

By the Committees on Appropriations; and Governmental
Oversight and Productivity

309-2432-03

1 A bill to be entitled
2 An act relating to retirement; amending s.
3 121.051, F.S.; revising participation options
4 for participants in the Community College
5 Optional Retirement Program; amending s.
6 121.091, F.S.; revising certain limitations on
7 positions for which a district school board may
8 employ a member after a specified period of
9 retirement; increasing the period of time in
10 which certain members of the Florida Retirement
11 System who are employed as instructional
12 personnel in K-12 may participate in the
13 deferred retirement option program; amending s.
14 121.71, F.S.; revising the payroll contribution
15 rates for the Florida Retirement System;
16 providing funding for benefit enhancements
17 through the recognition of excess actuarial
18 assets; providing legislative intent regarding
19 other rate changes scheduled to take effect on
20 July 1, 2003; amending s. 121.74, F.S.;
21 reducing the assessment for administrative and
22 educational expenses; providing that the act
23 fulfills an important state interest; amending
24 s. 121.40, F.S.; revising the payroll
25 contribution rates for the supplemental
26 retirement plan for the Institute of Food and
27 Agricultural Sciences; amending s. 121.4501,
28 F.S.; revising participation requirements in
29 the Public Employee Optional Retirement Program
30 for participants in the Community College
31 Optional Retirement Program; amending s.

1 1012.875, F.S.; changing distribution options
2 for participants in the Community College
3 Optional Retirement Program; providing
4 effective dates.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Paragraph (c) of subsection (2) of section
9 121.051, Florida Statutes, is amended to read:

10 121.051 Participation in the system.--

11 (2) OPTIONAL PARTICIPATION.--

12 (c) Employees of public community colleges or charter
13 technical career centers sponsored by public ~~members of the~~
14 community colleges, as designated in s. 1000.21(3), who are
15 members of the Regular Class of the Florida Retirement System
16 and who comply with the criteria set forth in this paragraph
17 and in s. 1012.875 may elect, in lieu of participating in the
18 Florida Retirement System, to withdraw from the Florida
19 Retirement System altogether and participate in an optional
20 retirement ~~a lifetime monthly annuity~~ program provided by the
21 employing agency under s. 1012.875, to be known as the State
22 Community College System Optional Retirement Program, ~~which~~
23 ~~may be provided by the employing agency under s. 1012.875.~~

24 Pursuant thereto:

25 1. Through June 30, 2001, the cost to the employer for
26 such annuity shall equal the normal cost portion of the
27 employer retirement contribution which would be required if
28 the employee were a member of the Regular Class defined
29 benefit program, plus the portion of the contribution rate
30 required by s. 112.363(8) that would otherwise be assigned to
31 the Retiree Health Insurance Subsidy Trust Fund. Effective

1 July 1, 2001, each employer shall contribute on behalf of each
2 participant in the optional program an amount equal to 10.43
3 percent of the participant's gross monthly compensation. The
4 employer shall deduct an amount to provide for the
5 administration of the optional retirement program. The
6 employer providing the optional program ~~such annuity~~ shall
7 contribute an additional amount to the Florida Retirement
8 System Trust Fund equal to the unfunded actuarial accrued
9 liability portion of the Regular Class contribution rate.

10 2. The decision to participate in such an optional
11 retirement program shall be irrevocable for as long as the
12 employee holds a position eligible for participation, except
13 as provided in subparagraph 3. Any service creditable under
14 the Florida Retirement System shall be retained after the
15 member withdraws from the Florida Retirement System; however,
16 additional service credit in the Florida Retirement System
17 shall not be earned while a member of the optional retirement
18 program.

19 3. An employee who has elected to participate in the
20 optional retirement program shall have one opportunity, at the
21 employee's discretion, to choose to transfer from the optional
22 retirement program to the defined benefit program of the
23 Florida Retirement System or to the Public Employee Optional
24 Retirement Program, subject to the terms of the applicable
25 optional retirement program contracts.

26 a. If the employee chooses to move to the Public
27 Employee Optional Retirement Program, any contributions,
28 interest, and earnings creditable to the employee under the
29 State Community College System Optional Retirement Program
30 shall be retained by the employee in the State Community
31

1 College System Optional Retirement Program, and the applicable
2 provisions of s. 121.4501(4) shall govern the election.

3 b. If the employee chooses to move to the defined
4 benefit program of the Florida Retirement System, the employee
5 shall receive service credit equal to his or her years of
6 service under the State Community College Optional Retirement
7 Program.

