 System, including any participant of the defined contribution
21 program administered pursuant to part II of chapter 121, must
22 have satisfied the vesting requirements for his or her
23 membership class under the Florida Retirement System defined
24 benefit program as administered under part I of chapter 121.

25 2. Notwithstanding the provisions of subparagraph 1.,
26 a person retiring due to disability must either qualify for a
27 regular or in-line-of-duty disability benefit as provided in
28 s. 121.091(4) or qualify for a disability benefit under a
29 disability plan established under part II of chapter 121, as
30 appropriate.

31

1 (d) Payment of the retiree health insurance subsidy
2 shall be made only after coverage for health insurance for the
3 retiree or beneficiary has been certified in writing to the
4 Division of Retirement of the State Board of Administration
5 ~~Department of Management Services~~. Participation in a former
6 employer's group health insurance program is not a requirement
7 for eligibility under this section.

8 (e) Participants in the Senior Management Service
9 Optional Annuity Program as provided in s. 121.055(6) and the
10 State University System Optional Retirement Program as
11 provided in s. 121.35 shall not receive the retiree health
12 insurance subsidy provided in this section. The employer of
13 such participant shall pay the contributions required in
14 subsection (8) to the annuity program provided in s.
15 121.055(6)(d) or s. 121.35(4)(a), as applicable.

16 (4) PAYMENT OF RETIREE HEALTH INSURANCE
17 SUBSIDY.--Beginning January 1, 1988, any monthly retiree
18 health insurance subsidy amount due and payable under this
19 section shall be paid to retired members by the Division of
20 Retirement of the State Board of Administration ~~Department of~~
21 ~~Management Services~~ or under the direction and control of the
22 division ~~department~~.

23 (7) ADMINISTRATION OF SYSTEM.--The Division of
24 Retirement of the State Board of Administration ~~Department of~~
25 ~~Management Services~~ may adopt such rules and regulations as
26 are necessary for the effective and efficient administration
27 of this section. The cost of administration is ~~shall be~~
28 appropriated from the trust fund.

29 (8) CONTRIBUTIONS.--For purposes of funding the
30 insurance subsidy provided by this section:
31

1 (a) Beginning October 1, 1987, the employer of each
2 member of a state-administered retirement plan shall
3 contribute 0.24 percent of gross compensation each pay period.

4 (b) Beginning January 1, 1989, the employer of each
5 member of a state-administered retirement plan shall
6 contribute 0.48 percent of gross compensation each pay period.

7 (c) Beginning January 1, 1994, the employer of each
8 member of a state-administered retirement plan shall
9 contribute 0.56 percent of gross compensation each pay period.

10 (d) Beginning January 1, 1995, the employer of each
11 member of a state-administered retirement plan shall
12 contribute 0.66 percent of gross compensation each pay period.

13 (e) Beginning July 1, 1998, the employer of each
14 member of a state-administered retirement plan shall
15 contribute 0.94 percent of gross compensation each pay period.

16 (f) Beginning July 1, 2001, the employer of each
17 member of a state-administered plan shall contribute 1.11
18 percent of gross compensation each pay period.

19
20 Such contributions shall be submitted to the Division of
21 Retirement of the State Board of Administration ~~Department of~~
22 ~~Management Services~~ and deposited in the Retiree Health
23 Insurance Subsidy Trust Fund.

24 Section 8. Subsection (10) is added to section
25 112.625, Florida Statutes, to read:

26 112.625 Definitions.--As used in this act:

27 (10) "Division" means the Division of Retirement of
28 the State Board of Administration.

29 Section 9. Subsections (2) and (4) of section 112.63,
30 Florida Statutes, are amended to read:

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1 112.63 Actuarial reports and statements of actuarial
2 impact; review.--

3 (2) The frequency of actuarial reports must be at
4 least every 3 years commencing from the last actuarial report
5 of the plan or system or October 1, 1980, if no actuarial
6 report has been issued within the 3-year period prior to
7 October 1, 1979. The results of each actuarial report shall be
8 filed with the plan administrator within 60 days of
9 certification. Thereafter, the results of each actuarial
10 report shall be made available for inspection upon request.
11 Additionally, each retirement system or plan covered by this
12 act which is not administered directly by the division
13 ~~Department of Management Services~~ shall furnish a copy of each
14 actuarial report to the division ~~Department of Management~~
15 ~~Services~~ within 60 days after receipt from the actuary. The
16 requirements of this section are supplemental to actuarial
17 valuations necessary to comply with the requirements of ss.
18 218.321 and 218.39.

19 (4) Upon receipt, pursuant to subsection (2), of an
20 actuarial report, or upon receipt, pursuant to subsection (3),
21 of a statement of actuarial impact, the division ~~Department of~~
22 ~~Management Services~~ shall acknowledge such receipt, but shall
23 only review and comment on each retirement system's or plan's
24 actuarial valuations at least on a triennial basis. If the
25 division ~~department~~ finds that the actuarial valuation is not
26 complete, accurate, or based on reasonable assumptions, or if
27 the division ~~department~~ does not receive the actuarial report
28 or statement of actuarial impact, the division ~~department~~
29 shall notify the local government and request appropriate
30 adjustment. If, after a reasonable period of time, a
31 satisfactory adjustment is not made, the affected local

1 government or the division ~~department~~ may petition for a
2 hearing under the provisions of ss. 120.569 and 120.57. If the
3 administrative law judge recommends in favor of the division
4 ~~department~~, the division ~~department~~ shall perform an actuarial
5 review or prepare the statement of actuarial impact. The cost
6 to the division ~~department~~ of performing such actuarial review
7 or preparing such statement shall be charged to the
8 governmental entity of which the employees are covered by the
9 retirement system or plan. If payment of such costs is not
10 received by the division ~~department~~ within 60 days after
11 receipt by the governmental entity of the request for payment,
12 the division ~~department~~ shall certify to the Comptroller the
13 amount due, and the Comptroller shall pay such amount to the
14 division ~~department~~ from any funds payable to the governmental
15 entity of which the employees are covered by the retirement
16 system or plan. If the administrative law judge recommends in
17 favor of the local retirement system and the division
18 ~~department~~ performs an actuarial review, the cost to the
19 division ~~department~~ of performing the actuarial review shall
20 be paid by the division ~~department~~ .

21 Section 10. Subsection (1) of section 112.64, Florida
22 Statutes, is amended to read:

23 112.64 Administration of funds; amortization of
24 unfunded liability.--

25 (1) Employee contributions shall be deposited in the
26 retirement system or plan at least monthly. Employer
27 contributions shall be deposited at least quarterly; however,
28 any revenues received from any source by an employer which are
29 specifically collected for the purpose of allocation for
30 deposit into a retirement system or plan shall be so deposited
31 within 30 days of receipt by the employer. All employers and

1 employees participating in the Florida Retirement System and
2 other existing retirement systems which are administered by
3 the division ~~Department of Management Services~~ shall continue
4 to make contributions at least monthly.

5 Section 11. Subsections (1) and (3) of section
6 112.658, Florida Statutes, are amended to read:

7 112.658 Office of Program Policy Analysis and
8 Government Accountability to determine compliance of the
9 Florida Retirement System.--

10 (1) The Office of Program Policy Analysis and
11 Government Accountability shall determine, through the
12 examination of actuarial reviews, financial statements, and
13 the practices and procedures of the Division of Retirement
14 ~~Department of Management Services~~, the compliance of the
15 Florida Retirement System with the provisions of this act.

16 (3) The Office of Program Policy Analysis and
17 Government Accountability shall employ the same actuarial
18 standards to monitor the division ~~Department of Management~~
19 ~~Services~~ as the division ~~Department of Management Services~~
20 uses to monitor local governments.

21 Section 12. Subsections (9), (16), and (17) of section
22 112.661, Florida Statutes, are amended to read:

23 112.661 Investment policies.--Investment of the assets
24 of any local retirement system or plan must be consistent with
25 a written investment policy adopted by the board. Such
26 policies shall be structured to maximize the financial return
27 to the retirement system or plan consistent with the risks
28 incumbent in each investment and shall be structured to
29 establish and maintain an appropriate diversification of the
30 retirement system or plan's assets.

31

1 (9) EXPECTED ANNUAL RATE OF RETURN.--The investment
2 policy shall require that, for each actuarial valuation, the
3 board determine the total expected annual rate of return for
4 the current year, for each of the next several years, and for
5 the long term thereafter. This determination must be filed
6 promptly with the division ~~Department of Management Services~~
7 and with the plan's sponsor and the consulting actuary. The
8 division ~~department~~ shall use this determination only to
9 notify the board, the plan's sponsor, and consulting actuary
10 of material differences between the total expected annual rate
11 of return and the actuarial assumed rate of return.

12 (16) FILING OF INVESTMENT POLICY.--Upon adoption by
13 the board, the investment policy shall be promptly filed with
14 the division ~~Department of Management Services~~ and the plan's
15 sponsor and consulting actuary. The effective date of the
16 investment policy, and any amendment thereto, shall be the
17 31st calendar day following the filing date with the plan
18 sponsor.

19 (17) VALUATION OF ILLIQUID INVESTMENTS.--The
20 investment policy shall provide for the valuation of illiquid
21 investments for which a generally recognized market is not
22 available or for which there is no consistent or generally
23 accepted pricing mechanism. If those investments are utilized,
24 the investment policy must include the criteria set forth in
25 s. 215.47(6), except that submission to the Investment
26 Advisory Council is not required. The investment policy shall
27 require that, for each actuarial valuation, the board must
28 verify the determination of the fair market value for those
29 investments and ascertain that the determination complies with
30 all applicable state and federal requirements. The investment
31 policy shall require that the board disclose to the division

1 ~~Department of Management Services~~ and the plan's sponsor each
2 such investment for which the fair market value is not
3 provided.

4 Section 13. Section 112.665, Florida Statutes, is
5 amended to read:

6 112.665 Duties of Division of Retirement ~~Department of~~
7 ~~Management Services~~.--

8 (1) The Division of Retirement ~~Department of~~
9 ~~Management Services~~ shall:

10 (a) Gather, catalog, and maintain complete,
11 computerized data information on all public employee
12 retirement systems or plans in the state, based upon a review
13 of audits, reports, and other data pertaining to the systems
14 or plans;

15 (b) Receive and comment upon all actuarial reviews of
16 retirement systems or plans maintained by units of local
17 government;

18 (c) Cooperate with local retirement systems or plans
19 on matters of mutual concern and provide technical assistance
20 to units of local government in the assessment and revision of
21 retirement systems or plans;

22 (d) Issue, by January 1 annually, a report to the
23 President of the Senate and the Speaker of the House of
24 Representatives, which report details division activities,
25 findings, and recommendations concerning all governmental
26 retirement systems. The report may include legislation
27 proposed to carry out such recommendations;

28 (e) Issue, by January 1 annually, a report to the
29 Special District Information Program of the Department of
30 Community Affairs that includes the participation in and
31 compliance of special districts with the local government

1 retirement system provisions in s. 112.63 and the
2 state-administered retirement system provisions as specified
3 in part I of chapter 121; and

4 (f) Adopt reasonable rules to administer the
5 provisions of this part.

6 (2) The division ~~department~~ may subpoena actuarial
7 witnesses, review books and records, hold hearings, and take
8 testimony. A witness shall have the right to be accompanied by
9 counsel.

10 Section 14. Subsections (4), (5), and (32), and
11 paragraph (a) of subsection (39) of section 121.021, Florida
12 Statutes, are amended, and subsection (62) is added to that
13 section, to read:

14 121.021 Definitions.--The following words and phrases
15 as used in this chapter have the respective meanings set forth
16 unless a different meaning is plainly required by the context:

17 (4) "Division ~~Department~~" means the Division of
18 Retirement of the State Board of Administration ~~Department of~~
19 ~~Management Services~~.

20 (5) "Administrator" means the executive director of
21 the State Board of Administration ~~secretary of the Department~~
22 ~~of Management Services~~.

23 (32) "State agency" means the Division of Retirement
24 ~~Department of Management Services~~ within the provisions and
25 contemplation of chapter 650.

26 (39)(a) "Termination" occurs, except as provided in
27 paragraph (b), when a member ceases all employment
28 relationships with employers under this system, as defined in
29 subsection (10), but in the event a member should be employed
30 by any such employer within the next calendar month,
31 termination shall be deemed not to have occurred. A leave of

1 absence shall constitute a continuation of the employment
2 relationship, except that a leave of absence without pay due
3 to disability may constitute termination for a member, if such
4 member makes application for and is approved for disability
5 retirement in accordance with s. 121.091(4). The division
6 ~~department~~ may require other evidence of termination as it
7 deems necessary.

8 (62) "Board" means the State Board of Administration.

9 Section 15. Section 121.025, Florida Statutes, is
10 amended to read:

11 121.025 Administrator; powers and duties.--The
12 executive director of the State Board of Administration
13 ~~secretary of the Department of Management Services~~ shall be
14 the administrator of the retirement and pension systems
15 assigned or transferred to the division ~~Department of~~
16 ~~Management Services~~ by law. The executive director of the
17 State Board of Administration is the trustee of the System
18 Trust Fund and shall have the authority to sign the contracts
19 necessary to carry out the duties and responsibilities
20 assigned by law to the division ~~Department of Management~~
21 ~~Services~~.

22 Section 16. Subsections (1), (2), and (5) and
23 paragraph (e) of subsection (3) of section 121.031, Florida
24 Statutes, are amended to read:

25 121.031 Administration of system; appropriation;
26 oaths; actuarial studies; public records.--

27 (1) The division ~~Department of Management Services~~ has
28 the authority to adopt rules pursuant to ss. 120.536(1) and
29 120.54 to implement the provisions of law conferring duties
30 upon the division ~~department~~ and to adopt rules as are
31 necessary for the effective and efficient administration of

1 this system. The funds to pay the expenses for administration
2 of the system are hereby appropriated from the interest earned
3 on investments made for the retirement and social security
4 trust funds and the assessments allowed under chapter 650.

5 (2) The division ~~Department of Management Services~~ is
6 authorized to require oaths, by affidavit or otherwise, and
7 acknowledgments from persons in connection with the
8 administration of its duties and responsibilities under this
9 chapter.

10 (3) The administrator shall cause an actuarial study
11 of the system to be made at least annually and shall report
12 the results of such study to the Legislature by December 31
13 prior to the next legislative session. The study shall, at a
14 minimum, conform to the requirements of s. 112.63, with the
15 following exceptions and additions:

16 (e) The study shall include measures of funding status
17 and funding progress designed to facilitate the assessment of
18 trends over several actuarial valuations with respect to the
19 overall solvency of the system. Such measures shall be adopted
20 by the division ~~department~~ and shall be used consistently in
21 all actuarial valuations performed on the system.

22 (5) The names and addresses of retirees are
23 confidential and exempt from the provisions of s. 119.07(1) to
24 the extent that no state or local governmental agency may
25 provide the names or addresses of such persons in aggregate,
26 compiled, or list form to any person except to a public agency
27 engaged in official business. However, a state or local
28 government agency may provide the names and addresses of
29 retirees from that agency to a bargaining agent as defined in
30 s. 447.203(12) or to a retiree organization for official
31 business use. Lists of names or addresses of retirees may be

1 exchanged by public agencies, but such lists shall not be
2 provided to, or open for inspection by, the public. Any person
3 may view or copy any individual's retirement records at the
4 division ~~Department of Management Services~~, one record at a
5 time, or may obtain information by a separate written request
6 for a named individual for which information is desired.

7 Section 17. Paragraph (c) of subsection (1) and
8 paragraphs (b) and (f) of subsection (2) of section 121.051,
9 Florida Statutes, are amended to read:

10 121.051 Participation in the system.--

11 (1) COMPULSORY PARTICIPATION.--

12 (c)1. After June 30, 1983, a member of an existing
13 system who is reemployed after terminating employment shall
14 have at the time of reemployment the option of selecting to
15 remain in the existing retirement system or to transfer to the
16 Florida Retirement System. Failure to submit such selection in
17 writing to the division ~~Department of Management Services~~
18 within 6 months of reemployment shall result in compulsory
19 membership in the Florida Retirement System.

20 2. After June 30, 1988, the provisions of subparagraph
21 1. shall not apply to a member of an existing system who is
22 reemployed within 12 months after terminating employment. Such
23 member shall continue to have membership in the existing
24 system upon reemployment and shall not be permitted to become
25 a member of the Florida Retirement System, except by
26 transferring to that system as provided in ss. 121.052 and
27 121.055.

28 (2) OPTIONAL PARTICIPATION.--

29 (b)1. The governing body of any municipality or
30 special district in the state may elect to participate in the
31 system upon proper application to the administrator and may

1 cover all or any of its units as approved by the Secretary of
2 Health and Human Services and the administrator. The division
3 ~~department~~ shall adopt rules establishing provisions for the
4 submission of documents necessary for such application. Prior
5 to being approved for participation in the Florida Retirement
6 System, the governing body of any such municipality or special
7 district that has a local retirement system shall submit to
8 the administrator a certified financial statement showing the
9 condition of the local retirement system as of a date within 3
10 months prior to the proposed effective date of membership in
11 the Florida Retirement System. The statement must be certified
12 by a recognized accounting firm that is independent of the
13 local retirement system. All required documents necessary for
14 extending Florida Retirement System coverage must be received
15 by the division ~~department~~ for consideration at least 15 days
16 prior to the proposed effective date of coverage. If the
17 municipality or special district does not comply with this
18 requirement, the division ~~department~~ may require that the
19 effective date of coverage be changed.

20 2. Any city or special district that has an existing
21 retirement system covering the employees in the units that are
22 to be brought under the Florida Retirement System may
23 participate only after holding a referendum in which all
24 employees in the affected units have the right to participate.
25 Only those employees electing coverage under the Florida
26 Retirement System by affirmative vote in said referendum shall
27 be eligible for coverage under this chapter, and those not
28 participating or electing not to be covered by the Florida
29 Retirement System shall remain in their present systems and
30 shall not be eligible for coverage under this chapter. After
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1 the referendum is held, all future employees shall be
2 compulsory members of the Florida Retirement System.

3 3. The governing body of any city or special district
4 complying with subparagraph 1. may elect to provide, or not
5 provide, benefits based on past service of officers and
6 employees as described in s. 121.081(1). However, if such
7 employer elects to provide past service benefits, such
8 benefits must be provided for all officers and employees of
9 its covered group.

10 4. Once this election is made and approved it may not
11 be revoked, except pursuant to subparagraphs 5. and 6., and
12 all present officers and employees electing coverage under
13 this chapter and all future officers and employees shall be
14 compulsory members of the Florida Retirement System.

15 5. Subject to the conditions set forth in subparagraph
16 6., the governing body of any hospital licensed under chapter
17 395 which is governed by the board of a special district as
18 defined in s. 189.403(1) or by the board of trustees of a
19 public health trust created under s. 154.07, hereinafter
20 referred to as "hospital district," and which participates in
21 the system, may elect to cease participation in the system
22 with regard to future employees in accordance with the
23 following procedure:

24 a. No more than 30 days and at least 7 days before
25 adopting a resolution to partially withdraw from the Florida
26 Retirement System and establish an alternative retirement plan
27 for future employees, a public hearing must be held on the
28 proposed withdrawal and proposed alternative plan.

29 b. From 7 to 15 days before such hearing, notice of
30 intent to withdraw, specifying the time and place of the
31 hearing, must be provided in writing to employees of the

1 hospital district proposing partial withdrawal and must be
2 published in a newspaper of general circulation in the area
3 affected, as provided by ss. 50.011-50.031. Proof of
4 publication of such notice shall be submitted to the division
5 ~~Department of Management Services~~.

6 c. The governing body of any hospital district seeking
7 to partially withdraw from the system must, before such
8 hearing, have an actuarial report prepared and certified by an
9 enrolled actuary, as defined in s. 112.625(3), illustrating
10 the cost to the hospital district of providing, through the
11 retirement plan that the hospital district is to adopt,
12 benefits for new employees comparable to those provided under
13 the Florida Retirement System.

14 d. Upon meeting all applicable requirements of this
15 subparagraph, and subject to the conditions set forth in
16 subparagraph 6., partial withdrawal from the system and
17 adoption of the alternative retirement plan may be
18 accomplished by resolution duly adopted by the hospital
19 district board. The hospital district board must provide
20 written notice of such withdrawal to the division by mailing a
21 copy of the resolution to the division, postmarked no later
22 than December 15, 1995. The withdrawal shall take effect
23 January 1, 1996.