8 (I) The cost for such credit shall be an amount
9 representing the present value of that employee's accumulated
10 benefit obligation for the affected period of service. The
11 cost shall be calculated as if the benefit commencement occurs
12 on the first date the employee would become eligible for
13 unreduced benefits, using the discount rate and other relevant
14 actuarial assumptions that were used to value the Florida
15 Retirement System defined benefit plan liabilities in the most
16 recent actuarial valuation. The calculation shall include any
17 service already maintained under the defined benefit plan in
18 addition to the years under the State Community College
19 Optional Retirement Program. The present value of any service
20 already maintained under the defined benefit plan shall be
21 applied as a credit to total cost resulting from the
22 calculation. The division shall ensure that the transfer sum
23 is prepared using a formula and methodology certified by an
24 enrolled actuary.

25 (II) The employee must transfer from his or her State
26 Community College System Optional Retirement Program account
27 and from other employee moneys as necessary, a sum
28 representing the present value of that employee's accumulated
29 benefit obligation immediately following the time of such
30 movement, determined assuming that attained service equals the
31 sum of service in the defined benefit program and service in

1 the State Community College System Optional Retirement
2 Program.

3 ~~4.3.~~ Participation in the an optional retirement
4 ~~annuity~~ program shall be limited to those employees who
5 satisfy the following eligibility criteria:

6 a. The employee must be otherwise eligible for
7 membership in the Regular Class of the Florida Retirement
8 System, as provided in s. 121.021(11) and (12).

9 b. The employee must be employed in a full-time
10 position classified in the Accounting Manual for Florida's
11 Public Community Colleges as:

12 (I) Instructional; or

13 (II) Executive Management, Instructional Management,
14 or Institutional Management, if a community college determines
15 that recruiting to fill a vacancy in the position is to be
16 conducted in the national or regional market, and:

17 (A) The duties and responsibilities of the position
18 include either the formulation, interpretation, or
19 implementation of policies; or

20 (B) The duties and responsibilities of the position
21 include the performance of functions that are unique or
22 specialized within higher education and that frequently
23 involve the support of the mission of the community college.

24 c. The employee must be employed in a position not
25 included in the Senior Management Service Class of the Florida
26 Retirement System, as described in s. 121.055.

27 ~~5.4.~~ Participants in the program are subject to the
28 same reemployment limitations, renewed membership provisions,
29 and forfeiture provisions as are applicable to regular members
30 of the Florida Retirement System under ss. 121.091(9),
31 121.122, and 121.091(5), respectively.

1 ~~6.5.~~ Eligible community college employees shall be
2 compulsory members of the Florida Retirement System until,
3 pursuant to the procedures set forth in s. 1012.875, a written
4 election to withdraw from the Florida Retirement System and to
5 participate in the State Community College Optional Retirement
6 Program is filed with the program administrator and received
7 by the division the first day of the next full calendar month
8 following the filing of both a written election to withdraw
9 and a completed application for an individual contract or
10 certificate with the program administrator and receipt of such
11 election by the division.

12 a. Any community college employee whose program
13 eligibility results from initial employment shall be enrolled
14 in the State Community College Optional Retirement Program
15 retroactive to the first day of eligible employment. The
16 employer retirement contributions paid through the month of
17 the employee plan change shall be transferred to the community
18 college for the employee's optional program account, and,
19 effective the first day of the next month, the employer shall
20 pay the applicable contributions based upon subparagraph 1.

21 b. Any community college employee whose program
22 eligibility results from a change in status due to the
23 subsequent designation of the employee's position as one of
24 those specified in subparagraph 4. or due to the employee's
25 appointment, promotion, transfer, or reclassification to a
26 position specified in subparagraph 4. shall be enrolled in the
27 program upon the first day of the first full calendar month
28 that such change in status becomes effective. The employer
29 retirement contributions paid from the effective date through
30 the month of the employee plan change shall be transferred to
31 the community college for the employee's optional program

1 account, and, effective the first day of the next month, the
2 employer shall pay the applicable contributions based upon
3 subparagraph 1.

4 7. Effective July 1, 2003, any participant of the
5 State Community College Optional Retirement Program who has
6 service credit in the defined benefit plan of the Florida
7 Retirement System for the period between his or her first
8 eligibility to transfer from the defined benefit plan to the
9 optional retirement program and the actual date of transfer
10 may, during their employment, elect to transfer to the
11 optional retirement program a sum representing the present
12 value of the accumulated benefit obligation under the defined
13 benefit retirement program for such period of service credit.
14 Upon such transfer, all such service credit previously earned
15 under the defined benefit program of the Florida Retirement
16 System during this period shall be nullified for purposes of
17 entitlement to a future benefit under the defined benefit
18 program of the Florida Retirement System.

19 Section 2. Subsections (9) and (13) of section
20 121.091, Florida Statutes, are 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 department. The
27 department may cancel an application for retirement benefits
28 when the member or beneficiary fails to timely provide the
29 information and documents required by this chapter and the
30 department's rules. The department shall adopt rules
31 establishing procedures for application for retirement

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

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

4 (a) Any person who is retired under this chapter,
5 except under the disability retirement provisions of
6 subsection (4), may be employed by an employer that does not
7 participate in a state-administered retirement system and may
8 receive compensation from that employment without limiting or
9 restricting in any way the retirement benefits payable to that
10 person.

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

24 2. Any person to whom the limitation in subparagraph
25 1. applies who violates such reemployment limitation and who
26 is reemployed with any agency participating in the Florida
27 Retirement System before completion of the 12-month limitation
28 period shall give timely notice of this fact in writing to the
29 employer and to the division and shall have his or her
30 retirement benefits suspended for the balance of the 12-month
31 limitation period. Any person employed in violation of this

1 paragraph and any employing agency which knowingly employs or
2 appoints such person without notifying the Division of
3 Retirement to suspend retirement benefits shall be jointly and
4 severally liable for reimbursement to the retirement trust
5 fund of any benefits paid during the reemployment limitation
6 period. To avoid liability, such employing agency shall have
7 a written statement from the retiree that he or she is not
8 retired from a state-administered retirement system. Any
9 retirement benefits received while reemployed during this
10 reemployment limitation period shall be repaid to the
11 retirement trust fund, and retirement benefits shall remain
12 suspended until such repayment has been made. Benefits
13 suspended beyond the reemployment limitation shall apply
14 toward repayment of benefits received in violation of the
15 reemployment limitation.

16 3. A district school board may reemploy a retired
17 member as a substitute or hourly teacher, education
18 paraprofessional, transportation assistant, bus driver, or
19 food service worker on a noncontractual basis after he or she
20 has been retired for 1 calendar month, in accordance with s.
21 121.021(39). A district school board may reemploy a retired
22 member as instructional personnel, as defined in s.
23 1012.01(2)(a), on an annual contractual basis after he or she
24 has been retired for 1 calendar month, in accordance with s.
25 121.021(39). Any other retired member who is reemployed
26 within 1 calendar month after retirement shall void his or her
27 application for retirement benefits. District school boards
28 reemploying such teachers, education paraprofessionals,
29 transportation assistants, bus drivers, or food service
30 workers are subject to the retirement contribution required by
31 subparagraph 7. ~~Reemployment of a retired member as a~~

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

27 4. A community college board of trustees may reemploy
28 a retired member as an adjunct instructor, that is, an
29 instructor who is noncontractual and part-time, or as a
30 participant in a phased retirement program within the Florida
31 Community College System, after he or she has been retired for

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

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

1 made. Benefits suspended beyond the end of the retired
2 member's first 12 months of retirement shall apply toward
3 repayment of benefits received in violation of the 780-hour
4 reemployment limitation.

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

1 retiree that he or she is not retired from a
2 state-administered retirement system. Any retirement benefits
3 received by a retired member while reemployed in excess of 780
4 hours during the first 12 months of retirement shall be repaid
5 to the Retirement System Trust Fund, and his or her retirement
6 benefits shall remain suspended until payment is made.
7 Benefits suspended beyond the end of the retired member's
8 first 12 months of retirement shall apply toward repayment of
9 benefits received in violation of the 780-hour reemployment
10 limitation.

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

25 8. Any person who has previously retired and who is
26 holding an elective public office or an appointment to an
27 elective public office eligible for the Elected Officers'
28 Class on or after July 1, 1990, shall be enrolled in the
29 Florida Retirement System as provided in s. 121.053(1)(b) or,
30 if holding an elective public office that does not qualify for
31 the Elected Officers' Class on or after July 1, 1991, shall be

1 enrolled in the Florida Retirement System as provided in s.
2 121.122, and shall continue to receive retirement benefits as
3 well as compensation for the elected officer's service for as
4 long as he or she remains in elective office. However, any
5 retired member who served in an elective office prior to July
6 1, 1990, suspended his or her retirement benefit, and had his
7 or her Florida Retirement System membership reinstated shall,
8 upon retirement from such office, have his or her retirement
9 benefit recalculated to include the additional service and
10 compensation earned.

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

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

30 11. An employing agency may reemploy a retired member
31 as a firefighter or paramedic after the retired member has