24 6. Following the adoption of a resolution under
25 sub-subparagraph 5.d., all employees of the withdrawing
26 hospital district who were participants in the Florida
27 Retirement System prior to January 1, 1996, shall remain as
28 participants in the system for as long as they are employees
29 of the hospital district, and all rights, duties, and
30 obligations between the hospital district, the system, and the
31 employees shall remain in full force and effect. Any employee

1 who is hired or appointed on or after January 1, 1996, may not
2 participate in the Florida Retirement System, and the
3 withdrawing hospital district shall have no obligation to the
4 system with respect to such employees.

5 (f)1. Whenever an employer that participates in the
6 Florida Retirement System undertakes the transfer, merger, or
7 consolidation of governmental services or functions, the
8 employer must notify the division ~~department~~ at least 60 days
9 prior to such action and shall provide documentation as
10 required by the division ~~department~~.

11 2. When the agency to which a member's employing unit
12 is transferred, merged, or consolidated does not participate
13 in the Florida Retirement System, a member shall elect in
14 writing to remain in the Florida Retirement System or to
15 transfer to the local retirement system operated by such
16 agency. If such agency does not participate in a local
17 retirement system, the member shall continue membership in the
18 Florida Retirement System. In either case, the membership
19 shall continue for as long as the member is employed by the
20 agency to which his or her unit was transferred, merged, or
21 consolidated.

22 Section 18. Subsection (2) of section 121.0511,
23 Florida Statutes, is amended to read:

24 121.0511 Revocation of election and alternative
25 plan.--The governing body of any municipality or independent
26 special district that has elected to participate in the
27 Florida Retirement System may revoke its election in
28 accordance with the following procedure:

29 (2) At least 7 days, but not more than 15 days, before
30 the hearing, notice of intent to revoke, specifying the time
31 and place of the hearing, must be published in a newspaper of

1 general circulation in the area affected, as provided by ss.
2 50.011-50.031. Proof of publication of the notice must be
3 submitted to the division ~~Department of Management Services~~.

4 Section 19. Subsections (3) and (4) and paragraph (c)
5 of subsection (7) of section 121.0515, Florida Statutes, are
6 amended to read:

7 121.0515 Special risk membership.--

8 (3) PROCEDURE FOR DESIGNATING.--

9 (a) Any member of the Florida Retirement System
10 employed by a county, city, or special district who feels that
11 he or she meets the criteria set forth in this section for
12 membership in the Special Risk Class may request that his or
13 her employer submit an application to the division ~~department~~
14 requesting that the division ~~department~~ designate him or her
15 as a special risk member. If the employer agrees that the
16 member meets the requirements for special risk membership, the
17 employer shall submit an application to the division
18 ~~department~~ in behalf of the employee containing a
19 certification that the member meets the criteria for special
20 risk membership set forth in this section and such other
21 supporting documentation as may be required by administrative
22 rule. The division ~~department~~ shall, within 90 days, either
23 designate or refuse to designate the member as a special risk
24 member. If the employer declines to submit the member's
25 application to the division ~~department~~ or if the division
26 ~~department~~ does not designate the member as a special risk
27 member, the member or the employer may appeal to the State
28 Retirement Commission, as provided in s. 121.23, for
29 designation as a special risk member. A member who receives a
30 final affirmative ruling pursuant to such appeal for special
31 risk membership shall have special risk membership retroactive

1 to the date such member would have had special risk membership
2 had such membership been approved by the employer and the
3 division ~~department~~, as determined by the division ~~department~~,
4 and the employer contributions shall be paid in full within 1
5 year after such final ruling.

6 (b)1. Applying the criteria set forth in this section,
7 the division ~~Department of Management Services~~ shall specify
8 which current and newly created classes of positions under the
9 uniform classification plan established pursuant to chapter
10 110 entitle the incumbents of positions in those classes to
11 membership in the Special Risk Class. Only employees employed
12 in the classes so specified shall be special risk members.

13 2. When a class is not specified by the division
14 ~~department~~ as provided in subparagraph 1., the employing
15 agency may petition the State Retirement Commission for
16 approval in accordance with s. 121.23.

17 (4) REMOVAL OF SPECIAL RISK MEMBERSHIP.--Any member
18 who is a special risk member on October 1, 1978, and who fails
19 to meet the criteria for special risk membership established
20 by this section shall have his or her special risk designation
21 removed and thereafter shall be a regular member and shall
22 earn only regular membership credit. The division ~~department~~
23 shall have the authority to review the special risk
24 designation of members to determine whether or not those
25 members continue to meet the criteria for special risk
26 membership.

27 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT
28 DATE.--

29 (c) The division ~~department~~ shall adopt such rules as
30 are required to administer this subsection.

31

1 Section 20. Paragraph (e) of subsection (3) of section
2 121.052, Florida Statutes, is amended to read:

3 121.052 Membership class of elected officers.--

4 (3) PARTICIPATION AND WITHDRAWAL,
5 GENERALLY.--Effective July 1, 1990, participation in the
6 Elected Officers' Class shall be compulsory for elected
7 officers listed in paragraphs (2)(a)-(d) and (f) assuming
8 office on or after said date, unless the elected officer
9 elects membership in another class or withdraws from the
10 Florida Retirement System as provided in paragraphs

11 (3)(a)-(d):

12 (e) Effective July 1, 2001, the governing body of a
13 municipality or special district may, by majority vote, elect
14 to designate all its elected positions for inclusion in the
15 Elected Officers' Class. Such election shall be made between
16 July 1, 2001, and December 31, 2001, and shall be irrevocable.
17 The designation of such positions shall be effective the first
18 day of the month following receipt by the division ~~department~~
19 of the ordinance or resolution passed by the governing body.

20 Section 21. Paragraphs (b) and (h) of subsection (1)
21 and paragraphs (a), (c), (d), and (f) of subsection (6) of
22 section 121.055, Florida Statutes, are amended to read:

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

28 (1)

29 (b)1. Except as provided in subparagraph 2., effective
30 January 1, 1990, participation in the Senior Management
31 Service Class shall be compulsory for the president of each

1 community college, the manager of each participating city or
2 county, and all appointed district school superintendents.
3 Effective January 1, 1994, additional positions may be
4 designated for inclusion in the Senior Management Service
5 Class of the Florida Retirement System, provided that:

6 a. Positions to be included in the class shall be
7 designated by the local agency employer. Notice of intent to
8 designate positions for inclusion in the class shall be
9 published once a week for 2 consecutive weeks in a newspaper
10 of general circulation published in the county or counties
11 affected, as provided in chapter 50.

12 b. Up to 10 nonelective full-time positions may be
13 designated for each local agency employer reporting to the
14 division ~~Department of Management Services~~; for local agencies
15 with 100 or more regularly established positions, additional
16 nonelective full-time positions may be designated, not to
17 exceed 1 percent of the regularly established positions within
18 the agency.

19 c. Each position added to the class must be a
20 managerial or policymaking position filled by an employee who
21 is not subject to continuing contract and serves at the
22 pleasure of the local agency employer without civil service
23 protection, and who:

24 (I) Heads an organizational unit; or
25 (II) Has responsibility to effect or recommend
26 personnel, budget, expenditure, or policy decisions in his or
27 her areas of responsibility.

28 2. In lieu of participation in the Senior Management
29 Service Class, members of the Senior Management Service Class
30 pursuant to the provisions of subparagraph 1. may withdraw
31 from the Florida Retirement System altogether. The decision to

1 withdraw from the Florida Retirement System shall be
2 irrevocable for as long as the employee holds such a position.
3 Any service creditable under the Senior Management Service
4 Class shall be retained after the member withdraws from the
5 Florida Retirement System; however, additional service credit
6 in the Senior Management Service Class shall not be earned
7 after such withdrawal. Such members shall not be eligible to
8 participate in the Senior Management Service Optional Annuity
9 Program.

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

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

1 b. One nonelective full-time position may be
2 designated for each state attorney and public defender
3 reporting to the division ~~Department of Management Services~~;
4 for agencies with 200 or more regularly established positions
5 under the state attorney or public defender, additional
6 nonelective full-time positions may be designated, not to
7 exceed 0.5 percent of the regularly established positions
8 within the agency.

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

13 (I) Heads an organizational unit; or

14 (II) Has responsibility to effect or recommend
15 personnel, budget, expenditure, or policy decisions in his or
16 her areas of responsibility.

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

28 3. In lieu of participation in the Senior Management
29 Service Class, such members, excluding assistant state
30 attorneys, assistant public defenders, assistant statewide
31 prosecutors, assistant attorneys general, and assistant

1 capital collateral regional counsels, may participate in the
2 Senior Management Service Optional Annuity Program as
3 established in subsection (6).

4 (6)(a) Senior Management Service Optional Annuity
5 Program.--The State Board of Administration ~~Department of~~
6 ~~Management Services~~ shall establish a Senior Management
7 Service Optional Annuity Program under which contracts
8 providing retirement, death, and disability benefits may be
9 purchased for those employees who elect to participate in the
10 optional annuity program. The benefits to be provided for or
11 on behalf of participants in such optional annuity program
12 shall be provided through individual contracts or individual
13 certificates issued for group annuity contracts, which may be
14 fixed, variable, or a combination thereof, in accordance with
15 s. 401(a) of the Internal Revenue Code. Any such individual
16 contract or certificate shall state the annuity plan on its
17 face page, and shall include, but not be limited to, a
18 statement of ownership, the contract benefits, annuity income
19 options, limitations, expense charges, and surrender charges,
20 if any. The employing agency shall contribute, as provided in
21 this section, toward the purchase of such optional benefits
22 which shall be fully and immediately vested in the
23 participants.

24 (c) Participation.--

25 1. Any eligible employee who is employed on or before
26 February 1, 1987, may elect to participate in the optional
27 annuity program in lieu of participation in the Senior
28 Management Service Class. Such election shall be made in
29 writing and filed with the board ~~department~~ and the personnel
30 officer of the employer on or before May 1, 1987. Any eligible
31 employee who is employed on or before February 1, 1987, and

1 who fails to make an election to participate in the optional
2 annuity program by May 1, 1987, shall be deemed to have
3 elected membership in the Senior Management Service Class.

4 2. Any employee who becomes eligible to participate in
5 the optional annuity program by reason of initial employment
6 commencing after February 1, 1987, may, within 90 days after
7 the date of commencement of employment, elect to participate
8 in the optional annuity program. Such election shall be made
9 in writing and filed with the personnel officer of the
10 employer. Any eligible employee who does not within 90 days
11 after commencement of such employment elect to participate in
12 the optional annuity program shall be deemed to have elected
13 membership in the Senior Management Service Class.

14 3. A person who is appointed to a position in the
15 Senior Management Service Class and who is a member of an
16 existing retirement system or the Special Risk or Special Risk
17 Administrative Support Classes of the Florida Retirement
18 System may elect to remain in such system or class in lieu of
19 participation in the Senior Management Service Class or
20 optional annuity program. Such election shall be made in
21 writing and filed with the board ~~department~~ and the personnel
22 officer of the employer within 90 days of such appointment.
23 Any eligible employee who fails to make an election to
24 participate in the existing system, the Special Risk Class of
25 the Florida Retirement System, the Special Risk Administrative
26 Support Class of the Florida Retirement System, or the
27 optional annuity program shall be deemed to have elected
28 membership in the Senior Management Service Class.

29 4. Except as provided in subparagraph 5., an
30 employee's election to participate in the optional annuity
31 program is irrevocable as long as such employee continues to

1 be employed in an eligible position and continues to meet the
2 eligibility requirements set forth in this paragraph.

3 5. Effective from July 1, 2002, through September 30,
4 2002, any active employee in a regularly established position
5 who has elected to participate in the Senior Management
6 Service Optional Annuity Program has one opportunity to choose
7 to move from the Senior Management Service Optional Annuity
8 Program to the Florida Retirement System defined benefit
9 program.

10 a. The election must be made in writing and must be
11 filed with the department and the personnel officer of the
12 employer before October 1, 2002, or, in the case of an active
13 employee who is on a leave of absence on July 1, 2002, within
14 90 days after the conclusion of the leave of absence. This
15 election is irrevocable.

16 b. The employee will receive service credit under the
17 defined benefit program of the Florida Retirement System equal
18 to his or her years of service under the Senior Management
19 Service Optional Annuity Program. The cost for such credit
20 shall be an amount representing the present value of that
21 employee's accumulated benefit obligation for the affected
22 period of service.

23 c. The employee must transfer the total accumulated
24 employer contributions and earnings on deposit in his or her
25 Senior Management Service Optional Annuity Program account. If
26 the transferred amount is not sufficient to pay the amount
27 due, the employee must pay a sum representing the remainder of
28 the amount due. In no case may the employee retain any
29 employer contributions or earnings thereon from the Senior
30 Management Service Optional Annuity Program account.

31 (d) Contributions.--

1 1. Through June 30, 2001, each employer shall
2 contribute on behalf of each participant in the Senior
3 Management Service Optional Annuity Program an amount equal to
4 the normal cost portion of the employer retirement
5 contribution which would be required if the participant were a
6 Senior Management Service Class member of the Florida
7 Retirement System defined benefit program, plus the portion of
8 the contribution rate required in s. 112.363(8) that would
9 otherwise be assigned to the Retiree Health Insurance Subsidy
10 Trust Fund. Effective July 1, 2001, each employer shall
11 contribute on behalf of each participant in the optional
12 program an amount equal to 12.49 percent of the participant's
13 gross monthly compensation. The board ~~department~~ shall deduct
14 an amount approved by the board, pursuant to s. 215.44(4),
15 ~~legislature~~ to provide for the administration of this program.
16 The payment of the contributions to the optional program which
17 is required by this subparagraph for each participant shall be
18 made by the employer to the board ~~department~~, which shall
19 forward the contributions to the designated company or
20 companies contracting for payment of benefits for the
21 participant under the program.

22 2. Each employer shall contribute on behalf of each
23 participant in the Senior Management Service Optional Annuity
24 Program an amount equal to the unfunded actuarial accrued
25 liability portion of the employer contribution which would be
26 required for members of the Senior Management Service Class in
27 the Florida Retirement System. This contribution shall be paid
28 to the board ~~department~~ for transfer to the Florida Retirement
29 System Trust Fund.

30 3. An Optional Annuity Program Trust Fund shall be
31 established in the State Treasury and administered by the

1 ~~board department~~ to make payments to provider companies on
2 behalf of the optional annuity program participants, and to
3 transfer the unfunded liability portion of the state optional
4 annuity program contributions to the Florida Retirement System
5 Trust Fund.

6 4. Contributions required for social security by each
7 employer and each participant, in the amount required for
8 social security coverage as now or hereafter may be provided
9 by the federal Social Security Act shall be maintained for
10 each participant in the Senior Management Service retirement
11 program and shall be in addition to the retirement
12 contributions specified in this paragraph.

13 5. Each participant in the Senior Management Service
14 Optional Annuity Program may contribute by way of salary
15 reduction or deduction a percentage amount of the participant'
16 s gross compensation not to exceed the percentage amount
17 contributed by the employer to the optional annuity program.
18 Payment of the participant's contributions shall be made by
19 the employer to the board department, which shall forward the
20 contributions to the designated company or companies
21 contracting for payment of benefits for the participant under
22 the program.

23 (f) Administration.--

24 1. The Senior Management Service Optional Annuity
25 Program authorized by this section shall be administered by
26 the board department. The ~~board department~~ shall designate one
27 or more provider companies from which annuity contracts may be
28 purchased under the program and shall approve the form and
29 content of the contracts. The board department shall sign a
30 contract with each of the provider companies and shall
31 evaluate the performance of the provider companies on a

1 continuing basis. The board ~~department~~ may terminate the
2 services of a provider company for reasons stated in the
3 contract. The board ~~department~~ shall adopt rules establishing
4 its responsibilities and the responsibilities of employers in
5 administering the optional annuity program.

6 2. ~~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 annuity program~~
10 ~~before such products are offered through annuity contracts to~~
11 ~~the participants and may advise the department of any changes~~
12 ~~deemed necessary to ensure that the optional annuity program~~
13 ~~offers an acceptable mix of investment products.~~ The board
14 department shall determine which ~~make the final determination~~
15 ~~as to whether an investment~~ products ~~product~~ will be included
16 in approved for the program.

17 3. The provisions of each contract applicable to a
18 participant in the Senior Management Service Optional Annuity
19 Program shall be contained in a written program description
20 which shall include a report of pertinent financial and
21 actuarial information on the solvency and actuarial soundness
22 of the program and the benefits applicable to the participant.
23 Such description shall be furnished by the company or
24 companies to each participant in the program and to the board
25 ~~department~~ upon commencement of participation in the program
26 and annually thereafter.

27 4. The board ~~department~~ shall ensure that each
28 participant in the Senior Management Service Optional Annuity
29 Program is provided an accounting of the total contribution
30 and the annual contribution made by and on behalf of such
31 participants.

1 Section 22. Paragraph (h) of subsection (1) and
2 paragraph (e) of subsection (2) of section 121.081, Florida
3 Statutes, are amended to read:

4 121.081 Past service; prior service;
5 contributions.--Conditions under which past service or prior
6 service may be claimed and credited are:

7 (1)

8 (h) The following provisions apply to the purchase of
9 past service:

10 1. Notwithstanding any of the provisions of this
11 subsection, past-service credit may not be purchased under
12 this chapter for any service that is used to obtain a benefit
13 from any local retirement system.

14 2. A member may not receive past service credit under
15 paragraphs (a), (b), (e), or (f) for any leaves of absence
16 without pay, except that credit for active military service
17 leaves of absence may be claimed under paragraphs (a), (b),
18 and (f), in accordance with s. 121.111(1).

19 3. If a member does not desire to receive credit for
20 all of his or her past service, the period the member claims
21 must be the most recent past service prior to his or her
22 participation in the Florida Retirement System.

23 4. The cost of past service purchased by an employing
24 agency for its employees may be amortized over such period of
25 time as is provided in the agreement, but not to exceed 15
26 years, calculated in accordance with rule 60S-1.007(5)(f),
27 Florida Administrative Code.

28 5. The retirement account of each member for whom past
29 service is being provided by his or her employer shall be
30 credited with all past service the employer agrees to purchase
31

1 as soon as the agreement between the employer and the board
2 ~~department~~ is executed. Pursuant thereto:

3 a. Each such member's account shall also be posted
4 with the total contribution his or her employer agrees to make
5 in the member's behalf for past service earned prior to
6 October 1, 1975, excluding those contributions representing
7 the employer's matching share and the compound interest
8 calculation on the total contribution. However, a portion of
9 any contributions paid by an employer for past service credit
10 earned on and after October 1, 1975, may not be posted to a
11 member's account.

12 b. A refund of contributions payable after an employer
13 has made a written agreement to purchase past service for
14 employees of the covered group shall include contributions for
15 past service which are posted to a member's account. However,
16 contributions for past service earned on and after October 1,
17 1975, are not refundable.

18 (2) Prior service, as defined in s. 121.021(19), may
19 be claimed as creditable service under the Florida Retirement
20 System after a member has been reemployed for 1 complete year
21 of creditable service within a period of 12 consecutive
22 months, except as provided in paragraph (c). Service performed
23 as a participant of the optional retirement program for the
24 State University System under s. 121.35 or the Senior
25 Management Service Optional Annuity Program under s. 121.055
26 may be used to satisfy the reemployment requirement of 1
27 complete year of creditable service. The member shall not be
28 permitted to make any contributions for prior service until
29 after completion of the 1 year of creditable service. If a
30 member does not wish to claim credit for all of his or her
31 prior service, the service the member claims must be the most

1 recent period of service. The required contributions for
2 claiming the various types of prior service are:

3 (e) For service performed under the Florida Retirement
4 System after December 1, 1970, that was never reported to the
5 division ~~or the department~~ due to error, retirement credit may
6 be claimed by a member of the Florida Retirement System. The
7 division ~~department~~ shall adopt rules establishing criteria
8 for claiming such credit and detailing the documentation
9 required to substantiate the error.

10 Section 23. Subsection (1) of section 121.085, Florida
11 Statutes, is amended to read:

12 121.085 Creditable service.--The following provisions
13 shall apply to creditable service as defined in s.
14 121.021(17):

15 (1) The division ~~department~~ shall adopt rules
16 establishing procedures for the submission of evidence or
17 information necessary to establish a member's claim of
18 creditable service.