1 | been retired for 1 calendar month, in accordance with s.
2 | 121.021(39). Any retired member who is reemployed within 1
3 | calendar month after retirement shall void his or her
4 | application for retirement benefits. The employing agency
5 | reemploying such firefighter or paramedic is subject to the
6 | retired contribution required in subparagraph 8. Reemployment
7 | of a retired firefighter or paramedic is limited to no more
8 | than 780 hours during the first 12 months of his or her
9 | retirement. Any retired member reemployed for more than 780
10 | hours during the first 12 months of retirement shall give
11 | timely notice in writing to the employer and to the division
12 | of the date he or she will exceed the limitation. The division
13 | shall suspend his or her retirement benefits for the remainder
14 | of the first 12 months of retirement. Any person employed in
15 | violation of this subparagraph and any employing agency which
16 | knowingly employs or appoints such person without notifying
17 | the Division of Retirement to suspend retirement benefits
18 | shall be jointly and severally liable for reimbursement to the
19 | Retirement System Trust Fund of any benefits paid during the
20 | reemployment limitation period. To avoid liability, such
21 | employing agency shall have a written statement from the
22 | retiree that he or she is not retired from a
23 | state-administered retirement system. Any retirement benefits
24 | received by a retired member while reemployed in excess of 780
25 | hours during the first 12 months of retirement shall be repaid
26 | to the Retirement System Trust Fund, and retirement benefits
27 | shall remain suspended until repayment is made. Benefits
28 | suspended beyond the end of the retired member's first 12
29 | months of retirement shall apply toward repayment of benefits
30 | received in violation of the 780-hour reemployment limitation.
31 |

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

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

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

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

3 (a) Eligibility of member to participate in the
4 DROP.--All active Florida Retirement System members in a
5 regularly established position, and all active members of
6 either the Teachers' Retirement System established in chapter
7 238 or the State and County Officers' and Employees'
8 Retirement System established in chapter 122 which systems are
9 consolidated within the Florida Retirement System under s.
10 121.011, are eligible to elect participation in the DROP
11 provided that:

12 1. The member is not a renewed member of the Florida
13 Retirement System under s. 121.122, or a member of the State
14 Community College System Optional Retirement Program under s.
15 121.051, the Senior Management Service Optional Annuity
16 Program under s. 121.055, or the optional retirement program
17 for the State University System under s. 121.35.

18 2. Except as provided in subparagraph 6., election to
19 participate is made within 12 months immediately following the
20 date on which the member first reaches normal retirement date,
21 or, for a member who reaches normal retirement date based on
22 service before he or she reaches age 62, or age 55 for Special
23 Risk Class members, election to participate may be deferred to
24 the 12 months immediately following the date the member
25 attains 57, or age 52 for Special Risk Class members. For a
26 member who first reached normal retirement date or the
27 deferred eligibility date described above prior to the
28 effective date of this section, election to participate shall
29 be made within 12 months after the effective date of this
30 section. A member who fails to make an election within such
31 12-month limitation period shall forfeit all rights to

1 participate in the DROP. The member shall advise his or her
2 employer and the division in writing of the date on which the
3 DROP shall begin. Such beginning date may be subsequent to the
4 12-month election period, but must be within the 60-month or,
5 with respect to members who are instructional personnel as
6 defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have
7 received authorization by the district school superintendent
8 to participate in DROP for more than 60 months, the 96-month
9 limitation period as provided in subparagraph (b)1. When
10 establishing eligibility of the member to participate in the
11 DROP for the 60-month or, with respect to members who are
12 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
13 grades K-12 and who have received authorization by the
14 district school superintendent to participate in DROP for more
15 than 60 months, the 96-month maximum participation period, the
16 member may elect to include or exclude any optional service
17 credit purchased by the member from the total service used to
18 establish the normal retirement date. A member with dual
19 normal retirement dates shall be eligible to elect to
20 participate in DROP within 12 months after attaining normal
21 retirement date in either class.

22 3. The employer of a member electing to participate in
23 the DROP, or employers if dually employed, shall acknowledge
24 in writing to the division the date the member's participation
25 in the DROP begins and the date the member's employment and
26 DROP participation will terminate.

27 4. Simultaneous employment of a participant by
28 additional Florida Retirement System employers subsequent to
29 the commencement of participation in the DROP shall be
30 permissible provided such employers acknowledge in writing a
31 DROP termination date no later than the participant's existing

1 termination date or the 60-month limitation period as provided
2 in subparagraph (b)1.

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

5 a. A change of employment must take place without a
6 break in service so that the member receives salary for each
7 month of continuous DROP participation. If a member receives
8 no salary during a month, DROP participation shall cease
9 unless the employer verifies a continuation of the employment
10 relationship for such participant pursuant to s.
11 121.021(39)(b).

12 b. Such participant and new employer shall notify the
13 division on forms required by the division as to the identity
14 of the new employer.

15 c. The new employer shall acknowledge, in writing, the
16 participant's DROP termination date, which may be extended but
17 not beyond the original 60-month or, with respect to members
18 who are instructional personnel as defined in s.
19 1012.01(2)(a)-(d) in grades K-12 and who have received
20 authorization by the district school superintendent to
21 participate in DROP for more than 60 months, the 96-month
22 period provided in subparagraph (b)1., shall acknowledge
23 liability for any additional retirement contributions and
24 interest required if the participant fails to timely terminate
25 employment, and shall be subject to the adjustment required in
26 sub-subparagraph (c)5.d.

27 6. Effective July 1, 2001, for instructional personnel
28 as defined in s. 1012.01(2), election to participate in the
29 DROP shall be made at any time following the date on which the
30 member first reaches normal retirement date. The member shall
31 advise his or her employer and the division in writing of the

1 date on which the Deferred Retirement Option Program shall
2 begin. When establishing eligibility of the member to
3 participate in the DROP for the 60-month or, with respect to
4 members who are instructional personnel as defined in s.
5 1012.01(2)(a)-(d) in grades K-12 and who have received
6 authorization by the district school superintendent to
7 participate in DROP for more than 60 months, the 96-month
8 maximum participation period, as provided in subparagraph
9 (b)1., the member may elect to include or exclude any optional
10 service credit purchased by the member from the total service
11 used to establish the normal retirement date. A member with
12 dual normal retirement dates shall be eligible to elect to
13 participate in either class.

14 (b) Participation in the DROP.--

15 1. An eligible member may elect to participate in the
16 DROP for a period not to exceed a maximum of 60 calendar
17 months or, with respect to members who are instructional
18 personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12
19 and who have received authorization by the district school
20 superintendent to participate in DROP for more than 60
21 calendar months, the 96 calendar month immediately following
22 the date on which the member first reaches his or her normal
23 retirement date or the date to which he or she is eligible to
24 defer his or her election to participate as provided in
25 subparagraph (a)2. However, a member who has reached normal
26 retirement date prior to the effective date of the DROP shall
27 be eligible to participate in the DROP for a period of time
28 not to exceed 60 calendar months or, with respect to members
29 who are instructional personnel as defined in s.
30 1012.01(2)(a)-(d) in grades K-12 and who have received
31 authorization by the district school superintendent to

1 participate in DROP for more than 60 calendar months, the 96
2 calendar month immediately following the effective date of the
3 DROP, except a member of the Special Risk Class who has
4 reached normal retirement date prior to the effective date of
5 the DROP and whose total accrued value exceeds 75 percent of
6 average final compensation as of his or her effective date of
7 retirement shall be eligible to participate in the DROP for no
8 more than 36 calendar months immediately following the
9 effective date of the DROP.

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

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

20 c. A properly completed DROP application for service
21 retirement as provided in this section; and
22 d. Any other information required by the division.

23 3. The DROP participant shall be a retiree under the
24 Florida Retirement System for all purposes, except for
25 paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363,
26 121.053, and 121.122. However, participation in the DROP does
27 not alter the participant's employment status and such
28 employee shall not be deemed retired from employment until his
29 or her deferred resignation is effective and termination
30 occurs as provided in s. 121.021(39).
31

1 4. Elected officers shall be eligible to participate
2 in the DROP subject to the following:

3 a. An elected officer who reaches normal retirement
4 date during a term of office may defer the election to
5 participate in the DROP until the next succeeding term in that
6 office. Such elected officer who exercises this option may
7 participate in the DROP for up to 60 calendar months or a
8 period of no longer than such succeeding term of office,
9 whichever is less.

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

18 c. An elected officer who is dually employed and
19 elects to participate in DROP shall be required to satisfy the
20 definition of termination within the 60-month or, with respect
21 to members who are instructional personnel as defined in s.
22 1012.01(2)(a)-(d) in grades K-12 and who have received
23 authorization by the district school superintendent to
24 participate in DROP for more than 60 months, the 96-month
25 limitation period as provided in subparagraph 1. for the
26 nonelected position and may continue employment as an elected
27 officer as provided in s. 121.053. The elected officer will be
28 enrolled as a renewed member in the Elected Officers' Class or
29 the Regular Class, as provided in ss. 121.053 and 121.22, on
30 the first day of the month after termination of employment in
31 the nonelected position and termination of DROP. Distribution

1 of the DROP benefits shall be made as provided in paragraph
2 (c).

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

4 1. Effective with the date of DROP participation, the
5 member's initial normal monthly benefit, including creditable
6 service, optional form of payment, and average final
7 compensation, and the effective date of retirement shall be
8 fixed. The beneficiary established under the Florida
9 Retirement System shall be the beneficiary eligible to receive
10 any DROP benefits payable if the DROP participant dies prior
11 to the completion of the period of DROP participation. In the
12 event a joint annuitant predeceases the member, the member may
13 name a beneficiary to receive accumulated DROP benefits
14 payable. Such retirement benefit, the annual cost of living
15 adjustments provided in s. 121.101, and interest shall accrue
16 monthly in the System Trust Fund. Such interest shall accrue
17 at an effective annual rate of 6.5 percent compounded monthly,
18 on the prior month's accumulated ending balance, up to the
19 month of termination or death.