19 Section 24. Section 121.091, Florida Statutes, is
20 amended to read:

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

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

4 (1) NORMAL RETIREMENT BENEFIT.--Upon attaining his or
5 her normal retirement date, the member, upon application to
6 the administrator, shall receive a monthly benefit which shall
7 begin to accrue on the first day of the month of retirement
8 and be payable on the last day of that month and each month
9 thereafter during his or her lifetime. The normal retirement
10 benefit, including any past or additional retirement credit,
11 may not exceed 100 percent of the average final compensation.
12 The amount of monthly benefit shall be calculated as the
13 product of A and B, subject to the adjustment of C, if
14 applicable, as set forth below:

15 (a)1. For creditable years of Regular Class service, A
16 is 1.60 percent of the member's average final compensation, up
17 to the member's normal retirement date. Upon completion of the
18 first year after the normal retirement date, A is 1.63 percent
19 of the member's average final compensation. Following the
20 second year after the normal retirement date, A is 1.65
21 percent of the member's average final compensation. Following
22 the third year after the normal retirement date, and for
23 subsequent years, A is 1.68 percent of the member's average
24 final compensation.

25 2. For creditable years of special risk service, A is:

26 a. Two percent of the member's average final
27 compensation for all creditable years prior to October 1,
28 1974;

29 b. Three percent of the member's average final
30 compensation for all creditable years after September 30,
31 1974, and before October 1, 1978;

1 c. Two percent of the member's average final
2 compensation for all creditable years after September 30,
3 1978, and before January 1, 1989;

4 d. Two and two-tenths percent of the member's final
5 monthly compensation for all creditable years after December
6 31, 1988, and before January 1, 1990;

7 e. Two and four-tenths percent of the member's average
8 final compensation for all creditable years after December 31,
9 1989, and before January 1, 1991;

10 f. Two and six-tenths percent of the member's average
11 final compensation for all creditable years after December 31,
12 1990, and before January 1, 1992;

13 g. Two and eight-tenths percent of the member's
14 average final compensation for all creditable years after
15 December 31, 1991, and before January 1, 1993;

16 h. Three percent of the member's average final
17 compensation for all creditable years after December 31, 1992;
18 and

19 i. Three percent of the member's average final
20 compensation for all creditable years of service after
21 September 30, 1978, and before January 1, 1993, for any
22 special risk member who retires after July 1, 2000, or any
23 member of the Special Risk Administrative Support Class
24 entitled to retain the special risk normal retirement date who
25 was a member of the Special Risk Class during the time period
26 and who retires after July 1, 2000.

27 3. For creditable years of Senior Management Service
28 Class service after January 31, 1987, A is 2 percent;

29 4. For creditable years of Elected Officers' Class
30 service as a Supreme Court Justice, district court of appeal
31 judge, circuit judge, or county court judge, A is $3\frac{1}{3}$ percent

1 of the member's average final compensation, and for all other
2 creditable service in such class, A is 3 percent of average
3 final compensation;

4 (b) B is the number of the member's years and any
5 fractional part of a year of creditable service earned
6 subsequent to November 30, 1970; and

7 (c) C is the normal retirement benefit credit brought
8 forward as of November 30, 1970, by a former member of an
9 existing system. Such normal retirement benefit credit shall
10 be determined as the product of X and Y when X is the
11 percentage of average final compensation which the member
12 would have been eligible to receive if the member had attained
13 his or her normal retirement date as of November 30, 1970, all
14 in accordance with the existing system under which the member
15 is covered on November 30, 1970, and Y is average final
16 compensation as defined in s. 121.021(25). However, any member
17 of an existing retirement system who is eligible to retire and
18 who does retire, become disabled, or die prior to April 15,
19 1971, may have his or her retirement benefits calculated on
20 the basis of the best 5 of the last 10 years of service.

21 (d) A member's average final compensation shall be
22 determined by formula to obtain the coverage for the 5 highest
23 fiscal years' salaries, calculated as provided by rule.

24 (2) BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT
25 AGES.--If a member accumulates retirement benefits to commence
26 at different normal retirement ages by virtue of having
27 performed duties for an employer which would entitle him or
28 her to benefits as both a member of the Special Risk Class and
29 a member of either the Regular Class, Senior Management
30 Service Class, or Elected Officers' Class, the amount of
31 benefits payable shall be computed separately with respect to

1 each such age and the sum of such computed amounts shall be
2 paid as provided in this section.

3 (3) EARLY RETIREMENT BENEFIT.--Upon retirement on his
4 or her early retirement date, the member shall receive an
5 immediate monthly benefit that shall begin to accrue on the
6 first day of the month of the retirement date and be payable
7 on the last day of that month and each month thereafter during
8 his or her lifetime. Such benefit shall be calculated as
9 follows:

10 (a) The amount of each monthly payment shall be
11 computed in the same manner as for a normal retirement
12 benefit, in accordance with subsection (1), but shall be based
13 on the member's average monthly compensation and creditable
14 service as of the member's early retirement date. The benefit
15 so computed shall be reduced by five-twelfths of 1 percent for
16 each complete month by which the early retirement date
17 precedes the normal retirement date of age 62 for a member of
18 the Regular Class, Senior Management Service Class, or the
19 Elected Officers' Class, and age 55 for a member of the
20 Special Risk Class, or age 52 if a Special Risk member has
21 completed 25 years of creditable service in accordance with s.
22 121.021(29)(b)3.

23 (b) If the employment of a member is terminated by
24 reason of death subsequent to the completion of 20 years of
25 creditable service, the monthly benefit payable to the
26 member's beneficiary shall be calculated in accordance with
27 subsection (1), but shall be based on average monthly
28 compensation and creditable service as of the date of death.
29 The benefit so computed shall be reduced by five-twelfths of 1
30 percent for each complete month by which death precedes the
31 normal retirement date specified above or the date on which

1 the member would have attained 30 years of creditable service
2 had he or she survived and continued his or her employment,
3 whichever provides a higher benefit.

4 (4) DISABILITY RETIREMENT BENEFIT.--

5 (a) Disability retirement; entitlement and effective
6 date.--

7 1.a. A member who becomes totally and permanently
8 disabled, as defined in paragraph (b), after completing 5
9 years of creditable service, or a member who becomes totally
10 and permanently disabled in the line of duty regardless of
11 service, shall be entitled to a monthly disability benefit;
12 except that any member with less than 5 years of creditable
13 service on July 1, 1980, or any person who becomes a member of
14 the Florida Retirement System on or after such date must have
15 completed 10 years of creditable service prior to becoming
16 totally and permanently disabled in order to receive
17 disability retirement benefits for any disability which occurs
18 other than in the line of duty. However, if a member employed
19 on July 1, 1980, with less than 5 years of creditable service
20 as of that date, becomes totally and permanently disabled
21 after completing 5 years of creditable service and is found
22 not to have attained fully insured status for benefits under
23 the federal Social Security Act, such member shall be entitled
24 to a monthly disability benefit.

25 b. Effective July 1, 2001, a member of the defined
26 benefit retirement program who becomes totally and permanently
27 disabled, as defined in paragraph (b), after completing 8
28 years of creditable service, or a member who becomes totally
29 and permanently disabled in the line of duty regardless of
30 service, shall be entitled to a monthly disability benefit.

31

1 2. If the division has received from the employer the
2 required documentation of the member's termination of
3 employment, the effective retirement date for a member who
4 applies and is approved for disability retirement shall be
5 established by rule of the division.

6 3. For a member who is receiving Workers' Compensation
7 payments, the effective disability retirement date may not
8 precede the date the member reaches Maximum Medical
9 Improvement (MMI), unless the member terminates employment
10 prior to reaching MMI.

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

17 (c) Proof of disability.--The administrator, before
18 approving payment of any disability retirement benefit, shall
19 require proof that the member is totally and permanently
20 disabled as provided herein:

21 1. Such proof shall include the certification of the
22 member's total and permanent disability by two licensed
23 physicians of the state and such other evidence of disability
24 as the administrator may require, including reports from
25 vocational rehabilitation, evaluation, or testing specialists
26 who have evaluated the applicant for employment.

27 2. It must be documented that:

28 a. The member's medical condition occurred or became
29 symptomatic during the time the member was employed in an
30 employee/employer relationship with his or her employer;

31

1 b. The member was totally and permanently disabled at
2 the time he or she terminated covered employment; and

3 c. The member has not been employed with any other
4 employer after such termination.

5 3. If the application is for in-line-of-duty
6 disability, in addition to the requirements of subparagraph
7 2., it must be documented by competent medical evidence that
8 the disability was caused by a job-related illness or accident
9 which occurred while the member was in an employee/employer
10 relationship with his or her employer.

11 4. The unavailability of an employment position that
12 the member is physically and mentally capable of performing
13 will not be considered as proof of total and permanent
14 disability.

15 (d) Election on appeal.--A member whose application
16 for regular disability retirement has been denied and who has
17 filed an appeal to the State Retirement Commission may, if
18 eligible, elect to receive normal or early service retirement
19 benefits while he or she is awaiting the decision on the
20 appeal. However:

21 1. If the member elects to receive service retirement
22 benefits and disability benefits are later approved as a
23 result of the appeal, the payment option chosen by the member
24 may not be changed.

25 2. If the member elects to receive early service
26 retirement and the appeal is later denied, the member may not
27 change his or her election of early retirement.

28
29 Before such regular or early retirement benefits may be paid
30 by the division, the member must provide to the division a
31 written statement indicating that the member understands that

1 such changes are not permitted after he or she begins
2 receiving the benefits.

3 (e) Disability retirement benefit.--Upon the
4 retirement of a member on his or her disability retirement
5 date, the member shall receive a monthly benefit that shall
6 begin to accrue on the first day of the month of disability
7 retirement and shall be payable on the last day of that month
8 and each month thereafter during his or her lifetime and
9 continued disability.

10 (f) Computation of disability retirement benefit.--The
11 amount of each monthly payment shall be computed in the same
12 manner as for a normal retirement benefit, in accordance with
13 subsection (1), but shall be based on disability option
14 actuarial equivalency tables and the average monthly
15 compensation and creditable service of the member as of the
16 disability retirement date, subject to the following
17 conditions:

18 1. If the member's disability occurred in the line of
19 duty, the monthly Option 1 benefit shall not be less than:

20 a. Forty-two percent of average monthly compensation
21 as of the disability retirement date; or

22 b. Sixty-five percent of the average monthly
23 compensation as of the disability retirement date for a member
24 of the special risk class who retires on or after July 1,
25 2000; or

26 2. If the member's disability occurred other than in
27 the line of duty, the monthly Option 1 benefit shall not be
28 less than 25 percent of average monthly compensation as of the
29 disability retirement date.

30 (g) Reapplication.--A member, whose initial
31 application for disability retirement has been denied, may

1 reapply for disability benefits. However, such member's
2 reapplication will be considered only if the member presents
3 new medical evidence of a medical condition that existed prior
4 to the member's termination of employment. The division may
5 prescribe by rule procedures for reapplication and for review
6 and approval or disapproval of reapplication.

7 (h) Recovery from disability.--The administrator may
8 require periodic reexaminations at the expense of the
9 retirement fund. The division may adopt rules establishing
10 procedures for conducting and review of such reexaminations.

11 1. If the administrator finds that a member who is
12 receiving disability benefits is, at any time prior to his or
13 her normal retirement date, no longer disabled, the
14 administrator shall direct that the benefits be discontinued.
15 The decision of the administrator on this question shall be
16 final and binding. If such member:

17 a. Does not reenter the employ of an employer and was
18 not vested as of the disability retirement date, he or she
19 shall be entitled to the excess, if any, of his or her
20 accumulated contributions over the total disability benefits
21 received up to the date of recovery.

22 b. Does not reenter the employ of an employer, but was
23 vested as of the disability retirement date, he or she may
24 elect to receive:

25 (I) The excess, if any, of his or her accumulated
26 contributions over the total disability benefits received up
27 to the date of recovery; or

28 (II) A deferred benefit commencing on the last day of
29 the month of the normal retirement date which shall be payable
30 on the last day of the month thereafter during his or her
31 lifetime. The amount of such monthly benefit shall be computed

1 | in the same manner as for a normal retirement benefit, in
2 | accordance with subsection (1), but shall be based on average
3 | monthly compensation and creditable service as of the member's
4 | disability retirement date.

5 | c. Reenters employment of an employer within 6 months
6 | after recovery, the member's service will be deemed to have
7 | been continuous, but the period beginning with the first month
8 | for which he or she received a disability benefit payment and
9 | ending with the date he or she reentered employment will not
10 | be considered as creditable service for the purpose of
11 | computing benefits except as provided in sub-subparagraph d.
12 | As used in this section, the term "accumulated contributions"
13 | for such member means the excess of the member's accumulated
14 | contributions as of the disability retirement date over the
15 | total disability benefits received under paragraph (e).

16 | d. Terminates his or her disability benefit, reenters
17 | covered employment, and is continuously employed for a minimum
18 | of 1 year of creditable service, he or she may claim as
19 | creditable service the months during which he or she was
20 | receiving a disability benefit, upon payment of the required
21 | contributions. Contributions shall equal the total required
22 | employee and employer contribution rate applicable during the
23 | period the retiree received retirement benefits, multiplied
24 | times his or her rate of monthly compensation prior to the
25 | commencement of disability retirement for each month of the
26 | period claimed, plus 4 percent interest until July 1, 1975,
27 | and 6.5 percent interest thereafter, compounded annually each
28 | June 30 to the date of payment. If the member does not claim
29 | credit for all of the months he or she received disability
30 | benefits, the months claimed must be the most recent months of
31 | retirement. Such credit for periods of disability, when

1 purchased under the Florida Retirement System, shall apply
2 toward vesting requirements for eligibility to purchase
3 additional credit for other service.

4 2. Both the member receiving disability benefits who
5 reenters employment and the employer employing such disability
6 retiree shall notify the division immediately upon
7 reemployment, and the division shall terminate such member's
8 disability benefits, effective the first day of the month
9 following the month in which notification of recovery is
10 received. If the member is reemployed with a Florida
11 Retirement System employer at the time of benefit termination,
12 and he or she has received disability retirement benefit and
13 salary payments concurrently prior to notifying the division,
14 he or she may elect within 30 days to:

15 a. Retain the retirement benefits received prior to
16 termination of disability benefits and begin receiving
17 retirement service credit effective upon the date of
18 termination of benefits; or

19 b. Repay, within 12 months after his or her decision
20 to receive service credit, the retirement benefits received
21 for each month of reemployment prior to termination of
22 disability benefits and begin receiving retirement service
23 credit effective upon the date of reemployment. Any such
24 unpaid benefits shall have compound interest of 6.5 percent
25 added June 30.

26
27 A member may not receive both retirement service credit for
28 employment and retirement benefits for the same month.

29 3. If, after recovery of disability and reentry into
30 covered employment, the member again becomes disabled and is
31 again approved for disability retirement, the Option 1 monthly

1 retirement benefit shall not be less than the Option 1 monthly
2 benefit calculated at the time of the previous disability,
3 plus any cost of living increases up to the time the
4 disability benefit was terminated upon his or her reentry into
5 covered employment.

6 (i) Nonadmissible causes of disability.--A member
7 shall not be entitled to receive any disability retirement
8 benefit if the disability is a result of any of the following:

9 1. Injury or disease sustained by the member while
10 willfully participating in a riot, civil insurrection, or
11 other act of violence or while committing a felony;

12 2. Injury or disease sustained by the member after his
13 or her employment has terminated; or

14 3. Intentional, self-inflicted injury.

15 (j) Disability retirement of justice or judge by order
16 of Supreme Court.--

17 ~~†~~ If a member is a justice of the Supreme Court,
18 judge of a district court of appeal, circuit judge, or judge
19 of a county court who has served for 6 years or more as an
20 elected constitutional judicial officer, including service as
21 a judicial officer in any court abolished pursuant to Art. V
22 of the State Constitution, and who is retired for disability
23 by order of the Supreme Court upon recommendation of the
24 Judicial Qualifications Commission pursuant to the provisions
25 of Art. V of the State Constitution, the member's Option 1
26 monthly benefit as provided in subparagraph (6)(a)1. shall not
27 be less than two-thirds of his or her monthly compensation as
28 of the member's disability retirement date. Such a member may
29 alternatively elect to receive a disability retirement benefit
30 under any other option as provided in paragraph (6)(a).

31

1 ~~2. Should any justice or judge who is a member of the~~
2 ~~Florida Retirement System be retired for disability by order~~
3 ~~of the Supreme Court upon recommendation of the Judicial~~
4 ~~Qualifications Commission pursuant to the provisions of Art. V~~
5 ~~of the State Constitution, then all contributions to his or~~
6 ~~her account and all contributions made on his or her behalf by~~
7 ~~the employer shall be transferred to and deposited in the~~
8 ~~General Revenue Fund of the state, and there is hereby~~
9 ~~appropriated annually out of the General Revenue Fund, to be~~
10 ~~paid into the Florida Retirement System Fund, an amount~~
11 ~~necessary to pay the benefits of all justices and judges~~
12 ~~retired from the Florida Retirement System pursuant to Art. V~~
13 ~~of the State Constitution.~~

14 (5) TERMINATION BENEFITS.--A member whose employment
15 is terminated prior to retirement retains membership rights to
16 previously earned member-noncontributory service credit, and
17 to member-contributory service credit, if the member leaves
18 the member contributions on deposit in his or her retirement
19 account. If a terminated member receives a refund of member
20 contributions, such member may reinstate membership rights to
21 the previously earned service credit represented by the refund
22 by completing 1 year of creditable service and repaying the
23 refunded member contributions, plus interest.

24 (a) A member whose employment is terminated for any
25 reason other than death or retirement prior to becoming vested
26 is entitled to the return of his or her accumulated
27 contributions as of the date of termination.

28 (b) A member whose employment is terminated for any
29 reason other than death or retirement after becoming vested
30 may elect to receive a deferred monthly benefit which shall
31 begin to accrue on the first day of the month of normal or

1 early retirement and shall be payable on the last day of that
2 month and each month thereafter during his or her lifetime.
3 The amount of monthly benefit shall be computed in the same
4 manner as for a normal retirement benefit in accordance with
5 subsection (1) or early retirement benefit in accordance with
6 s. 121.021(30), but based on average monthly compensation and
7 creditable service as of the date of termination.

8 (c) In lieu of the deferred monthly benefit provided
9 in paragraph (b), the terminated member may elect to receive a
10 lump-sum amount equal to his or her accumulated contributions
11 as of the date of termination.

12 (d) If any retired member dies without having received
13 in benefit payments an amount equal to his or her accumulated
14 contributions, there shall be payable to his or her designated
15 beneficiary an amount equal to the excess, if any, of the
16 member's accumulated contributions over the total monthly
17 payments made to the member prior to the date of death.

18 (e) A member shall be deemed a terminated member when
19 termination of employment has occurred as provided in s.
20 121.021(39).

21 (f) Any member who has been found guilty by a verdict
22 of a jury, or by the court trying the case without a jury, of
23 committing, aiding, or abetting any embezzlement or theft from
24 his or her employer, bribery in connection with the
25 employment, or other felony specified in chapter 838, except
26 ss. 838.15 and 838.16, committed prior to retirement, or who
27 has entered a plea of guilty or of nolo contendere to such
28 crime, or any member whose employment is terminated by reason
29 of the member's admitted commitment, aiding, or abetting of an
30 embezzlement or theft from his or her employer, bribery, or
31 other felony specified in chapter 838, except ss. 838.15 and

1 838.16, shall forfeit all rights and benefits under this
2 chapter, except the return of his or her accumulated
3 contributions as of the date of termination.

4 (g) Any elected official who is convicted by the
5 Senate of an impeachable offense shall forfeit all rights and
6 benefits under this chapter, except the return of his or her
7 accumulated contributions as of the date of the conviction.

8 (h) Any member who, prior to retirement, is adjudged
9 by a court of competent jurisdiction to have violated any
10 state law against strikes by public employees, or who has been
11 found guilty by such court of violating any state law
12 prohibiting strikes by public employees, shall forfeit all
13 rights and benefits under this chapter, except the return of
14 his or her accumulated contributions as of the date of the
15 conviction.

16 (i) Any beneficiary who by a verdict of a jury or by
17 the court trying the case without a jury is found guilty, or
18 who has entered a plea of guilty or nolo contendere, of
19 unlawfully and intentionally killing or procuring the death of
20 the member forfeits all rights to the deceased member's
21 benefits under this chapter, and the benefits will be paid as
22 if such beneficiary had predeceased the decedent.

23 (j) Benefits shall not be paid by the division pending
24 final resolution of such charges against a member or
25 beneficiary if the resolution of such charges could require
26 the forfeiture of benefits as provided in paragraph (f),
27 paragraph (g), paragraph (h), or paragraph (i).

28 (6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND
29 DISABILITY RETIREMENT BENEFITS.--

30 (a) Prior to the receipt of the first monthly
31 retirement payment, a member shall elect to receive the

1 retirement benefits to which he or she is entitled under
2 subsection (1), subsection (2), subsection (3), or subsection
3 (4) in accordance with one of the following options:

4 1. The maximum retirement benefit payable to the
5 member during his or her lifetime.

6 2. A decreased retirement benefit payable to the
7 member during his or her lifetime and, in the event of his or
8 her death within a period of 10 years after retirement, the
9 same monthly amount payable for the balance of such 10-year
10 period to his or her beneficiary or, in case the beneficiary
11 is deceased, in accordance with subsection (8) as though no
12 beneficiary had been named.

13 3. A decreased retirement benefit payable during the
14 joint lifetime of both the member and his or her joint
15 annuitant and which, after the death of either, shall continue
16 during the lifetime of the survivor in the same amount,
17 subject to the provisions of subsection (12).

18 4. A decreased retirement benefit payable during the
19 joint lifetime of the member and his or her joint annuitant
20 and which, after the death of either, shall continue during
21 the lifetime of the survivor in an amount equal to $\frac{662}{3}$
22 percent of the amount that was payable during the joint
23 lifetime of the member and his or her joint annuitant, subject
24 to the provisions of subsection (12).

25

26 The spouse of any member who elects to receive the benefit
27 provided under subparagraph 1. or subparagraph 2. shall be
28 notified of and shall acknowledge any such election. The
29 division shall establish by rule a method for selecting the
30 appropriate actuarial factor for optional forms of benefits

31

1 selected under subparagraphs 3. and 4., based on the age of
2 the member and the joint annuitant.

3 (b) The benefit payable under any option stated above
4 shall be the actuarial equivalent, based on tables adopted by
5 the administrator for this purpose, of the amount to which the
6 member was otherwise entitled.

7 (c) A member who elects the option in subparagraph
8 (a)2. shall, in accordance with subsection (8), designate one
9 or more persons to receive the benefits payable in the event
10 of his or her death. Such persons shall be the beneficiaries
11 of the member. The member may also designate one or more
12 contingent beneficiaries to receive any benefits remaining
13 upon the death of the primary beneficiary.

14 (d) A member who elects the option in subparagraph
15 (a)3. or subparagraph (a)4. shall, on a form provided for that
16 purpose, designate a joint annuitant to receive the benefits
17 which continue to be payable upon the death of the member.
18 After benefits have commenced under the option in subparagraph
19 (a)3. or subparagraph (a)4., the following shall apply:

20 1. A retired member may change his or her designation
21 of a joint annuitant only twice. If such a retired member
22 desires to change his or her designation of a joint annuitant,
23 he or she shall file with the division a notarized "change of
24 joint annuitant" form and shall notify the former joint
25 annuitant in writing of such change. Effective the first day
26 of the next month following receipt by the division of a
27 completed change of joint annuitant form, the division shall
28 adjust the member's monthly benefit by the application of
29 actuarial tables and calculations developed to ensure that the
30 benefit paid is the actuarial equivalent of the present value
31 of the member's current benefit. The consent of a retired

1 member's first designated joint annuitant to any such change
2 shall not be required. However, if either the member or the
3 joint annuitant dies before the effective date of the request
4 for change of joint annuitant, the requested change shall be
5 void, and survivor benefits, if any, shall be paid as if no
6 request had been made.

7 2. In the event of the dissolution of marriage of a
8 retired member and a joint annuitant, such member may make an
9 election to nullify the joint annuitant designation of the
10 former spouse, unless there is an existing qualified domestic
11 relations order preventing such action. The member shall file
12 with the division a written, notarized nullification which
13 shall be effective on the first day of the next month
14 following receipt by the division. Benefits shall be paid as
15 if the former spouse predeceased the member. A member who
16 makes such an election may not reverse the nullification but
17 may designate a new joint annuitant in accordance with
18 subparagraph 1.

19 (e) The election of an option shall be null and void
20 if the member dies before the effective date of retirement.

21 (f) A member who elects to receive benefits under the
22 option in subparagraph (a)3. may designate one or more
23 qualified persons, either a spouse or other dependent, as his
24 or her joint annuitant to receive the benefits after the
25 member's death in whatever proportion he or she so assigns to
26 each person named as joint annuitant. The division shall adopt
27 appropriate actuarial tables and calculations necessary to
28 ensure that the benefit paid is the actuarial equivalent of
29 the benefit to which the member is otherwise entitled under
30 the option in subparagraph (a)1.

31

1 (g) Upon the death of a retired member or beneficiary
2 receiving monthly benefits under this chapter, the monthly
3 benefits shall be paid through the last day of the month of
4 death and shall terminate, or be adjusted, if applicable, as
5 of that date in accordance with the optional form of benefit
6 selected at the time of retirement.

7 (h) The option selected or determined for payment of
8 benefits as provided in this section shall be final and
9 irrevocable at the time a benefit payment is cashed or
10 deposited or credited to the Deferred Retirement Option
11 Program as provided in subsection (13).

12 (7) DEATH BENEFITS.--

13 (a) If the employment of a member is terminated by
14 reason of his or her death prior to being vested, except as
15 provided in paragraph (f), there shall be payable to his or
16 her designated beneficiary the member's accumulated
17 contributions.

18 (b) If the employment of an active member who may or
19 may not have applied for retirement is terminated by reason of
20 his or her death subsequent to becoming vested and prior to
21 his or her effective date of retirement, if established, it
22 shall be assumed that the member retired as of the date of
23 death in accordance with subsection (1) if eligible for normal
24 retirement benefits, subsection (2) if eligible for benefits
25 payable for dual normal retirement, or subsection (3) if
26 eligible for early retirement benefits. Benefits payable to
27 the designated beneficiary shall be as follows:

28 1. For a beneficiary who qualifies as a joint
29 annuitant, the optional form of payment provided in accordance
30 with subparagraph (6)(a)3. shall be paid for the joint
31 annuitant's lifetime.

1 2. For a beneficiary who does not qualify as a joint
2 annuitant, no continuing monthly benefit shall be paid and the
3 beneficiary shall be entitled only to the return of the
4 member's personal contributions. If there is no monetary
5 interest in the member's retirement account for which such
6 beneficiary is eligible, the beneficiary shall be the next
7 named beneficiary or, if no other beneficiary is named, the
8 beneficiary shall be the next eligible beneficiary according
9 to subsection (8).

10 (c) If a retiring member dies on or after the
11 effective date of retirement, but prior to a benefit payment
12 being cashed or deposited, or credited to the Deferred
13 Retirement Option Program, benefits shall be paid as follows:

14 1. For a designated beneficiary who qualifies as a
15 joint annuitant, benefits shall be paid in the optional form
16 of payment provided in subparagraph (6)(a)3. for the joint
17 annuitant's lifetime or, if the member chose the optional form
18 of payment provided in subparagraph (6)(a)2., the joint
19 annuitant may select the form provided in either subparagraph
20 (6)(a)2. or subparagraph (6)(a)3.

21 2. For a designated beneficiary who does not qualify
22 as a joint annuitant, any benefits payable shall be paid as
23 provided in the option selected by the member; or if the
24 member has not selected an option, benefits shall be paid in
25 the optional form of payment provided in subparagraph (6)(a)1.

26 (d) Notwithstanding any other provision in this
27 chapter to the contrary, with the exception of the Deferred
28 Retirement Option Program, as provided in subsection (13):

29 1. The surviving spouse of any member killed in the
30 line of duty may receive a monthly pension equal to one-half
31 of the monthly salary being received by the member at the time

1 of death for the rest of the surviving spouse's lifetime or,
2 if the member was vested, such surviving spouse may elect to
3 receive a benefit as provided in paragraph (b). Benefits
4 provided by this paragraph shall supersede any other
5 distribution that may have been provided by the member's
6 designation of beneficiary.

7 2. If the surviving spouse of a member killed in the
8 line of duty dies, the monthly payments which would have been
9 payable to such surviving spouse had such surviving spouse
10 lived shall be paid for the use and benefit of such member's
11 child or children under 18 years of age and unmarried until
12 the 18th birthday of the member's youngest child.

13 3. If a member killed in the line of duty leaves no
14 surviving spouse but is survived by a child or children under
15 18 years of age, the benefits provided by subparagraph 1.,
16 normally payable to a surviving spouse, shall be paid for the
17 use and benefit of such member's child or children under 18
18 years of age and unmarried until the 18th birthday of the
19 member's youngest child.

20 4. The surviving spouse of a member whose benefit
21 terminated because of remarriage shall have the benefit
22 reinstated beginning July 1, 1993, at an amount that would
23 have been payable had the benefit not been terminated.

24 (e) The surviving spouse or other dependent of any
25 member, except a member who participated in the Deferred
26 Retirement Option Program, whose employment is terminated by
27 death shall, upon application to the administrator, be
28 permitted to pay the required contributions for any service
29 performed by the member which could have been claimed by the
30 member at the time of his or her death. Such service shall be
31 added to the creditable service of the member and shall be

1 used in the calculation of any benefits which may be payable
2 to the surviving spouse or other surviving dependent.

3 (f) Notwithstanding any other provisions in this
4 chapter to the contrary and upon application to the
5 administrator, an eligible joint annuitant, of a member whose
6 employment is terminated by death within 1 year of such member
7 satisfying the service requirements for vesting and retirement
8 eligibility, shall be permitted to purchase only the
9 additional service credit necessary to vest and qualify for
10 retirement benefits, not to exceed a total of 1 year of
11 credit, by one or a combination of the following methods:

12 1. Such eligible joint annuitant may use the deceased
13 member's accumulated hours of annual, sick, and compensatory
14 leave to purchase additional creditable service, on an hour by
15 hour basis, provided that such deceased member's accumulated
16 leave is sufficient to cover the additional months required.
17 For each month of service credit needed prior to the final
18 month, credit for the total number of work hours in that month
19 must be purchased, using an equal number of the deceased
20 member's accumulated leave hours. Service credit required for
21 the final month in which the deceased member would have become
22 vested shall be awarded upon the purchase of 1 hour of credit.
23 Such eligible joint annuitant shall pay the contribution rate
24 in effect for the period of time being claimed for the
25 deceased member's class of membership, multiplied by such
26 member's monthly salary at the time of death, plus 6.5 percent
27 interest compounded annually. The accumulated leave payment
28 used in the average final compensation shall not include that
29 portion of the payment that represents any leave hours used in
30 the purchase of such creditable service.

31

1 2. Such eligible joint annuitant may purchase
2 additional months of creditable service for any periods of
3 out-of-state service as provided in s. 121.1115, and in-state
4 service as provided in s. 121.1122, that the deceased member
5 would have been eligible to purchase prior to his or her
6 death.

7
8 Service purchased under this paragraph shall be added to the
9 creditable service of the member and used to vest for
10 retirement eligibility, and shall be used in the calculation
11 of any benefits which may be payable to the eligible joint
12 annuitant. Any benefits paid in accordance with this paragraph
13 shall only be made prospectively.

14 (g) Notwithstanding any other provisions in this
15 chapter to the contrary, if any member who is vested dies and
16 the surviving spouse receives a refund of the accumulated
17 contributions made to the retirement trust fund, such spouse
18 may pay to the Division of Retirement an amount equal to the
19 sum of the amount of the deceased member's accumulated
20 contributions previously refunded plus interest at 4 percent
21 compounded annually each June 30 from the date of refund until
22 July 1, 1975, and 6.5 percent interest compounded annually
23 thereafter, until full payment is made, and receive the
24 monthly retirement benefit as provided in paragraph (b).

25 (h) The designated beneficiary who is the surviving
26 spouse or other dependent of a member whose employment is
27 terminated by death subsequent to becoming vested, but prior
28 to actual retirement, may elect to receive a deferred monthly
29 benefit as if the member had lived and had elected a deferred
30 monthly benefit, as provided in paragraph (5)(b), calculated
31 on the basis of the average final compensation and creditable

1 service of the member at his or her death and the age the
2 member would have attained on the commencement date of the
3 deferred benefit elected by the beneficiary, paid in
4 accordance with option 3 of paragraph (6)(a).

5 (8) DESIGNATION OF BENEFICIARIES.--

6 (a) Each member may, on a form provided for that
7 purpose, signed and filed with the division, designate a
8 choice of one or more persons, named sequentially or jointly,
9 as his or her beneficiary who shall receive the benefits, if
10 any, which may be payable in the event of the member's death
11 pursuant to the provisions of this chapter. If no beneficiary
12 is named in the manner provided above, or if no beneficiary
13 designated by the member survives the member, the beneficiary
14 shall be the spouse of the deceased, if living. If the
15 member's spouse is not alive at his or her death, the
16 beneficiary shall be the living children of the member. If no
17 children survive, the beneficiary shall be the member's father
18 or mother, if living; otherwise, the beneficiary shall be the
19 member's estate. The beneficiary most recently designated by a
20 member on a form or letter filed with the division shall be
21 the beneficiary entitled to any benefits payable at the time
22 of the member's death, except that benefits shall be paid as
23 provided in paragraph (7)(d) when death occurs in the line of
24 duty. Notwithstanding any other provisions in this subsection
25 to the contrary, for a member who dies prior to his or her
26 effective date of retirement on or after January 1, 1999, the
27 spouse at the time of death shall be the member's beneficiary
28 unless such member designates a different beneficiary as
29 provided herein subsequent to the member's most recent
30 marriage.

31

1 (b) A designated beneficiary of a retirement account
2 for whom there is a monetary interest may disclaim his or her
3 monetary interest as provided in s. 689.21, and in accordance
4 with division rules governing such disclaimers. Such
5 disclaimer must be filed within 24 months after the event that
6 created the interest, that is, the death of the member or
7 annuitant.

8 (c) Notwithstanding the member's designation of
9 benefits to be paid through a trust to a beneficiary that is a
10 natural person as provided in s. 121.021(46), and
11 notwithstanding the provisions of the trust, benefits shall be
12 paid directly to the beneficiary if such person is no longer a
13 minor or incapacitated as defined in s. 744.102(10) and (11).

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

15 (a) Any person who is retired under this chapter,
16 except under the disability retirement provisions of
17 subsection (4), may be employed by an employer that does not
18 participate in a state-administered retirement system and may
19 receive compensation from that employment without limiting or
20 restricting in any way the retirement benefits payable to that
21 person.

22 (b)1. Any person who is retired under this chapter,
23 except under the disability retirement provisions of
24 subsection (4), may be reemployed by any private or public
25 employer after retirement and receive retirement benefits and
26 compensation from his or her employer without any limitations,
27 except that a person may not receive both a salary from
28 reemployment with any agency participating in the Florida
29 Retirement System and retirement benefits under this chapter
30 for a period of 12 months immediately subsequent to the date
31 of retirement. However, a DROP participant shall continue

1 employment and receive a salary during the period of
2 participation in the Deferred Retirement Option Program, as
3 provided in subsection (13).

4 2. Any person to whom the limitation in subparagraph
5 1. applies who violates such reemployment limitation and who
6 is reemployed with any agency participating in the Florida
7 Retirement System before completion of the 12-month limitation
8 period shall give timely notice of this fact in writing to the
9 employer and to the division and shall have his or her
10 retirement benefits suspended for the balance of the 12-month
11 limitation period. Any person employed in violation of this
12 paragraph and any employing agency which knowingly employs or
13 appoints such person without notifying the Division of
14 Retirement to suspend retirement benefits shall be jointly and
15 severally liable for reimbursement to the retirement trust
16 fund of any benefits paid during the reemployment limitation
17 period. To avoid liability, such employing agency shall have a
18 written statement from the retiree that he or she is not
19 retired from a state-administered retirement system. Any
20 retirement benefits received while reemployed during this
21 reemployment limitation period shall be repaid to the
22 retirement trust fund, and retirement benefits shall remain
23 suspended until such repayment has been made. Benefits
24 suspended beyond the reemployment limitation shall apply
25 toward repayment of benefits received in violation of the
26 reemployment limitation.

27 3. A district school board may reemploy a retired
28 member as a substitute or hourly teacher, education
29 paraprofessional, transportation assistant, bus driver, or
30 food service worker on a noncontractual basis after he or she
31 has been retired for 1 calendar month, in accordance with s.

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

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

3 4. A community college board of trustees may reemploy
4 a retired member as an adjunct instructor, that is, an
5 instructor who is noncontractual and part-time, or as a
6 participant in a phased retirement program within the Florida
7 Community College System, after he or she has been retired for
8 1 calendar month, in accordance with s. 121.021(39). Any
9 retired member who is reemployed within 1 calendar month after
10 retirement shall void his or her application for retirement
11 benefits. Boards of trustees reemploying such instructors are
12 subject to the retirement contribution required in
13 subparagraph 7. A retired member may be reemployed as an
14 adjunct instructor for no more than 780 hours during the first
15 12 months of retirement. Any retired member reemployed for
16 more than 780 hours during the first 12 months of retirement
17 shall give timely notice in writing to the employer and to the
18 division of the date he or she will exceed the limitation. The
19 division shall suspend his or her retirement benefits for the
20 remainder of the first 12 months of retirement. Any person
21 employed in violation of this subparagraph and any employing
22 agency which knowingly employs or appoints such person without
23 notifying the Division of Retirement to suspend retirement
24 benefits shall be jointly and severally liable for
25 reimbursement to the retirement trust fund of any benefits
26 paid during the reemployment limitation period. To avoid
27 liability, such employing agency shall have a written
28 statement from the retiree that he or she is not retired from
29 a state-administered retirement system. Any retirement
30 benefits received by a retired member while reemployed in
31 excess of 780 hours during the first 12 months of retirement

1 shall be repaid to the Retirement System Trust Fund, and
2 retirement benefits shall remain suspended until repayment is
3 made. Benefits suspended beyond the end of the retired
4 member's first 12 months of retirement shall apply toward
5 repayment of benefits received in violation of the 780-hour
6 reemployment limitation.

7 5. The State University System may reemploy a retired
8 member as an adjunct faculty member or as a participant in a
9 phased retirement program within the State University System
10 after the retired member has been retired for 1 calendar
11 month, in accordance with s. 121.021(39). Any retired member
12 who is reemployed within 1 calendar month after retirement
13 shall void his or her application for retirement benefits. The
14 State University System is subject to the retired contribution
15 required in subparagraph 7., as appropriate. A retired member
16 may be reemployed as an adjunct faculty member or a
17 participant in a phased retirement program for no more than
18 780 hours during the first 12 months of his or her retirement.
19 Any retired member reemployed for more than 780 hours during
20 the first 12 months of retirement shall give timely notice in
21 writing to the employer and to the division of the date he or
22 she will exceed the limitation. The division shall suspend his
23 or her retirement benefits for the remainder of the first 12
24 months of retirement. Any person employed in violation of this
25 subparagraph and any employing agency which knowingly employs
26 or 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 a
31 written statement from the retiree that he or she is not

1 retired from a state-administered retirement system. Any
2 retirement benefits received by a retired member while
3 reemployed in excess of 780 hours during the first 12 months
4 of retirement shall be repaid to the Retirement System Trust
5 Fund, and retirement benefits shall remain suspended until
6 repayment is made. Benefits suspended beyond the end of the
7 retired member's first 12 months of retirement shall apply
8 toward repayment of benefits received in violation of the
9 780-hour reemployment limitation.