20 2. Each employee who elects to participate in the DROP
21 shall be allowed to elect to receive a lump-sum payment for
22 accrued annual leave earned in accordance with agency policy
23 upon beginning participation in the DROP. Such accumulated
24 leave payment certified to the division upon commencement of
25 DROP shall be included in the calculation of the member's
26 average final compensation. The employee electing such
27 lump-sum payment upon beginning participation in DROP will not
28 be eligible to receive a second lump-sum payment upon
29 termination, except to the extent the employee has earned
30 additional annual leave which combined with the original
31 payment does not exceed the maximum lump-sum payment allowed

1 by the employing agency's policy or rules. Such early
2 lump-sum payment shall be based on the hourly wage of the
3 employee at the time he or she begins participation in the
4 DROP. If the member elects to wait and receive such lump-sum
5 payment upon termination of DROP and termination of employment
6 with the employer, any accumulated leave payment made at that
7 time cannot be included in the member's retirement benefit,
8 which was determined and fixed by law when the employee
9 elected to participate in the DROP.

10 3. The effective date of DROP participation and the
11 effective date of retirement of a DROP participant shall be
12 the first day of the month selected by the member to begin
13 participation in the DROP, provided such date is properly
14 established, with the written confirmation of the employer,
15 and the approval of the division, on forms required by the
16 division.

17 4. Normal retirement benefits and interest thereon
18 shall continue to accrue in the DROP until the established
19 termination date of the DROP, or until the participant
20 terminates employment or dies prior to such date. Although
21 individual DROP accounts shall not be established, a separate
22 accounting of each participant's accrued benefits under the
23 DROP shall be calculated and provided to participants.

24 5. At the conclusion of the participant's DROP, the
25 division shall distribute the participant's total accumulated
26 DROP benefits, subject to the following provisions:

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

30 b. The terminated DROP participant or, if deceased,
31 such participant's named beneficiary, shall elect on forms

1 provided by the division to receive payment of the DROP
2 benefits in accordance with one of the options listed below.
3 For a participant or beneficiary who fails to elect a method
4 of payment within 60 days of termination of the DROP, the
5 division will pay a lump sum as provided in
6 sub-sub-subparagraph (I).

7 (I) Lump sum.--All accrued DROP benefits, plus
8 interest, less withholding taxes remitted to the Internal
9 Revenue Service, shall be paid to the DROP participant or
10 surviving beneficiary.

11 (II) Direct rollover.--All accrued DROP benefits, plus
12 interest, shall be paid from the DROP directly to the
13 custodian of an eligible retirement plan as defined in s.
14 402(c)(8)(B) of the Internal Revenue Code. However, in the
15 case of an eligible rollover distribution to the surviving
16 spouse of a deceased participant, an eligible retirement plan
17 is an individual retirement account or an individual
18 retirement annuity as described in s. 402(c)(9) of the
19 Internal Revenue Code.

20 (III) Partial lump sum.--A portion of the accrued DROP
21 benefits shall be paid to the DROP participant or surviving
22 spouse, less withholding taxes remitted to the Internal
23 Revenue Service, and the remaining DROP benefits shall be
24 transferred directly to the custodian of an eligible
25 retirement plan as defined in s. 402(c)(8)(B) of the Internal
26 Revenue Code. However, in the case of an eligible rollover
27 distribution to the surviving spouse of a deceased
28 participant, an eligible retirement plan is an individual
29 retirement account or an individual retirement annuity as
30 described in s. 402(c)(9) of the Internal Revenue Code. The
31

1 proportions shall be specified by the DROP participant or
2 surviving beneficiary.

3 c. The form of payment selected by the DROP
4 participant or surviving beneficiary complies with the minimum
5 distribution requirements of the Internal Revenue Code.

6 d. A DROP participant who fails to terminate
7 employment as defined in s. 121.021(39)(b) shall be deemed not
8 to be retired, and the DROP election shall be null and void.
9 Florida Retirement System membership shall be reestablished
10 retroactively to the date of the commencement of the DROP, and
11 each employer with whom the participant continues employment
12 shall be required to pay to the System Trust Fund the
13 difference between the DROP contributions paid in paragraph
14 (i) and the contributions required for the applicable Florida
15 Retirement System class of membership during the period the
16 member participated in the DROP, plus 6.5 percent interest
17 compounded annually.

18 6. The accrued benefits of any DROP participant, and
19 any contributions accumulated under such program, shall not be
20 subject to assignment, execution, attachment, or to any legal
21 process whatsoever, except for qualified domestic relations
22 orders by a court of competent jurisdiction, income deduction
23 orders as provided in s. 61.1301, and federal income tax
24 levies.

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

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

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

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

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

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

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

16 (f) Retiree health insurance subsidy.--DROP
17 participants are not eligible to apply for the retiree health
18 insurance subsidy payments as provided in s. 112.363 until
19 such participants have terminated employment and participation
20 in the DROP.