10 6. The Board of Trustees of the Florida School for the
11 Deaf and the Blind may reemploy a retired member as a
12 substitute teacher, substitute residential instructor, or
13 substitute nurse on a noncontractual basis after he or she has
14 been retired for 1 calendar month, in accordance with s.
15 121.021(39). Any retired member who is reemployed within 1
16 calendar month after retirement shall void his or her
17 application for retirement benefits. The Board of Trustees of
18 the Florida School for the Deaf and the Blind reemploying such
19 teachers, residential instructors, or nurses is subject to the
20 retirement contribution required by subparagraph 7.
21 Reemployment of a retired member as a substitute teacher,
22 substitute residential instructor, or substitute nurse is
23 limited to 780 hours during the first 12 months of his or her
24 retirement. Any retired member reemployed for more than 780
25 hours during the first 12 months of retirement shall give
26 timely notice in writing to the employer and to the division
27 of the date he or she will exceed the limitation. The division
28 shall suspend his or her retirement benefits for the remainder
29 of the first 12 months of retirement. Any person employed in
30 violation of this subparagraph and any employing agency which
31 knowingly employs or appoints such person without notifying

1 the Division of Retirement to suspend retirement benefits
2 shall be jointly and severally liable for reimbursement to the
3 retirement trust fund of any benefits paid during the
4 reemployment limitation period. To avoid liability, such
5 employing agency shall have a written statement from the
6 retiree that he or she is not retired from a
7 state-administered retirement system. Any retirement benefits
8 received by a retired member while reemployed in excess of 780
9 hours during the first 12 months of retirement shall be repaid
10 to the Retirement System Trust Fund, and his or her retirement
11 benefits shall remain suspended until payment is made.
12 Benefits suspended beyond the end of the retired member's
13 first 12 months of retirement shall apply toward repayment of
14 benefits received in violation of the 780-hour reemployment
15 limitation.

16 7. The employment by an employer of any retiree or
17 DROP participant of any state-administered retirement system
18 shall have no effect on the average final compensation or
19 years of creditable service of the retiree or DROP
20 participant. Prior to July 1, 1991, upon employment of any
21 person, other than an elected officer as provided in s.
22 121.053, who has been retired under any state-administered
23 retirement program, the employer shall pay retirement
24 contributions in an amount equal to the unfunded actuarial
25 liability portion of the employer contribution which would be
26 required for regular members of the Florida Retirement System.
27 Effective July 1, 1991, contributions shall be made as
28 provided in s. 121.122 for retirees with renewed membership or
29 subsection (13) with respect to DROP participants.

30 8. Any person who has previously retired and who is
31 holding an elective public office or an appointment to an

1 elective public office eligible for the Elected Officers'
2 Class on or after July 1, 1990, shall be enrolled in the
3 Florida Retirement System as provided in s. 121.053(1)(b) or,
4 if holding an elective public office that does not qualify for
5 the Elected Officers' Class on or after July 1, 1991, shall be
6 enrolled in the Florida Retirement System as provided in s.
7 121.122, and shall continue to receive retirement benefits as
8 well as compensation for the elected officer's service for as
9 long as he or she remains in elective office. However, any
10 retired member who served in an elective office prior to July
11 1, 1990, suspended his or her retirement benefit, and had his
12 or her Florida Retirement System membership reinstated shall,
13 upon retirement from such office, have his or her retirement
14 benefit recalculated to include the additional service and
15 compensation earned.

16 9. Any person who is holding an elective public office
17 which is covered by the Florida Retirement System and who is
18 concurrently employed in nonelected covered employment may
19 elect to retire while continuing employment in the elective
20 public office, provided that he or she shall be required to
21 terminate his or her nonelected covered employment. Any person
22 who exercises this election shall receive his or her
23 retirement benefits in addition to the compensation of the
24 elective office without regard to the time limitations
25 otherwise provided in this subsection. No person who seeks to
26 exercise the provisions of this subparagraph, as the same
27 existed prior to May 3, 1984, shall be deemed to be retired
28 under those provisions, unless such person is eligible to
29 retire under the provisions of this subparagraph, as amended
30 by chapter 84-11, Laws of Florida.

31

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

5 11. An employing agency may reemploy a retired member
6 as a firefighter or paramedic after the retired member has
7 been retired for 1 calendar month, in accordance with s.
8 121.021(39). Any retired member who is reemployed within 1
9 calendar month after retirement shall void his or her
10 application for retirement benefits. The employing agency
11 reemploying such firefighter or paramedic is subject to the
12 retired contribution required in subparagraph 8. Reemployment
13 of a retired firefighter or paramedic is limited to no more
14 than 780 hours during the first 12 months of his or her
15 retirement. Any retired member reemployed for more than 780
16 hours during the first 12 months of retirement shall give
17 timely notice in writing to the employer and to the division
18 of the date he or she will exceed the limitation. The division
19 shall suspend his or her retirement benefits for the remainder
20 of the first 12 months of retirement. Any person employed in
21 violation of this subparagraph and any employing agency which
22 knowingly employs or appoints such person without notifying
23 the Division of Retirement to suspend retirement benefits
24 shall be jointly and severally liable for reimbursement to the
25 Retirement System Trust Fund of any benefits paid during the
26 reemployment limitation period. To avoid liability, such
27 employing agency shall have a written statement from the
28 retiree that he or she is not retired from a
29 state-administered retirement system. Any retirement benefits
30 received by a retired member while reemployed in excess of 780
31 hours during the first 12 months of retirement shall be repaid

1 to the Retirement System Trust Fund, and retirement benefits
2 shall remain suspended until repayment is made. Benefits
3 suspended beyond the end of the retired member's first 12
4 months of retirement shall apply toward repayment of benefits
5 received in violation of the 780-hour reemployment limitation.

6 (10) FUTURE BENEFITS BASED ON ACTUARIAL DATA.--It is
7 the intent of the Legislature that future benefit increases
8 enacted into law in this chapter shall be financed
9 concurrently by increased contributions or other adequate
10 funding, and such funding shall be based on sound actuarial
11 data as developed by the actuary or state retirement actuary,
12 as provided in ss. 121.021(6) and 121.192.

13 (11) A member who becomes eligible to retire and has
14 accumulated the maximum benefit of 100 percent of average
15 final compensation may continue in active service, and, if
16 upon the member's retirement the member elects to receive a
17 retirement compensation pursuant to subsection (2), subsection
18 (6), or subsection (7), the actuarial equivalent percentage
19 factor applicable to the age of such member at the time the
20 member reached the maximum benefit and to the age, at that
21 time, of the member's spouse shall determine the amount of
22 benefits to be paid.

23 (12) SPECIAL PROVISIONS FOR PAYMENT OF CERTAIN
24 SURVIVOR BENEFITS.--Notwithstanding any provision of this
25 chapter to the contrary, for members with an effective date of
26 retirement, or date of death if prior to retirement, on or
27 after January 1, 1996, the named joint annuitant, as defined
28 in s. 121.021(28)(b), who is eligible to receive benefits
29 under subparagraph (6)(a)3. or subparagraph (6)(a)4., shall
30 receive the maximum monthly retirement benefit that would have
31 been payable to the member under subparagraph (6)(a)1.;

1 | however, payment of such benefit shall cease the month the
2 | joint annuitant attains age 25 unless such joint annuitant is
3 | disabled and incapable of self-support, in which case,
4 | benefits shall cease when the joint annuitant is no longer
5 | disabled. The administrator may require proof of disability or
6 | continued disability in the same manner as is provided for a
7 | member seeking or receiving a disability retirement benefit
8 | under subsection (4).

9 | (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
10 | and subject to the provisions of this section, the Deferred
11 | Retirement Option Program, hereinafter referred to as the
12 | DROP, is a program under which an eligible member of the
13 | Florida Retirement System may elect to participate, deferring
14 | receipt of retirement benefits while continuing employment
15 | with his or her Florida Retirement System employer. The
16 | deferred monthly benefits shall accrue in the System Trust
17 | Fund on behalf of the participant, plus interest compounded
18 | monthly, for the specified period of the DROP participation,
19 | as provided in paragraph (c). Upon termination of employment,
20 | the participant shall receive the total DROP benefits and
21 | begin to receive the previously determined normal retirement
22 | benefits. Participation in the DROP does not guarantee
23 | employment for the specified period of DROP.

24 | (a) Eligibility of member to participate in the
25 | DROP.--All active Florida Retirement System members in a
26 | regularly established position, and all active members of
27 | either the Teachers' Retirement System established in chapter
28 | 238 or the State and County Officers' and Employees'
29 | Retirement System established in chapter 122 which systems are
30 | consolidated within the Florida Retirement System under s.

31 |

1 121.011, are eligible to elect participation in the DROP
2 provided that:

3 1. The member is not a renewed member of the Florida
4 Retirement System under s. 121.122, or a member of the State
5 Community College System Optional Retirement Program under s.
6 121.051, the Senior Management Service Optional Annuity
7 Program under s. 121.055, or the optional retirement program
8 for the State University System under s. 121.35.

9 2. Except as provided in subparagraph 6., election to
10 participate is made within 12 months immediately following the
11 date on which the member first reaches normal retirement date,
12 or, for a member who reaches normal retirement date based on
13 service before he or she reaches age 62, or age 55 for Special
14 Risk Class members, election to participate may be deferred to
15 the 12 months immediately following the date the member
16 attains 57, or age 52 for Special Risk Class members. For a
17 member who first reached normal retirement date or the
18 deferred eligibility date described above prior to the
19 effective date of this section, election to participate shall
20 be made within 12 months after the effective date of this
21 section. A member who fails to make an election within such
22 12-month limitation period shall forfeit all rights to
23 participate in the DROP. The member shall advise his or her
24 employer and the division in writing of the date on which the
25 DROP shall begin. Such beginning date may be subsequent to the
26 12-month election period, but must be within the 60-month
27 limitation period as provided in subparagraph (b)1. When
28 establishing eligibility of the member to participate in the
29 DROP for the 60-month maximum participation period, the member
30 may elect to include or exclude any optional service credit
31 purchased by the member from the total service used to

1 establish the normal retirement date. A member with dual
2 normal retirement dates shall be eligible to elect to
3 participate in DROP within 12 months after attaining normal
4 retirement date in either class.

5 3. The employer of a member electing to participate in
6 the DROP, or employers if dually employed, shall acknowledge
7 in writing to the division the date the member's participation
8 in the DROP begins and the date the member's employment and
9 DROP participation will terminate.

10 4. Simultaneous employment of a participant by
11 additional Florida Retirement System employers subsequent to
12 the commencement of participation in the DROP shall be
13 permissible provided such employers acknowledge in writing a
14 DROP termination date no later than the participant's existing
15 termination date or the 60-month limitation period as provided
16 in subparagraph (b)1.

17 5. A DROP participant may change employers while
18 participating in the DROP, subject to the following:

19 a. A change of employment must take place without a
20 break in service so that the member receives salary for each
21 month of continuous DROP participation. If a member receives
22 no salary during a month, DROP participation shall cease
23 unless the employer verifies a continuation of the employment
24 relationship for such participant pursuant to s.
25 121.021(39)(b).

26 b. Such participant and new employer shall notify the
27 division on forms required by the division as to the identity
28 of the new employer.

29 c. The new employer shall acknowledge, in writing, the
30 participant's DROP termination date, which may be extended but
31 not beyond the original 60-month period provided in

1 subparagraph (b)1., shall acknowledge liability for any
2 additional retirement contributions and interest required if
3 the participant fails to timely terminate employment, and
4 shall be subject to the adjustment required in
5 sub-subparagraph (c)5.d.

6 6. Effective July 1, 2001, for instructional personnel
7 as defined in s. 1012.01(2), election to participate in the
8 DROP shall be made at any time following the date on which the
9 member first reaches normal retirement date. The member shall
10 advise his or her employer and the division in writing of the
11 date on which the Deferred Retirement Option Program shall
12 begin. When establishing eligibility of the member to
13 participate in the DROP for the 60-month maximum participation
14 period, as provided in subparagraph (b)1., the member may
15 elect to include or exclude any optional service credit
16 purchased by the member from the total service used to
17 establish the normal retirement date. A member with dual
18 normal retirement dates shall be eligible to elect to
19 participate in either class.

20 (b) Participation in the DROP.--

21 1. An eligible member may elect to participate in the
22 DROP for a period not to exceed a maximum of 60 calendar
23 months immediately following the date on which the member
24 first reaches his or her normal retirement date or the date to
25 which he or she is eligible to defer his or her election to
26 participate as provided in subparagraph (a)2. However, a
27 member who has reached normal retirement date prior to the
28 effective date of the DROP shall be eligible to participate in
29 the DROP for a period of time not to exceed 60 calendar months
30 immediately following the effective date of the DROP, except a
31 member of the Special Risk Class who has reached normal

1 retirement date prior to the effective date of the DROP and
2 whose total accrued value exceeds 75 percent of average final
3 compensation as of his or her effective date of retirement
4 shall be eligible to participate in the DROP for no more than
5 36 calendar months immediately following the effective date of
6 the DROP.

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

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

10 b. Selection of the DROP participation and termination
11 dates, which satisfy the limitations stated in paragraph (a)
12 and subparagraph 1. Such termination date shall be in a
13 binding letter of resignation with the employer, establishing
14 a deferred termination date. The member may change the
15 termination date within the limitations of subparagraph 1.,
16 but only with the written approval of his or her employer;

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

19 d. Any other information required by the division.

20 3. The DROP participant shall be a retiree under the
21 Florida Retirement System for all purposes, except for
22 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
23 121.053, and 121.122. However, participation in the DROP does
24 not alter the participant's employment status and such
25 employee shall not be deemed retired from employment until his
26 or her deferred resignation is effective and termination
27 occurs as provided in s. 121.021(39).

28 4. Elected officers shall be eligible to participate
29 in the DROP subject to the following:

30 a. An elected officer who reaches normal retirement
31 date during a term of office may defer the election to

1 participate in the DROP until the next succeeding term in that
2 office. Such elected officer who exercises this option may
3 participate in the DROP for up to 60 calendar months or a
4 period of no longer than such succeeding term of office,
5 whichever is less.

6 b. An elected or a nonelected participant may run for
7 a term of office while participating in DROP and, if elected,
8 extend the DROP termination date accordingly, except, however,
9 if such additional term of office exceeds the 60-month
10 limitation established in subparagraph 1., and the officer
11 does not resign from office within such 60-month limitation,
12 the retirement and the participant' s DROP shall be null and
13 void as provided in sub-subparagraph (c)5.d.

14 c. An elected officer who is dually employed and
15 elects to participate in DROP shall be required to satisfy the
16 definition of termination within the 60-month limitation
17 period as provided in subparagraph 1. for the nonelected
18 position and may continue employment as an elected officer as
19 provided in s. 121.053. The elected officer will be enrolled
20 as a renewed member in the Elected Officers' Class or the
21 Regular Class, as provided in ss. 121.053 and 121.22, on the
22 first day of the month after termination of employment in the
23 nonelected position and termination of DROP. Distribution of
24 the DROP benefits shall be made as provided in paragraph (c).

25 (c) Benefits payable under the DROP.--

26 1. Effective with the date of DROP participation, the
27 member's initial normal monthly benefit, including creditable
28 service, optional form of payment, and average final
29 compensation, and the effective date of retirement shall be
30 fixed. The beneficiary established under the Florida
31 Retirement System shall be the beneficiary eligible to receive

1 any DROP benefits payable if the DROP participant dies prior
2 to the completion of the period of DROP participation. In the
3 event a joint annuitant predeceases the member, the member may
4 name a beneficiary to receive accumulated DROP benefits
5 payable. Such retirement benefit, the annual cost of living
6 adjustments provided in s. 121.101, and interest shall accrue
7 monthly in the System Trust Fund. Such interest shall accrue
8 at an effective annual rate of 6.5 percent compounded monthly,
9 on the prior month's accumulated ending balance, up to the
10 month of termination or death.

11 2. Each employee who elects to participate in the DROP
12 shall be allowed to elect to receive a lump-sum payment for
13 accrued annual leave earned in accordance with agency policy
14 upon beginning participation in the DROP. Such accumulated
15 leave payment certified to the division upon commencement of
16 DROP shall be included in the calculation of the member's
17 average final compensation. The employee electing such
18 lump-sum payment upon beginning participation in DROP will not
19 be eligible to receive a second lump-sum payment upon
20 termination, except to the extent the employee has earned
21 additional annual leave which combined with the original
22 payment does not exceed the maximum lump-sum payment allowed
23 by the employing agency's policy or rules. Such early lump-sum
24 payment shall be based on the hourly wage of the employee at
25 the time he or she begins participation in the DROP. If the
26 member elects to wait and receive such lump-sum payment upon
27 termination of DROP and termination of employment with the
28 employer, any accumulated leave payment made at that time
29 cannot be included in the member's retirement benefit, which
30 was determined and fixed by law when the employee elected to
31 participate in the DROP.

1 3. The effective date of DROP participation and the
2 effective date of retirement of a DROP participant shall be
3 the first day of the month selected by the member to begin
4 participation in the DROP, provided such date is properly
5 established, with the written confirmation of the employer,
6 and the approval of the division, on forms required by the
7 division.

8 4. Normal retirement benefits and interest thereon
9 shall continue to accrue in the DROP until the established
10 termination date of the DROP, or until the participant
11 terminates employment or dies prior to such date. Although
12 individual DROP accounts shall not be established, a separate
13 accounting of each participant's accrued benefits under the
14 DROP shall be calculated and provided to participants.

15 5. At the conclusion of the participant's DROP, the
16 division shall distribute the participant's total accumulated
17 DROP benefits, subject to the following provisions:

18 a. The division shall receive verification by the
19 participant's employer or employers that such participant has
20 terminated employment as provided in s. 121.021(39)(b).

21 b. The terminated DROP participant or, if deceased,
22 such participant's named beneficiary, shall elect on forms
23 provided by the division to receive payment of the DROP
24 benefits in accordance with one of the options listed below.
25 For a participant or beneficiary who fails to elect a method
26 of payment within 60 days of termination of the DROP, the
27 division will pay a lump sum as provided in
28 sub-sub-subparagraph (I).

29 (I) Lump sum.--All accrued DROP benefits, plus
30 interest, less withholding taxes remitted to the Internal
31

1 Revenue Service, shall be paid to the DROP participant or
2 surviving beneficiary.

3 (II) Direct rollover.--All accrued DROP benefits, plus
4 interest, shall be paid from the DROP directly to the
5 custodian of an eligible retirement plan as defined in s.
6 402(c)(8)(B) of the Internal Revenue Code. However, in the
7 case of an eligible rollover distribution to the surviving
8 spouse of a deceased participant, an eligible retirement plan
9 is an individual retirement account or an individual
10 retirement annuity as described in s. 402(c)(9) of the
11 Internal Revenue Code.

12 (III) Partial lump sum.--A portion of the accrued DROP
13 benefits shall be paid to the DROP participant or surviving
14 spouse, less withholding taxes remitted to the Internal
15 Revenue Service, and the remaining DROP benefits shall be
16 transferred directly to the custodian of an eligible
17 retirement plan as defined in s. 402(c)(8)(B) of the Internal
18 Revenue Code. However, in the case of an eligible rollover
19 distribution to the surviving spouse of a deceased
20 participant, an eligible retirement plan is an individual
21 retirement account or an individual retirement annuity as
22 described in s. 402(c)(9) of the Internal Revenue Code. The
23 proportions shall be specified by the DROP participant or
24 surviving beneficiary.

25 c. The form of payment selected by the DROP
26 participant or surviving beneficiary complies with the minimum
27 distribution requirements of the Internal Revenue Code.

28 d. A DROP participant who fails to terminate
29 employment as defined in s. 121.021(39)(b) shall be deemed not
30 to be retired, and the DROP election shall be null and void.
31 Florida Retirement System membership shall be reestablished

1 retroactively to the date of the commencement of the DROP, and
2 each employer with whom the participant continues employment
3 shall be required to pay to the System Trust Fund the
4 difference between the DROP contributions paid in paragraph
5 (i) and the contributions required for the applicable Florida
6 Retirement System class of membership during the period the
7 member participated in the DROP, plus 6.5 percent interest
8 compounded annually.

9 6. The accrued benefits of any DROP participant, and
10 any contributions accumulated under such program, shall not be
11 subject to assignment, execution, attachment, or to any legal
12 process whatsoever, except for qualified domestic relations
13 orders by a court of competent jurisdiction, income deduction
14 orders as provided in s. 61.1301, and federal income tax
15 levies.

16 7. DROP participants shall not be eligible for
17 disability retirement benefits as provided in subsection (4).

18 (d) Death benefits under the DROP.--

19 1. Upon the death of a DROP participant, the named
20 beneficiary shall be entitled to apply for and receive the
21 accrued benefits in the DROP as provided in sub-subparagraph
22 (c)5.b.

23 2. The normal retirement benefit accrued to the DROP
24 during the month of a participant's death shall be the final
25 monthly benefit credited for such DROP participant.

26 3. Eligibility to participate in the DROP terminates
27 upon death of the participant. If the participant dies on or
28 after the effective date of enrollment in the DROP, but prior
29 to the first monthly benefit being credited to the DROP,
30 Florida Retirement System benefits shall be paid in accordance
31 with subparagraph (7)(c)1. or subparagraph 2.

1 4. A DROP participants' survivors shall not be
2 eligible to receive Florida Retirement System death benefits
3 as provided in paragraph (7)(d).

4 (e) Cost-of-living adjustment.--On each July 1, the
5 participants' normal retirement benefit shall be increased as
6 provided in s. 121.101.

7 (f) Retiree health insurance subsidy.--DROP
8 participants are not eligible to apply for the retiree health
9 insurance subsidy payments as provided in s. 112.363 until
10 such participants have terminated employment and participation
11 in the DROP.

12 (g) Renewed membership.--DROP participants shall not
13 be eligible for renewed membership in the Florida Retirement
14 System under ss. 121.053 and 121.122 until termination of
15 employment is effectuated as provided in s. 121.021(39)(b).

16 (h) Employment limitation after DROP
17 participation.--Upon satisfying the definition of termination
18 of employment as provided in s. 121.021(39)(b), DROP
19 participants shall be subject to such reemployment limitations
20 as other retirees. Reemployment restrictions applicable to
21 retirees as provided in subsection (9) shall not apply to DROP
22 participants until their employment and participation in the
23 DROP are terminated.

24 (i) Contributions.--

25 1. All employers paying the salary of a DROP
26 participant filling a regularly established position shall
27 contribute 8.0 percent of such participant's gross
28 compensation for the period of July 1, 2002, through June 30,
29 2003, and 11.56 percent of such compensation thereafter, which
30 shall constitute the entire employer DROP contribution with
31 respect to such participant. Such contributions, payable to

1 the System Trust Fund in the same manner as required in s.
2 121.071, shall be made as appropriate for each pay period and
3 are in addition to contributions required for social security
4 and the Retiree Health Insurance Subsidy Trust Fund. Such
5 employer, social security, and health insurance subsidy
6 contributions are not included in the DROP.

7 2. The employer shall, in addition to subparagraph 1.,
8 also withhold one-half of the entire social security
9 contribution required for the participant. Contributions for
10 social security by each participant and each employer, in the
11 amount required for social security coverage as now or
12 hereafter provided by the federal Social Security Act, shall
13 be in addition to contributions specified in subparagraph 1.

14 3. All employers paying the salary of a DROP
15 participant filling a regularly established position shall
16 contribute the percent of such participant's gross
17 compensation required in s. 121.071(4), which shall constitute
18 the employer's health insurance subsidy contribution with
19 respect to such participant. Such contributions shall be
20 deposited by the administrator in the Retiree Health Insurance
21 Subsidy Trust Fund.

22 (j) Forfeiture of retirement benefits.--Nothing in
23 this section shall be construed to remove DROP participants
24 from the scope of s. 8(d), Art. II of the State Constitution,
25 s. 112.3173, and paragraph (5)(f). DROP participants who
26 commit a specified felony offense while employed will be
27 subject to forfeiture of all retirement benefits, including
28 DROP benefits, pursuant to those provisions of law.

29 (k) Administration of program.--The division shall
30 make such rules as are necessary for the effective and
31 efficient administration of this subsection. The division

1 shall not be required to advise members of the federal tax
2 consequences of an election related to the DROP but may advise
3 members to seek independent advice.

4 (14) PAYMENT OF BENEFITS.--This subsection applies to
5 the payment of benefits to a payee (retiree or beneficiary)
6 under the Florida Retirement System:

7 (a) Federal income tax shall be withheld in accordance
8 with federal law, unless the payee elects otherwise on Form
9 W-4P. The division shall prepare and distribute to each
10 recipient of monthly retirement benefits an appropriate income
11 tax form that reflects the recipient's income and federal
12 income tax withheld for the calendar year just ended.

13 (b) Subject to approval by the division in accordance
14 with rule 60S-4.015, Florida Administrative Code, a payee
15 receiving retirement benefits under the Florida Retirement
16 System may also have the following payments deducted from his
17 or her monthly benefit:

18 1. Premiums for life and health-related insurance
19 policies from approved companies.

20 2. Life insurance premiums for the State Group Life
21 Insurance Plan, if authorized in writing by the payee and by
22 the Department of Management Services.

23 3. Repayment of overpayments from the Florida
24 Retirement System Trust Fund, the State Employees' Health
25 Insurance Trust Fund, or the State Employees' Life Insurance
26 Trust Fund, upon notification of the payee.

27 4. Payments to an alternate payee for alimony, child
28 support, or division of marital assets pursuant to a qualified
29 domestic relations order under s. 222.21 or an income
30 deduction order under s. 61.1301.

31

1 5. Payments to the Internal Revenue Service for
2 federal income tax levies, upon notification of the division
3 by the Internal Revenue Service.

4 (c) A payee shall notify the division of any change in
5 his or her address. The division may suspend benefit payments
6 to a payee if correspondence sent to the payee's mailing
7 address is returned due to an incorrect address. Benefit
8 payments shall be resumed upon notification to the division of
9 the payee's new address.

10 (d) A payee whose retirement benefits are reduced by
11 the application of maximum benefit limits under s. 415(b) of
12 the Internal Revenue Code, as specified in s. 121.30(5), shall
13 have the portion of his or her calculated benefit in the
14 Florida Retirement System defined benefit plan which exceeds
15 such federal limitation paid through the Florida Retirement
16 System Preservation of Benefits Plan, as provided in s.
17 121.1001.

18 (e) No benefit may be reduced for the purpose of
19 preserving the member's eligibility for a federal program.

20 (f) The division shall adopt rules establishing
21 procedures for determining that the persons to whom benefits
22 are being paid are still living. The division shall suspend
23 the benefits being paid to any payee when it is unable to
24 contact such payee and to confirm that he or she is still
25 living.

26 Section 25. Paragraph (b) of subsection (7) of section
27 121.101, Florida Statutes, is amended to read:

28 121.101 Cost-of-living adjustment of benefits.--

29 (7) The purpose of this subsection is to establish a
30 supplemental cost-of-living adjustment for certain retirees
31 and beneficiaries who receive monthly retirement benefits

1 under the provisions of this chapter and the existing systems
2 consolidated therein, s. 112.05 for certain state officers and
3 employees, and s. 238.171 for certain elderly incapacitated
4 teachers.

5 (b) Application for the supplemental cost-of-living
6 adjustment provided by this subsection shall include
7 certification by the retiree or annuitant that he or she is
8 not receiving, and is not eligible to receive, social security
9 benefits and shall include written authorization for the
10 division ~~department~~ to have access to information from the
11 Social Security Administration concerning his or her
12 entitlement to, or eligibility for, social security benefits.
13 Such supplemental cost-of-living adjustment shall not be paid
14 unless and until the application requirements of this
15 paragraph are met.

16 Section 26. Paragraph (e) of subsection (2) of section
17 121.111, Florida Statutes, is amended to read:

18 121.111 Credit for military service.--

19 (2) Any member whose initial date of employment is
20 before January 1, 1987, who has military service as defined in
21 s. 121.021(20)(b), and who does not claim such service under
22 subsection (1) may receive creditable service for such
23 military service if:

24 (e) Any member claiming credit under this subsection
25 must certify on the form prescribed by the division ~~department~~
26 that credit for such service has not and will not be claimed
27 for retirement purposes under any other federal, state, or
28 local retirement or pension system where "length of service"
29 is a factor in determining the amount of compensation
30 received, except where credit for such service has been
31 granted in a pension system providing retired pay for

1 nonregular service as provided in paragraph (d). If the member
2 dies prior to retirement, the member's beneficiary must make
3 the required certification before credit may be claimed. If
4 such certification is not made by the member or the member's
5 beneficiary, credit for wartime military service shall not be
6 allowed.

7 Section 27. Section 121.133, Florida Statutes, is
8 amended to read:

9 121.133 Cancellation of uncashed
10 warrants.--Notwithstanding the provisions of s. 17.26 or s.
11 717.123 to the contrary, effective July 1, 1998, if any state
12 warrant issued by the Comptroller for the payment of
13 retirement benefits from the Florida Retirement System Trust
14 Fund, or any other pension trust fund administered by the
15 division ~~department~~, is not presented for payment within 1
16 year after the last day of the month in which it was
17 originally issued, the Comptroller shall cancel the benefit
18 warrant and credit the amount of the warrant to the Florida
19 Retirement System Trust Fund or other pension trust fund
20 administered by the division ~~department~~, as appropriate. The
21 division ~~department~~ may provide for issuance of a replacement
22 warrant when deemed appropriate.

23 Section 28. Section 121.135, Florida Statutes, is
24 amended to read:

25 121.135 Annual report to Legislature concerning the
26 Florida Retirement System ~~state-administered retirement~~
27 ~~systems~~.--The board ~~department~~ shall make to each regular
28 session of the Legislature a written report on the operation
29 and condition of the Florida Retirement System ~~the~~
30 ~~state-administered retirement systems~~.

31

1 Section 29. Section 121.136, Florida Statutes, is
2 amended to read:
3 121.136 Annual benefit statement to
4 members.--Beginning January 1, 1993, and each January
5 thereafter, the board ~~department~~ shall provide each active
6 member of the Florida Retirement System with 5 or more years
7 of creditable service an annual statement of benefits. Such
8 statement should provide the member with basic data about the
9 member's retirement account. Minimally, it shall include the
10 member's retirement plan, the amount of funds on deposit in
11 the retirement account, and an estimate of retirement
12 benefits.

13 Section 30. Section 121.1905, Florida Statutes, is
14 amended to read:

15 121.1905 Division of Retirement; mission creation.--

16 ~~(1) There is created the Division of Retirement within~~
17 ~~the Department of Management Services.~~

18 ~~(2)~~ The mission of the Division of Retirement is to
19 provide quality and cost-effective retirement services as
20 measured by member satisfaction and by comparison with
21 administrative costs of comparable retirement systems.

22 Section 31. Section 121.192, Florida Statutes, is
23 amended to read:

24 121.192 State retirement actuary.--The division
25 ~~department~~ may employ an actuary. Such actuary shall, together
26 with such other duties as the administrator assigns ~~secretary~~
27 ~~may assign~~, be responsible for:

28 (1) Advising the administrator ~~secretary~~ on actuarial
29 matters of the state retirement systems.

30 (2) Making periodic valuations of the retirement
31 systems.

1 (3) Providing actuarial analyses to the Legislature
2 concerning proposed changes in the retirement systems.

3 (4) Assisting the administrator ~~secretary~~ in
4 developing a sound and modern retirement system.

5 Section 32. Section 121.193, Florida Statutes, is
6 amended to read:

7 121.193 External compliance audits.--

8 (1) The division ~~department~~ shall conduct audits of
9 the payroll and personnel records of participating agencies.
10 These audits shall be made to determine the accuracy of
11 reports submitted to the division ~~department~~ and to assess the
12 degree of compliance with applicable statutes, rules, and
13 coverage agreements. Audits shall be scheduled on a regular
14 basis, as the result of concerns known to exist at an agency,
15 or as a followup to ensure agency action was taken to correct
16 deficiencies found in an earlier audit.

17 (2) Upon request, participating agencies shall furnish
18 the division ~~department~~ with information and documents that
19 the division ~~department~~ requires to conduct the audit. The
20 division ~~department~~ may prescribe by rule the documents that
21 may be requested.

22 (3) The division ~~department~~ shall review the agency's
23 operations concerning retirement and social security coverage.
24 Preliminary findings shall be discussed with agency personnel
25 at the close of the audit. An audit report of findings and
26 recommendations shall be submitted to division ~~department~~
27 management and an audit summary letter shall be submitted to
28 the agency noting any concerns and necessary corrective
29 action.

30 Section 33. Subsection (1) of section 121.22, Florida
31 Statutes, is amended to read:

1 121.22 State Retirement Commission; creation;
2 membership; compensation.--

3 (1) There is created within the Division of Retirement
4 ~~Department of Management Services~~ a State Retirement
5 Commission composed of three members: One member who is
6 retired under a state-supported retirement system administered
7 by the division ~~department~~; one member who is an active member
8 of a state-supported retirement system that is administered by
9 the division ~~department~~; and one member who is neither a
10 retiree, beneficiary, or member of a state-supported
11 retirement system administered by the division ~~department~~.
12 Each member shall have a different occupational background
13 from the other members.

14 Section 34. Subsection (1) of section 121.23, Florida
15 Statutes, is amended to read:

16 121.23 Disability retirement and special risk
17 membership applications; Retirement Commission; powers and
18 duties; judicial review.--The provisions of this section apply
19 to all proceedings in which the administrator has made a
20 written final decision on the merits respecting applications
21 for disability retirement, reexamination of retired members
22 receiving disability benefits, applications for special risk
23 membership, and reexamination of special risk members in the
24 Florida Retirement System. The jurisdiction of the State
25 Retirement Commission under this section shall be limited to
26 written final decisions of the administrator on the merits.

27 (1) In accordance with the rules of procedure adopted
28 by the division ~~Department of Management Services~~, the
29 administrator shall:

30
31

1 (a) Give reasonable notice of his or her proposed
2 action, or decision to refuse action, together with a summary
3 of the factual, legal, and policy grounds therefor.

4 (b) Give affected members, or their counsel, an
5 opportunity to present to the division written evidence in
6 opposition to the proposed action or refusal to act or a
7 written statement challenging the grounds upon which the
8 administrator has chosen to justify his or her action or
9 inaction.

10 (c) If the objections of the member are overruled,
11 provide a written explanation within 21 days.

12 Section 35. Subsections (2), (3), and (4) of section
13 121.24, Florida Statutes, are amended to read:

14 121.24 Conduct of commission business; legal and other
15 assistance; compensation.--

16 (2) Legal counsel for the commission may be provided
17 by the Department of Legal Affairs or by the division
18 ~~Department of Management Services~~, with the concurrence of the
19 commission, and shall be paid by the division ~~Department of~~
20 ~~Management Services~~ from the appropriate funds.

21 (3) The division ~~Department of Management Services~~
22 shall provide timely and appropriate training for newly
23 appointed members of the commission. Such training shall be
24 designed to acquaint new members of the commission with the
25 duties and responsibilities of the commission.

26 (4) The division ~~Department of Management Services~~
27 shall furnish administrative and secretarial assistance to the
28 commission and shall provide a place where the commission may
29 hold its meetings.

30 Section 36. Subsection (9) of section 121.30, Florida
31 Statutes, is amended to read:

1 121.30 Statements of purpose and intent and other
2 provisions required for qualification under the Internal
3 Revenue Code of the United States.--Any other provisions in
4 this chapter to the contrary notwithstanding, it is
5 specifically provided that:

6 (9) The division ~~department~~ may adopt any rule
7 necessary to accomplish the purpose of the section which is
8 not inconsistent with this chapter.

9 Section 37. Paragraph (c) of subsection (2),
10 paragraphs (c) and (e) of subsection (3), paragraphs (a), (b),
11 and (c) of subsection (4), and subsection (6) of section
12 121.35, Florida Statutes, are amended to read:

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

15 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
16 PROGRAM.--

17 (c) For purposes of this section, the State Board of
18 Administration ~~Department of Management Services~~ is referred
19 to as the "board ~~department~~."

20 (3) ELECTION OF OPTIONAL PROGRAM.--

21 (c) Any employee who becomes eligible to participate
22 in the optional retirement program on or after January 1,
23 1993, shall be a compulsory participant of the program unless
24 such employee elects membership in the Florida Retirement
25 System. Such election shall be made in writing and filed with
26 the personnel officer of the employer. Any eligible employee
27 who fails to make such election within the prescribed time
28 period shall be deemed to have elected to participate in the
29 optional retirement program.

30 1. Any employee whose optional retirement program
31 eligibility results from initial employment shall be enrolled

1 in the program at the commencement of employment. If, within
2 90 days after commencement of employment, the employee elects
3 membership in the Florida Retirement System, such membership
4 shall be effective retroactive to the date of commencement of
5 employment.

6 2. Any employee whose optional retirement program
7 eligibility results from 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) shall be enrolled in
12 the optional retirement program upon such change in status and
13 shall be notified by the employer of such action. If, within
14 90 days after the date of such notification, the employee
15 elects to retain membership in the Florida Retirement System,
16 such continuation of membership shall be retroactive to the
17 date of the change in status.

18 3. Notwithstanding the provisions of this paragraph,
19 effective July 1, 1997, any employee who is eligible to
20 participate in the Optional Retirement Program and who fails
21 to execute a contract with one of the approved companies and
22 to notify the board ~~department~~ in writing as provided in
23 subsection (4) within 90 days after the date of eligibility
24 shall be deemed to have elected membership in the Florida
25 Retirement System, except as provided in s. 121.051(1)(a).
26 This provision shall also apply to any employee who terminates
27 employment in an eligible position before executing the
28 required annuity contract and notifying the board ~~department~~.
29 Such membership shall be retroactive to the date of
30 eligibility, and all appropriate contributions shall be
31

1 transferred to the Florida Retirement System Trust Fund and
2 the Health Insurance Subsidy Trust Fund.

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

17 (4) CONTRIBUTIONS.--

18 (a) Through June 30, 2001, each employer shall
19 contribute on behalf of each participant in the optional
20 retirement program an amount equal to the normal cost portion
21 of the employer retirement contribution which would be
22 required if the participant were a regular member of the
23 Florida Retirement System defined benefit program, plus the
24 portion of the contribution rate required in s. 112.363(8)
25 that would otherwise be assigned to the Retiree Health
26 Insurance Subsidy Trust Fund. Effective July 1, 2001, each
27 employer shall contribute on behalf of each participant in the
28 optional program an amount equal to 10.43 percent of the
29 participant's gross monthly compensation. The board, pursuant
30 to s. 215.44(4), ~~department~~ shall deduct an amount ~~approved by~~
31 ~~the Legislature~~ to provide for the administration of this

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

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

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

25 (6) ADMINISTRATION OF PROGRAM.--

26 (a) The optional retirement program authorized by this
27 section shall be administered by the board ~~department~~. The
28 board ~~department~~ shall adopt rules establishing the
29 responsibilities of the State Board of Education and
30 institutions in the State University System in administering
31 the optional retirement program. The State Board of Education

1 shall, no more than 90 days after July 1, 1983, submit to the
2 board ~~department~~ its recommendations for the contracts to be
3 offered by the companies chosen by the board ~~department~~. The
4 recommendations of the board shall include the following:

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

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

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

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

1 ~~the participants and may advise the department of any changes~~
2 ~~necessary to ensure that the optional retirement program~~
3 ~~offers an acceptable mix of investment products. The board~~
4 ~~department shall determine which make the final determination~~
5 ~~as to whether an investment products product will be included~~
6 ~~in approved for the program.~~

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

16 (e) The division ~~department~~ shall ensure that each
17 participant in the optional retirement program is provided an
18 accounting of the total contribution and the annual
19 contribution made by and on behalf of such participant.

20 Section 38. Paragraph (b) of subsection (3) and
21 paragraphs (a) and (b) of subsection (14) of section 121.40,
22 Florida Statutes, are amended to read:

23 121.40 Cooperative extension personnel at the
24 Institute of Food and Agricultural Sciences; supplemental
25 retirement benefits.--

26 (3) DEFINITIONS.--The definitions provided in s.
27 121.021 shall not apply to this section except when
28 specifically cited. For the purposes of this section, the
29 following words or phrases have the respective meanings set
30 forth:

31

1 (b) "Division ~~Department~~" means the Division of
2 Retirement of the State Board of Administration ~~Department of~~
3 ~~Management Services~~.

4 (14) ADMINISTRATION OF SYSTEM.--

5 (a) The division ~~department~~ shall make such rules as
6 are necessary for the effective and efficient administration
7 of this system. The executive director of the State Board of
8 Administration ~~secretary of the department~~ shall be the
9 administrator of the system. The funds to pay the expenses for
10 such administration are ~~shall be~~ appropriated from the
11 interest earned on investments made for the trust fund.

12 (b) The division ~~department~~ is authorized to require
13 oaths, by affidavit or otherwise, and acknowledgments from
14 persons in connection with the administration of its duties
15 and responsibilities under this section.