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

25 (h) Employment limitation after DROP
26 participation.--Upon satisfying the definition of termination
27 of employment as provided in s. 121.021(39)(b), DROP
28 participants shall be subject to such reemployment limitations
29 as other retirees. Reemployment restrictions applicable to
30 retirees as provided in subsection (9) shall not apply to DROP
31

1 participants until their employment and participation in the
2 DROP are terminated.

3 (i) Contributions.--

4 1. All employers paying the salary of a DROP
5 participant filling a regularly established position shall
6 contribute 8.0 percent of such participant's gross
7 compensation for the period of July 1, 2002, through June 30,
8 2003, and 11.56 percent of such compensation thereafter, which
9 shall constitute the entire employer DROP contribution with
10 respect to such participant. Such contributions, payable to
11 the System Trust Fund in the same manner as required in s.
12 121.071, shall be made as appropriate for each pay period and
13 are in addition to contributions required for social security
14 and the Retiree Health Insurance Subsidy Trust Fund. Such
15 employer, social security, and health insurance subsidy
16 contributions are not included in the DROP.

17 2. The employer shall, in addition to subparagraph 1.,
18 also withhold one-half of the entire social security
19 contribution required for the participant. Contributions for
20 social security by each participant and each employer, in the
21 amount required for social security coverage as now or
22 hereafter provided by the federal Social Security Act, shall
23 be in addition to contributions specified in subparagraph 1.

24 3. All employers paying the salary of a DROP
25 participant filling a regularly established position shall
26 contribute the percent of such participant's gross
27 compensation required in s. 121.071(4), which shall constitute
28 the employer's health insurance subsidy contribution with
29 respect to such participant. Such contributions shall be
30 deposited by the administrator in the Retiree Health Insurance
31 Subsidy Trust Fund.

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

8 (k) Administration of program.--The division shall
9 make such rules as are necessary for the effective and
10 efficient administration of this subsection. The division
11 shall not be required to advise members of the federal tax
12 consequences of an election related to the DROP but may advise
13 members to seek independent advice.

14 Section 3. Subsections (3) and (4) of section 121.71,
15 Florida Statutes, are amended to read:

16 121.71 Uniform rates; process; calculations; levy.--

17 (3) Required employer retirement contribution rates
18 for each membership class and subclass of the Florida
19 Retirement System for both retirement plans are as follows:
20 ~~Rates effective July 1, 2002, reflect an offset to normal~~
21 ~~employer costs of \$1,237,000,000, resulting from recognition~~
22 ~~and usage of current available excess assets of the Florida~~
23 ~~Retirement System Trust Fund as determined pursuant to s.~~
24 ~~121.031. Contribution rates that become effective July 1,~~
25 ~~2003, reflect normal system costs.~~

	Percentage of Gross Compensation, Effective July 1, <u>2003</u> 2002	Percentage of Gross Compensation, Effective July 1, <u>2004</u> 2003
Membership Class		
Regular Class	<u>6.18%</u> 4.50%	<u>10.07%</u> 9.87%
Special Risk Class	<u>17.32%</u> 14.75%	<u>22.15%</u> 22.89%
Special Risk Administrative Support Class	<u>8.71%</u> 5.30%	12.58%
Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>11.28%</u> 8.15%	<u>15.48%</u> 15.43%
Elected Officers' Class - Justices, Judges	<u>17.44%</u> 14.60%	<u>20.70%</u> 20.54%
Elected Officers' Class - County Elected Officers	<u>14.02%</u> 10.60%	<u>17.81</u> 17.52%
Senior Management Class	<u>8.16%</u> 4.80%	<u>11.59%</u> 11.68%
DROP	8.00%	11.56%

(4) ~~Notwithstanding the provisions of subsection (3), and for the fiscal year 2002-2003 only,~~The state actuary shall recognize and use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates. ~~This subsection expires July 1, 2003.~~

1 Section 4. Section 121.74, Florida Statutes, is
2 amended to read:

3 121.74 Administrative and educational
4 expenses.--Effective July 1, 2003 ~~2002~~, in addition to
5 contributions required under s. 121.71, employers
6 participating in the Florida Retirement System shall
7 contribute an amount equal to 0.10 ~~0.15~~ percent of the payroll
8 reported for each class or subclass of Florida Retirement
9 System membership, which amount shall be transferred by the
10 Division of Retirement from the Florida Retirement System
11 Contributions Clearing Trust Fund to the State Board of
12 Administration's Administrative Trust Fund to offset the costs
13 of administering the optional retirement program and the costs
14 of providing educational services to participants in the
15 defined benefit program and the optional retirement program.
16 Approval of the Trustees of the State Board of Administration
17 is required prior to the expenditure of these funds. Payments
18 for third-party administrative or educational expenses shall
19 be made only pursuant to the terms of the approved contracts
20 for such services.