16 Section 39. Subsection (3) of section 121.45, Florida
17 Statutes, is amended to read:

18 121.45 Interstate compacts relating to pension
19 portability.--

20 (3) ESTABLISHMENT OF COMPACTS.--

21 (a) The division ~~Department of Management Services~~ is
22 authorized and directed to survey other state retirement
23 systems to determine if such retirement systems are interested
24 in developing an interstate compact with Florida.

25 (b) If any such state is interested in pursuing the
26 matter, the division ~~department~~ shall confer with the other
27 state and the consulting actuaries of both states, and shall
28 present its findings to the committees having jurisdiction
29 over retirement matters in the Legislature, and to
30 representatives of affected certified bargaining units, in
31 order to determine the feasibility of developing a portability

1 compact, what groups should be covered, and the goals and
2 priorities which should guide such development.

3 (c) Upon a determination that such a compact is
4 feasible and upon request of the Legislature, the division
5 ~~department~~, together with its consulting actuaries, shall, in
6 accordance with such ~~said~~ goals and priorities, develop a
7 proposal under which retirement credit may be transferred to
8 or from Florida in an actuarially sound manner.

9 (d) Once a proposal has been developed, the division
10 ~~department~~ shall contract with its consulting actuaries to
11 conduct an actuarial study of the proposal to determine the
12 cost to the Florida Retirement System Trust Fund and the State
13 of Florida.

14 (e) After the actuarial study has been completed, the
15 division ~~department~~ shall present its findings and the
16 actuarial study to the Legislature for consideration. If
17 either house of the Legislature elects to enter into such a
18 compact, it shall be introduced in the form of a proposed
19 committee bill to the full Legislature during the same or next
20 regular session.

21 Section 40. Subsection (2), paragraph (a) of
22 subsection (5), paragraphs (a), (b), (c), and (e) of
23 subsection (8), paragraph (c) of subsection (9), paragraphs
24 (a), (c), and (f) of subsection (10), subsection (11), and
25 paragraph (b) of subsection (12) and subsection (19) of
26 section 121.4501, Florida Statutes, are amended to read:

27 121.4501 Public Employee Optional Retirement
28 Program.--

29 (2) DEFINITIONS.--As used in this part, the term:

30 (a) "Approved provider" or "provider" means a private
31 sector company that is selected and approved by the ~~state~~

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

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

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

31

1 ~~(d)~~ "Department" means the Department of Management
2 Services.

3 (d)~~(e)~~ "Division" means the Division of Retirement of
4 the State Board of Administration ~~within the Department of~~
5 Management Services.

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

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

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

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

19
20 The term does not include any member participating in the
21 Deferred Retirement Option Program established under s.
22 121.091(13) or any employee participating in an optional
23 retirement program established under s. 121.051(2)(c) or s.
24 121.35.

25 (f)~~(g)~~ "Employer" means an employer, as defined in s.
26 121.021(10), of an eligible employee.

27 (g)~~(h)~~ "Participant" means an eligible employee who
28 elects to participate in the Public Employee Optional
29 Retirement Program and enrolls in such optional program as
30 provided in subsection (4).

31

1 (h)~~(i)~~ "Public Employee Optional Retirement Program,"
2 "optional program," or "optional retirement program" means the
3 alternative defined contribution retirement program
4 established under this section.

5 (i)~~(j)~~ "State board" or "board" means the State Board
6 of Administration.

7 (j)~~(k)~~ "Trustees" means Trustees of the State Board of
8 Administration.

9 (k)~~(l)~~ "Vested" or "vesting" means the guarantee that
10 a participant is eligible to receive a retirement benefit upon
11 completion of the required years of service under the Public
12 Employee Optional Retirement Program.

13 (5) CONTRIBUTIONS.--

14 (a) Each employer shall contribute on behalf of each
15 participant in the Public Employee Optional Retirement
16 Program, as provided in part III of this chapter. The state
17 board, acting as plan fiduciary, shall ensure that all plan
18 assets are held in a trust, pursuant to s. 401 of the Internal
19 Revenue Code. The fiduciary shall ensure that said
20 contributions are allocated as follows:

21 1. The portion earmarked for participant accounts
22 shall be used to purchase interests in the appropriate
23 investment vehicles for the accounts of each participant as
24 specified by the participant, or in accordance with paragraph
25 (4)(d).

26 2. The portion earmarked for administrative and
27 educational expenses shall be transferred to the board.

28 3. The portion earmarked for disability benefits shall
29 be transferred to the division ~~department~~ .

30 (8) ADMINISTRATION OF PROGRAM.--

31

1 (a) The Public Employee Optional Retirement Program
2 shall be administered by the state board and affected
3 employers. The board is authorized to require oaths, by
4 affidavit or otherwise, and acknowledgments from persons in
5 connection with the administration of its duties and
6 responsibilities under this chapter. No oath, by affidavit or
7 otherwise, shall be required of an employee participant at the
8 time of election. Acknowledgment of an employee's election to
9 participate in the program shall be no greater than necessary
10 to confirm the employee's election. The board shall adopt
11 rules establishing the role and responsibilities of affected
12 state, local government, and education-related employers, the
13 state board, ~~the department~~, and third-party contractors in
14 administering the Public Employee Optional Retirement Program.
15 The division ~~department~~ shall adopt rules necessary to
16 implement the optional program in coordination with the
17 defined benefit retirement program and the disability benefits
18 available under the optional program.

19 (b)1. The state board shall select and contract with
20 one third-party administrator to provide administrative
21 services if those services cannot be competitively ~~and~~
22 ~~contractually~~ provided by the ~~division of Retirement within~~
23 ~~the Department of Management Services~~. With the approval of
24 the state board, the third-party administrator may subcontract
25 with other organizations or individuals to provide components
26 of the administrative services. As a cost of administration,
27 the board may compensate any such contractor for its services,
28 in accordance with the terms of the contract, as is deemed
29 necessary or proper by the board. The third-party
30 administrator may not be an approved provider or be affiliated
31 with an approved provider.

1 2. These administrative services may include, but are
2 not limited to, enrollment of eligible employees, collection
3 of employer contributions, disbursement of such contributions
4 to approved providers in accordance with the allocation
5 directions of participants; services relating to consolidated
6 billing; individual and collective recordkeeping and
7 accounting; asset purchase, control, and safekeeping; and
8 direct disbursement of funds to and from the third-party
9 administrator, the division, the board, employers,
10 participants, approved providers, and beneficiaries. This
11 section does not prevent or prohibit a bundled provider from
12 providing any administrative or customer service, including
13 accounting and administration of individual participant
14 benefits and contributions; individual participant
15 recordkeeping; asset purchase, control, and safekeeping;
16 direct execution of the participant' s instructions as to
17 asset and contribution allocation; calculation of daily net
18 asset values; direct access to participant account
19 information; or periodic reporting to participants, at least
20 quarterly, on account balances and transactions, if these
21 services are authorized by the board as part of the contract.

22 3. The state board shall select and contract with one
23 or more organizations to provide educational services. With
24 approval of the board, the organizations may subcontract with
25 other organizations or individuals to provide components of
26 the educational services. As a cost of administration, the
27 board may compensate any such contractor for its services in
28 accordance with the terms of the contract, as is deemed
29 necessary or proper by the board. The education organization
30 may not be an approved provider or be affiliated with an
31 approved provider.

1 4. Educational services shall be designed by the board
2 ~~and department~~ to assist employers, eligible employees,
3 participants, and beneficiaries in order to maintain
4 compliance with United States Department of Labor regulations
5 under s. 404(c) of the Employee Retirement Income Security Act
6 of 1974 and to assist employees in their choice of defined
7 benefit or defined contribution retirement alternatives.
8 Educational services include, but are not limited to,
9 disseminating educational materials; providing retirement
10 planning education; explaining the differences between the
11 defined benefit retirement plan and the defined contribution
12 retirement plan; and offering financial planning guidance on
13 matters such as investment diversification, investment risks,
14 investment costs, and asset allocation. An approved provider
15 may also provide educational information, including retirement
16 planning and investment allocation information concerning its
17 products and services.

18 (c)1. In evaluating and selecting a third-party
19 administrator, the board shall establish criteria under which
20 it shall consider the relative capabilities and qualifications
21 of each proposed administrator. In developing such criteria,
22 the board shall consider:

23 a. The administrator's demonstrated experience in
24 providing administrative services to public or private sector
25 retirement systems.

26 b. The administrator's demonstrated experience in
27 providing daily valued recordkeeping to defined contribution
28 plans.

29 c. The administrator's ability and willingness to
30 coordinate its activities with the Florida Retirement System
31 employers, the board, and the division, and to supply to such

1 employers, the board, and the division the information and
2 data they require, including, but not limited to, monthly
3 management reports, quarterly participant reports, and ad hoc
4 reports requested by the ~~department or~~ board.

5 d. The cost-effectiveness and levels of the
6 administrative services provided.

7 e. The administrator's ability to interact with the
8 participants, the employers, the board, the division, and the
9 providers; the means by which participants may access account
10 information, direct investment of contributions, make changes
11 to their accounts, transfer moneys between available
12 investment vehicles, and transfer moneys between investment
13 products; and any fees that apply to such activities.

14 f. Any other factor deemed necessary by the Trustees
15 of the State Board of Administration.

16 g. The recommendations of the Public Employee Optional
17 Retirement Program Advisory Committee established in
18 subsection (12).

19 2. In evaluating and selecting an educational
20 provider, the board shall establish criteria under which it
21 shall consider the relative capabilities and qualifications of
22 each proposed educational provider. In developing such
23 criteria, the board shall consider:

24 a. Demonstrated experience in providing educational
25 services to public or private sector retirement systems.

26 b. Ability and willingness to coordinate its
27 activities with the Florida Retirement System employers, the
28 board, and the division, and to supply to such employers, the
29 board, and the division the information and data they require,
30 including, but not limited to, reports on educational
31 contacts.

1 c. The cost-effectiveness and levels of the
2 educational services provided.

3 d. Ability to provide educational services via
4 different media, including, but not limited to, the Internet,
5 personal contact, seminars, brochures, and newsletters.

6 e. Any other factor deemed necessary by the Trustees
7 of the State Board of Administration.

8 f. The recommendations of the Public Employee Optional
9 Retirement Program Advisory Committee established in
10 subsection (12).

11 3. The establishment of the criteria shall be solely
12 within the discretion of the board.

13 (e)†. The board may contract with any consultant for
14 professional services, including legal, consulting,
15 accounting, and actuarial services, deemed necessary to
16 implement and administer the optional program by the Trustees
17 of the State Board of Administration. The board may enter into
18 a contract with one or more vendors to provide low-cost
19 investment advice to participants, supplemental to education
20 provided by the third-party administrator. All fees under any
21 such contract shall be paid by those participants who choose
22 to use the services of the vendor.

23 ~~2. The department may contract with consultants for~~
24 ~~professional services, including legal, consulting,~~
25 ~~accounting, and actuarial services, deemed necessary to~~
26 ~~implement and administer the optional program in coordination~~
27 ~~with the defined benefit program of the Florida Retirement~~
28 ~~System. The department, in coordination with the board, may~~
29 ~~enter into a contract with the third-party administrator in~~
30 ~~order to coordinate services common to the various programs~~
31 ~~within the Florida Retirement System.~~

1 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE
2 REVIEW.--

3 (c) In evaluating and selecting approved providers and
4 products, the board shall establish criteria under which it
5 shall consider the relative capabilities and qualifications of
6 each proposed provider company and product. In developing such
7 criteria, the board shall consider the following to the extent
8 such factors may be applied in connection with investment
9 products, services, or providers:

10 1. Experience in the United States providing
11 retirement products and related financial services under
12 defined contribution retirement plans.

13 2. Financial strength and stability which shall be
14 evidenced by the highest ratings assigned by nationally
15 recognized rating services when comparing proposed providers
16 that are so rated.

17 3. Intrastate and interstate portability of the
18 product offered, including early withdrawal options.

19 4. Compliance with the Internal Revenue Code.

20 5. The cost-effectiveness of the product provided and
21 the levels of service supporting the product relative to its
22 benefits and its characteristics, including, without
23 limitation, the level of risk borne by the provider.

24 6. The provider company's ability and willingness to
25 coordinate its activities with Florida Retirement System
26 employers, the division ~~department~~ , and the board, and to
27 supply to such employers, the division ~~department~~, and the
28 board the information and data they require.

29 7. The methods available to participants to interact
30 with the provider company; the means by which participants may
31 access account information, direct investment of

1 contributions, make changes to their accounts, transfer moneys
2 between available investment vehicles, and transfer moneys
3 between provider companies; and any fees that apply to such
4 activities.

5 8. The provider company's policies with respect to the
6 transfer of individual account balances, contributions, and
7 earnings thereon, both internally among investment products
8 offered by the provider company and externally between
9 approved providers, as well as any fees, charges, reductions,
10 or penalties that may be applied.

11 9. An evaluation of specific investment products,
12 taking into account each product's experience in meeting its
13 investment return objectives net of all related fees,
14 expenses, and charges, including, but not limited to,
15 investment management fees, loads, distribution and marketing
16 fees, custody fees, recordkeeping fees, education fees,
17 annuity expenses, and consulting fees.

18 10. Organizational factors, including, but not limited
19 to, financial solvency, organizational depth, and experience
20 in providing institutional and retail investment services.

21 (10) EDUCATION COMPONENT.--

22 (a) ~~The board, in coordination with the department,~~
23 shall provide for an education component for system members in
24 a manner consistent with the provisions of this section. The
25 education component must be available to eligible employees at
26 least 90 days prior to the beginning date of the election
27 period for the employees of the respective types of employers.

28 (c) ~~The board, in coordination with the department,~~
29 shall provide for an initial and ongoing transfer education
30 component to provide system members with information necessary
31

1 to make informed plan choice decisions. The transfer education
2 component must include, but is not limited to, information on:

3 1. The amount of money available to a member to
4 transfer to the defined contribution program.

5 2. The features of and differences between the defined
6 benefit program and the defined contribution program, both
7 generally and specifically, as those differences may affect
8 the member.

9 3. The expected benefit available if the member were
10 to retire under each of the retirement programs, based on
11 appropriate alternative sets of assumptions.

12 4. The rate of return from investments in the defined
13 contribution program and the period of time over which such
14 rate of return must be achieved to equal or exceed the
15 expected monthly benefit payable to the member under the
16 defined benefit program.

17 5. The historical rates of return for the investment
18 alternatives available in the defined contribution programs.

19 6. The benefits and historical rates of return on
20 investments available in a typical deferred compensation plan
21 or a typical plan under s. 403(b) of the Internal Revenue Code
22 for which the employee may be eligible.

23 7. The program choices available to employees of the
24 State University System and the comparative benefits of each
25 available program, if applicable.

26 8. Payout options available in each of the retirement
27 programs.

28 (f) The board ~~and the department~~ shall also establish
29 a communication component to provide program information to
30 participating employers and the employers' personnel and
31

1 payroll officers and to explain their respective
2 responsibilities in conjunction with the retirement programs.

3 (11) PARTICIPANT INFORMATION REQUIREMENTS.--The board
4 shall ensure that each participant is provided a quarterly
5 statement that accounts for the contributions made on behalf
6 of such participant; the interest and investment earnings
7 thereon; and any fees, penalties, or other deductions that
8 apply thereto. At a minimum, such statements must:

9 (a) Indicate the participant's investment options.

10 (b) State the market value of the account at the close
11 of the current quarter and previous quarter.

12 (c) Show account gains and losses for the period and
13 changes in account accumulation unit values for the period.

14 (d) Itemize account contributions for the quarter.

15 (e) Indicate any account changes due to adjustment of
16 contribution levels, reallocation of contributions, balance
17 transfers, or withdrawals.

18 (f) Set forth any fees, charges, penalties, and
19 deductions that apply to the account.

20 (g) Indicate the amount of the account in which the
21 participant is fully vested and the amount of the account in
22 which the participant is not vested.

23 (h) Indicate each investment product's performance
24 relative to an appropriate market benchmark.

25

26 The third-party administrator shall provide quarterly and
27 annual summary reports to the board and any other reports
28 requested by ~~the department~~ or the board. In any solicitation
29 or offer of coverage under an optional retirement program, a
30 provider company shall be governed by the contract readability
31 provisions of s. 627.4145, notwithstanding s. 627.4145(6)(c).

1 In addition, all descriptive materials must be prepared under
2 the assumption that the participant is an unsophisticated
3 investor. Provider companies must maintain an internal system
4 of quality assurance, have proven functional systems that are
5 date-calculation compliant, and be subject to a due-diligence
6 inquiry that proves their capacity and fitness to undertake
7 service responsibilities.

8 (12) ADVISORY COMMITTEES TO PROVIDE ADVICE AND
9 ASSISTANCE.--The Investment Advisory Council and the Public
10 Employee Optional Retirement Program Advisory Committee shall
11 assist the board in implementing and administering the Public
12 Employee Optional Retirement Program.

13 (b)1. The Public Employee Optional Retirement Program
14 Advisory Committee shall be composed of seven members. The
15 President of the Senate shall appoint two members, the Speaker
16 of the House of Representatives shall appoint two members, the
17 Governor shall appoint one member, the Treasurer shall appoint
18 one member, and the Comptroller shall appoint one member. The
19 members of the advisory committee shall elect a member as
20 chair. The appointments shall be made by September 1, 2000,
21 and the committee shall meet to organize by October 1, 2000.
22 The initial appointments shall be for a term of 24 months.
23 Each appointing authority shall fill any vacancy occurring
24 among its appointees for the remainder of the original term.

25 2. The advisory committee shall make recommendations
26 on the selection of the third-party administrator, the
27 education providers, and the investment products and
28 providers. The committee's recommendations on the third-party
29 administrator must be forwarded to the Trustees of the State
30 Board of Administration by January 1, 2001. The

31

1 recommendations on the education providers must be forwarded
2 to the trustees by April 1, 2001.

3 3. The advisory committee's recommendations and
4 activities shall be guided by the best interests of the
5 employees, considering the interests of employers, and the
6 intent of the Legislature in establishing the Public Employee
7 Optional Retirement Program.

8 4. The staff of the ~~state board and the department~~
9 shall assist the advisory committee.

10 (19) PARTICIPANT RECORDS.--All personal identifying
11 information regarding a participant in the Public Employee
12 Optional Retirement Program contained in Florida Retirement
13 System records held by the State Board of Administration ~~or~~
14 ~~the Department of Management Services,~~ or its their agents,
15 employees, or contractors is exempt from the provisions of s.
16 119.07(1) and s. 24(a), Art. I of the State Constitution. The
17 ~~department or~~ board may use such exempt information as
18 necessary in any legal or administrative proceeding. This
19 subsection is subject to the Open Government Sunset Review Act
20 of 1995 in accordance with s. 119.15, and shall stand repealed
21 October 2, 2007, unless reviewed and saved from repeal through
22 reenactment by the Legislature.

23 Section 41. Section 121.4503, Florida Statutes, is
24 amended to read:

25 121.4503 Florida Retirement System Contributions
26 Clearing Trust Fund.--

27 (1) The Florida Retirement System Contributions
28 Clearing Trust Fund is created as a clearing fund for
29 disbursing employer contributions to the component plans of
30 the Florida Retirement System and shall be administered by the
31 State Board of Administration ~~Department of Management~~

1 ~~Services~~. Funds shall be credited to the trust fund as
2 provided in this chapter and shall be held in trust for the
3 contributing employers until such time as the assets are
4 transferred by the board ~~department~~ to the Florida Retirement
5 System Trust Fund, the Public Employee Optional Retirement
6 Program Trust Fund, or other trust funds as authorized by law,
7 to be used for the purposes of this chapter. The trust fund is
8 exempt from the service charges imposed by s. 215.20.

9 (2) The Florida Retirement System Contributions
10 Clearing Trust Fund is a clearing trust fund of the State
11 Board of Administration ~~Department of Management Services~~
12 pursuant to s. 19(f), Art. III of the State Constitution, and
13 is not subject to termination.

14 (3) The State Board of Administration ~~Department of~~
15 ~~Management Services~~ may adopt rules governing the receipt and
16 disbursement of amounts received by the Florida Retirement
17 System Contributions Clearing Trust Fund from employers
18 contributing to the component plans of the Florida Retirement
19 System.

20 Section 42. Section 121.591, Florida Statutes, is
21 amended to read:

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

1 and the rules of the state board and division ~~department~~. In
2 accordance with their respective responsibilities as provided
3 herein, the State Board of Administration and the division
4 ~~Department of Management Services~~ shall adopt rules
5 establishing procedures for application for retirement
6 benefits and for the cancellation of such application when the
7 required information or documents are not received.

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

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

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

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

20 3. To receive benefits under this subsection, the
21 participant must be terminated from all employment with all
22 Florida Retirement System employers, as provided in s.
23 121.021(39).

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

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

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

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

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

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

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

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

31

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

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

13 (b) Disability retirement; entitlement.--

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

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

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

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

1 Florida Retirement System as provided under s. 121.4501(3)(b),
2 all such service will be considered creditable service.

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

11 d. Whenever a participant has terminated employment
12 and has taken distribution of his or her funds as provided in
13 subsection (1), all creditable service represented by such
14 distributed funds is forfeited for purposes of this
15 subsection.

16 (c) Disability retirement effective date.--The
17 effective retirement date for a participant who applies and is
18 approved for disability retirement shall be established as
19 provided under s. 121.091(4)(a)2. and 3.

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

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

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

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

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

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

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

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

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

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

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

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

16 (k) Recovery from disability.--

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

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

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

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

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

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

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

26 (I) Any remaining vested amount shall be deposited in
27 individual accounts under the Public Employee Optional
28 Retirement Program, as directed by the participant, and shall
29 be payable as provided in subsection (1).
30
31

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

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

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

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

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

1 an actuarially adjusted disability retirement benefit under
2 any other option as provided in s. 121.091(6)(a), or to
3 receive the normal benefit payable under the Public Employee
4 Optional Retirement Program as set forth in subsection (1).

5 2. If any justice or judge who is a participant of the
6 Public Employee Optional Retirement Program of the Florida
7 Retirement System is retired for disability by order of the
8 Supreme Court upon recommendation of the Judicial

9 Qualifications Commission pursuant to the provisions of Art. V
10 of the State Constitution and elects to receive a monthly
11 disability benefit under the provisions of this paragraph:

12 a. Any present value amount that was transferred to
13 his or her program account and all employer contributions made
14 to such account on his or her behalf, plus interest and
15 earnings thereon, shall be transferred to and deposited in the
16 disability account of the Florida Retirement System Trust
17 Fund; and

18 b. The monthly benefits payable under this paragraph
19 for any affected justice or judge retired from the Florida
20 Retirement System pursuant to Art. V of the State Constitution
21 shall be paid from the disability account of the Florida
22 Retirement System Trust Fund.

23 (n) Death of retiree or beneficiary.--Upon the death
24 of a disabled retiree or beneficiary thereof who is receiving
25 monthly benefits under this subsection, the monthly benefits
26 shall be paid through the last day of the month of death and
27 shall terminate, or be adjusted, if applicable, as of that
28 date in accordance with the optional form of benefit selected
29 at the time of retirement. The deceased disabled retiree's
30 beneficiary shall also receive the amount of the participant's
31 remaining account balance, if any, in the Florida Retirement

1 System Trust Fund. The Division of Retirement ~~Department of~~
2 ~~Management Services~~ may adopt rules necessary to administer
3 this paragraph.

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

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

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

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

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

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

1 such benefits, as are otherwise provided by law or are
2 separately afforded by the employer, at the employer's
3 discretion.

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

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

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

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

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

31

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

8 Section 43. Section 121.5911, Florida Statutes, is
9 amended to read:

10 121.5911 Disability retirement program; qualified
11 status; rulemaking authority.--It is the intent of the
12 Legislature that the disability retirement program for
13 participants of the Public Employee Optional Retirement
14 Program as created in this act must meet all applicable
15 requirements of federal law for a qualified plan. The
16 Department of Management Services or the Division of
17 Retirement shall seek a private letter ruling from the
18 Internal Revenue Service on the disability retirement program
19 for participants of the Public Employee Optional Retirement
20 Program. Consistent with the private letter ruling, the
21 division ~~Department of Management Services~~ shall adopt any
22 necessary rules required to maintain the qualified status of
23 the disability retirement program and the Florida Retirement
24 System defined benefit plan.

25 Section 44. Subsection (1) of section 121.72, Florida
26 Statutes, is amended to read:

27 121.72 Allocations to optional retirement program
28 participant accounts; percentage amounts.--

29 (1) The allocations established in subsection (4)
30 shall fund retirement benefits under the optional retirement
31 program and shall be transferred monthly by the State Board of

1 ~~Administration Division of Retirement~~ from the Florida
2 Retirement System Contributions Clearing Trust Fund to the
3 third-party administrator for deposit in each participating
4 employee's individual account based on the membership class of
5 the participant.

6 Section 45. Subsection (1) of section 121.73, Florida
7 Statutes, is amended to read:

8 121.73 Allocations for optional retirement program
9 participant disability coverage; percentage amounts.--

10 (1) The allocations established in subsection (3)
11 shall be used to provide disability coverage for participants
12 in the optional retirement program and shall be transferred
13 monthly by the State Board of Administration ~~Division of~~
14 ~~Retirement~~ from the Florida Retirement System Contributions
15 Clearing Trust Fund to the disability account of the Florida
16 Retirement System Trust Fund.

17 Section 46. Section 121.74, Florida Statutes, is
18 amended to read:

19 121.74 Administrative and educational
20 expenses.--Effective July 1, 2002, in addition to
21 contributions required under s. 121.71, employers
22 participating in the Florida Retirement System shall
23 contribute an amount equal to 0.15 percent of the payroll
24 reported for each class or subclass of Florida Retirement
25 System membership, which amount shall be transferred by the
26 State Board of Administration ~~Division of Retirement~~ from the
27 Florida Retirement System Contributions Clearing Trust Fund to
28 the board's ~~State Board of Administration's~~ Administrative
29 Trust Fund to offset the costs of administering the optional
30 retirement program and the costs of providing educational
31 services to participants in the defined benefit program and

1 the optional retirement program. Approval of the Trustees of
2 the State Board of Administration is required prior to the
3 expenditure of these funds. Payments for third-party
4 administrative or educational expenses shall be made only
5 pursuant to the terms of the approved contracts for such
6 services.

7 Section 47. Subsection (6) of section 175.032, Florida
8 Statutes, is amended to read:

9 175.032 Definitions.--For any municipality, special
10 fire control district, chapter plan, local law municipality,
11 local law special fire control district, or local law plan
12 under this chapter, the following words and phrases have the
13 following meanings:

14 (6) "Division" means the Division of Retirement of the
15 State Board of Administration ~~Department of Management~~
16 ~~Services~~.

17 Section 48. Section 175.1215, Florida Statutes, is
18 amended to read:

19 175.1215 Police and Firefighters' Premium Tax Trust
20 Fund.--The Police and Firefighters' Premium Tax Trust Fund is
21 created, to be administered by the Division of Retirement ~~of~~
22 ~~the Department of Management Services~~. Funds credited to the
23 trust fund, as provided in chapter 95-250, Laws of Florida, or
24 similar legislation, shall be expended for the purposes set
25 forth in that legislation.

26 Section 49. Subsection (7) of section 185.02, Florida
27 Statutes, is amended to read:

28 185.02 Definitions.--For any municipality, chapter
29 plan, local law municipality, or local law plan under this
30 chapter, the following words and phrases as used in this
31

1 chapter shall have the following meanings, unless a different
2 meaning is plainly required by the context:

3 (7) "Division" means the Division of Retirement of the
4 State Board of Administration ~~Department of Management~~
5 ~~Services~~.

6 Section 50. Section 185.105, Florida Statutes, is
7 amended to read:

8 185.105 Police and Firefighters' Premium Tax Trust
9 Fund.--The Police and Firefighters' Premium Tax Trust Fund is
10 created, to be administered by the Division of Retirement ~~of~~
11 ~~the Department of Management Services~~. Funds credited to the
12 trust fund, as provided in chapter 95-250, Laws of Florida, or
13 similar legislation, shall be expended for the purposes set
14 forth in that legislation.

15 Section 51. Subsection (1) of section 185.23, Florida
16 Statutes, is amended to read:

17 185.23 Duties of Division of Retirement; rulemaking
18 authority; investments by State Board of Administration.--

19 (1) The division shall be responsible for the daily
20 oversight and monitoring for actuarial soundness of the
21 municipal police officers' retirement plans, whether chapter
22 or local law plans, established under this chapter, for
23 receiving and holding the premium tax moneys collected under
24 this chapter, and, upon determining compliance with the
25 provisions of this chapter, for disbursing those moneys to the
26 municipal police officers' retirement plans. The funds to pay
27 the expenses for such administration are ~~shall be annually~~
28 appropriated from the interest and investment income earned on
29 moneys deposited in the trust fund.

30 Section 52. Subsection (3) of section 215.28, Florida
31 Statutes, is amended to read:

1 215.28 United States securities, purchase by state and
2 county officers and employees; deductions from salary.--

3 (3) All deductions so made by any such disbursing
4 authority shall be deposited in a trust account separate and
5 apart from the funds of the state, county, or subordinate
6 agency. Such account will be subject to withdrawal only for
7 the purchase of United States securities on behalf of officers
8 and employees, or for refunds to such persons in accordance
9 with the provisions of this law. Whenever the sum of \$18.75 or
10 the purchase price of the security requested to be purchased
11 is accumulated from deductions so made from the salaries or
12 wages of an officer or employee, such disbursing agent shall
13 arrange the purchase of the bond or security applied for and
14 have it registered in the name or names requested in the
15 deduction authorization. Securities so purchased will be
16 delivered in such manner as may be convenient for the issuing
17 agent and the purchaser. Any interest earned on moneys in such
18 account while awaiting the accumulation of the purchase price
19 of the security shall be transferred to the Florida Retirement
20 System Trust Fund as reimbursement for administrative costs
21 incurred by the Division of Retirement of the State Board of
22 Administration ~~Department of Management Services~~ under this
23 section.

24 Section 53. Subsection (7) of section 215.44, Florida
25 Statutes, is amended to read:

26 215.44 Board of Administration; powers and duties in
27 relation to investment of trust funds.--

28 (7) Investment and debt purchasing procedures and
29 contracts of funds held in trust by the State Board of
30 Administration, whether directly or incidentally related to
31 the investment or debt transactions, and purchases of

1 commodities or services related to the administration of
2 pension benefits, are exempt from the provisions of chapter
3 287.

4 Section 54. Subsection (3) of section 215.50, Florida
5 Statutes, is amended to read:

6 215.50 Custody of securities purchased; income.--

7 (3) The Treasurer, as custodian of securities owned by
8 the Florida Retirement System Trust Fund and the Florida
9 Survivor Benefit Trust Fund, shall collect the interest,
10 dividends, prepayments, maturities, proceeds from sales, and
11 other income accruing from such assets. As such income is
12 collected by the Treasurer, it shall be deposited directly
13 into a commercial bank to the credit of the State Board of
14 Administration. Such bank accounts as may be required for this
15 purpose shall offer satisfactory collateral security as
16 provided by chapter 280. In the event funds so deposited
17 according to the provisions of this section are required for
18 the purpose of paying benefits or other operational needs, the
19 State Board of Administration shall remit to the Florida
20 Retirement System Trust Fund in the State Treasury such
21 amounts as are required ~~may be requested by the Department of~~
22 ~~Management Services.~~

23 Section 55. Section 215.52, Florida Statutes, is
24 amended to read:

25 215.52 Rules and regulations.--The board may adopt
26 ~~shall have the power and authority to make reasonable rules~~
27 ~~and regulations necessary to implement general law conferring~~
28 powers and duties upon it ~~carry out the provisions of ss.~~
29 ~~215.44-215.53.~~

30 Section 56. Subsection (18) of section 238.01, Florida
31 Statutes, is amended to read:

1 238.01 Definitions.--The following words and phrases
2 as used in this chapter shall have the following meanings
3 unless a different meaning is plainly required by the context:

4 (18) "Actuarial equivalent" means a benefit of equal
5 value when computed at regular interest upon the basis of the
6 mortality tables adopted by the department ~~division~~.

7 Section 57. Subsection (5) of section 238.05, Florida
8 Statutes, is amended to read:

9 238.05 Membership.--

10 (5) Any person may, ~~at his or her option,~~ choose not
11 to become a member of the Teachers' Retirement System when:

12 (a) An election is made to the department ~~division~~ not
13 to become a member within 60 days after ~~of~~ appointment to a
14 teaching position as defined in this chapter or within 60 days
15 from the date this law becomes effective.

16 (b) Any election hereunder will not affect any rights
17 accrued in the retirement system to which the person belongs.

18 Section 58. Subsections (1), (3), (4), and (6) of
19 section 238.06, Florida Statutes, are amended to read:

20 238.06 Membership application, creditable service, and
21 time for making contributions.--

22 (1) Under such rules and regulations as the department
23 ~~Division of Retirement~~ shall adopt, each teacher upon becoming
24 a member shall file with the department ~~division~~ an
25 application showing date of birth and such other necessary
26 information as the department ~~division~~ may require for the
27 proper operation of the retirement system. Until such
28 application is filed no teacher or his or her beneficiary
29 shall be eligible to receive any benefits under this chapter.
30 If a member has been a teacher in Florida, he or she shall
31 itemize on such application all service as a teacher rendered

1 prior to the date of establishment of the retirement system,
2 including service in a similar capacity in other states
3 rendered by him or her prior to July 1, 1939, for which he or
4 she claims credit. Persons not eligible to membership in the
5 retirement system as of July 1, 1939, and now eligible to
6 membership shall file with the department ~~division~~ an
7 application and shall meet with all other requirements
8 prescribed above. All such persons shall be entitled to prior
9 service credit for the years prior to July 1, 1939, as
10 prescribed in subsection (4). Any person made eligible to
11 membership in the retirement system by provisions of this law
12 may elect:

13 (a) To make no contributions for the school years
14 between 1939-1940 and 1952-1953, inclusive, and if he or she
15 so elects, shall be entitled to no membership credit for those
16 years except as otherwise provided in this chapter.

17 (b) To make contributions with accumulated regular
18 interest to the retirement system on or before the time of
19 retirement of such member for such years after July 1, 1939,
20 as he or she served as a teacher, at the prescribed rate on
21 the basis of his or her salary for those years, and if such
22 contributions are made, he or she shall be entitled to
23 membership service credit for such years.

24 (3) The department ~~division~~ shall fix and determine by
25 appropriate rules and regulations how much service in any year
26 is the equivalent of a year of service, but in no case shall
27 it allow any credit for a period of absence without pay of
28 more than a month's duration nor shall it allow credit for
29 more than 1 year of service for all service in any school
30 year.

31

1 (4) Subject to the above restriction and to such other
2 rules and regulations as the department ~~division~~ shall adopt,
3 the department ~~division~~ shall verify, as soon as practicable
4 after the filing of the application, the statement of service
5 therein claimed and shall issue to each person who becomes a
6 member or any person with prior teaching service in the state
7 who becomes a member of the retirement system, a prior service
8 certificate certifying the length of service with which he or
9 she is credited on the basis of his or her statement of
10 service. Such prior service credit shall include credit for
11 service rendered prior to date of establishment as a teacher
12 within the state or in a similar capacity outside the state
13 but not more than 10 years of credit for service outside the
14 state shall be included. Credit for prior service outside the
15 state may be claimed only by a person employed as a teacher in
16 the state prior to July 1, 1939; provided that any person who
17 became a member of the system after July 1, 1939, but prior to
18 July 1, 1955, and remained a member for 10 years shall be
19 entitled to receive out-of-state prior service credit for a
20 period not exceeding 10 years; provided that any person with
21 out-of-state service who became a member of the system after
22 July 1, 1939, but prior to July 1, 1955, and remained a member
23 for 10 years shall be entitled to receive membership service
24 credit for a period of not exceeding 10 years, including
25 credit for the period covered by service in the Armed Forces
26 of the nation during World War II; provided such member was a
27 public school teacher within 1 year before entering the armed
28 services; and provided he or she resumed teaching, if such
29 member shall, prior to retirement, make contribution to the
30 retirement system with accumulated regular interest thereon in
31 an amount equal to the contribution he or she would have made

1 | if such service had been rendered in the state subsequent to
2 | July 1, 1939; provided that no member who receives, or who is
3 | entitled to receive, a pension or annuity from any other state
4 | or county or municipality or other taxing district shall
5 | receive out-of-state prior service credit or membership
6 | service credit as set forth above; provided, however, that the
7 | change in this subsection shall not affect the rights of
8 | persons who have retired when this amendment to the law takes
9 | effect; provided, however, that any person who becomes a
10 | member of the system on or after July 1, 1955, and who has
11 | moved from another state to Florida, and becoming employed in
12 | a category covered by the Teachers' Retirement System, must
13 | teach in the state for 5 years before being entitled to
14 | receive any out-of-state service credit. After having been
15 | employed within the state for a period of 5 years, a teacher
16 | may establish and receive credit for 1 year of out-of-state
17 | service for each additional year of service credit within the
18 | state, with a maximum of 10 years out-of-state credit allowed.
19 | In order to establish and receive this out-of-state credit, a
20 | teacher, who became a member of the system on or after July 1,
21 | 1955, but prior to October 1, 1963, must pay into the
22 | retirement system prior to retirement total contributions
23 | equal to 8 percent (plus accumulated regular interest
24 | thereon), of such out-of-state compensation as the teacher
25 | received during those years of out-of-state service for which
26 | the teacher receives out-of-state credit, provided, however,
27 | that contributions on out-of-state salary received prior to
28 | July 1, 1939, will not be required of any member in this
29 | category retiring on or after July 1, 1969. In order to
30 | establish and receive this out-of-state credit, a teacher who
31 | becomes a member of the retirement system on or after October

1 1, 1963, must pay into the retirement system prior to
2 retirement, total contributions which are in addition to the
3 regular membership contributions and which, when accumulated
4 with regular interest thereon, are equal to the actuarial
5 equivalent at the time of retirement of the monthly benefit
6 which becomes payable at retirement on account of out-of-state
7 credit. In the event that such accumulated additional
8 contributions at time of retirement are less than the
9 actuarial equivalent at time of retirement of the monthly
10 benefit attributable to out-of-state credit, the monthly
11 benefit attributable to out-of-state credit shall be reduced
12 by an amount equal to the product of:

13 (a) The monthly benefit attributable to out-of-state
14 credit, and

15 (b) The ratio that such deficiency bears to the
16 actuarial equivalent of the monthly benefit attributable to
17 the out-of-state credit.

18

19 If such accumulated additional contributions are in excess of
20 the actuarial equivalent at time of retirement of the monthly
21 benefit attributable to out-of-state credit, such excess shall
22 be paid in a lump sum to the member at time of retirement. No
23 person may receive retirement benefits for less than 10 years
24 of service credit earned in Florida.

25 (6) So long as membership continues, a prior service
26 certificate shall be final and conclusive for retirement
27 purposes as to such prior service credit, unless modified by
28 the department ~~division~~ upon application made by the member
29 within 1 year after the date of issuance or modification of a
30 prior service certificate or upon the discovery by the
31 department ~~division~~ of error or fraud.

1 Section 59. Subsection (4) of section 650.02, Florida
2 Statutes, is amended to read:

3 650.02 Definitions.--For the purpose of this chapter:

4 (4) The term "state agency" means the Division of
5 Retirement of the State Board of Administration ~~Department of~~
6 ~~Management Services~~.

7 Section 60. The Department of Management Services may
8 contract with the State Board of Administration to administer
9 sections 112.05, 112.1815, 250.22, 112.351-112.362, and
10 chapters 122 and 238, Florida Statutes.

11 Section 61. This act shall take effect July 1, 2003.

12
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 SB 1258

16 Transfers the Division of Retirement of the Department of
17 Management Services to the State Board of Administration by a
type one transfer.

18 Maintains the current powers of the State Board of
19 Administration.

20 Makes the executive director of the State Board of
21 Administration the agency head of the division for purposes of
the Administrative Procedure Act.

22 Provides that officers and employees of the division are
select exempt employees.

23 Makes reference changes to the Florida Statutes to conform
24 statutory references made by the bill.

25 Exempts the purchase of commodities or services related to the
administration of benefits from ch. 287, F.S., which
26 establishes bidding and other requirements for the purchase of
commodities, personal property and services, insurance and
contractual services.

27 Authorizes the Department of Management Services to contract
28 with the State Board of Administration for the administration
of certain statutory sections, including the Teacher's
29 Retirement System, State and County Retirement, Florida
National Guard Retirement, Supplemental Retirement.