21 Section 5. The Legislature finds that a proper and
22 legitimate state purpose is served when employees and retirees
23 of the state and its political subdivisions, and the
24 dependents, survivors, and beneficiaries of such employees and
25 retirees, are extended the basic protections afforded by
26 governmental retirement systems. These persons must be
27 provided benefits that are fair and adequate and that are
28 managed, administered, and funded in an actuarially sound
29 manner, as required by Section 14, Article X of the State
30 Constitution, and part VII of chapter 112, Florida Statutes.

31

1 Therefore, the Legislature hereby determines and declares that
2 this act fulfills an important state interest.

3 Section 6. Subsection (12) of section 121.40, Florida
4 Statutes, is amended to read:

5 121.40 Cooperative extension personnel at the
6 Institute of Food and Agricultural Sciences; supplemental
7 retirement benefits.--

8 (12) CONTRIBUTIONS.--

9 (a) For the purposes of funding the supplemental
10 benefits provided by this section, the institute is authorized
11 and required to pay, commencing July 1, 1985, the necessary
12 monthly contributions from its appropriated budget. These
13 amounts shall be paid into the Institute of Food and
14 Agricultural Sciences Supplemental Retirement Trust Fund,
15 which is hereby created.

16 (b) The monthly contributions required to be paid
17 pursuant to paragraph (a) on the gross monthly salaries, from
18 all sources with respect to such employment, paid to those
19 employees of the institute who hold both state and federal
20 appointments and who participate in the federal Civil Service
21 Retirement System shall be as follows:

22	23	24
	Dates of Contribution	Percentage
25	Rate Changes	Due
26	July 1, 1985, through December 31, 1988	6.68%
27	January 1, 1989, through December 31, 1993	6.35%
28	January 1, 1994, through December 31, 1994	6.69%
29	January 1, 1995, through June 30, 1996	6.82%
30	July 1, 1996, through June 30, 1998	5.64%
31	July 1, 1998, through June 30, 2001	7.17%
	<u>Effective July 1, 2001, through June 30, 2003</u>	6.96%

1 Effective July 1, 2003 13.83%

2
3 Section 7. Subsections (2) and (4) of section
4 121.4501, Florida Statutes, are amended to read:

5 121.4501 Public Employee Optional Retirement
6 Program.--

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

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

1 options; asset allocation; and retirement counseling and
2 education. Private sector companies include investment
3 management companies, insurance companies, depositories, and
4 mutual fund companies.

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

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

9 (d) "Department" means the Department of Management
10 Services.

11 (e) "Division" means the Division of Retirement within
12 the Department of Management Services.

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

15 1. Is a member of, or is eligible for membership in,
16 the Florida Retirement System, including any renewed member of
17 the Florida Retirement System;

18 2. Participates in, or is eligible to participate in,
19 the Senior Management Service Optional Annuity Program as
20 established under s. 121.055(6) or the State Community College
21 Optional Retirement Program as established under s.
22 121.051(2)(c); or

23 3. Is eligible to participate in, but does not
24 participate in, the State University System Optional
25 Retirement Program established under s. 121.35 ~~or the State~~
26 ~~Community College System Optional Retirement Program~~
27 ~~established under s. 121.051(2)(c).~~

28
29 The term does not include any member participating in the
30 Deferred Retirement Option Program established under s.
31 121.091(13) or any employee participating in an optional

1 retirement program established under s. 121.051(2)(c) or s.
2 121.35.

3 (g) "Employer" means an employer, as defined in s.
4 121.021(10), of an eligible employee.

5 (h) "Participant" means an eligible employee who
6 elects to participate in the Public Employee Optional
7 Retirement Program and enrolls in such optional program as
8 provided in subsection (4).

9 (i) "Public Employee Optional Retirement Program,"
10 "optional program," or "optional retirement program" means the
11 alternative defined contribution retirement program
12 established under this section.

13 (j) "State board" or "board" means the State Board of
14 Administration.

15 (k) "Trustees" means Trustees of the State Board of
16 Administration.

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

21 (4) PARTICIPATION; ENROLLMENT.--

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

25 a. Any such employee may elect to participate in the
26 Public Employee Optional Retirement Program in lieu of
27 retaining his or her membership in the defined benefit program
28 of the Florida Retirement System. The election must be made in
29 writing or by electronic means and must be filed with the
30 third-party administrator by August 31, 2002, or, in the case
31 of an active employee who is on a leave of absence on April 1,

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

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

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

23 a. Any such employee shall, by default, be enrolled in
24 the defined benefit retirement program of the Florida
25 Retirement System at the commencement of employment, and may,
26 by the end of the 5th month following the employee's month of
27 hire, elect to participate in the Public Employee Optional
28 Retirement Program. The employee's election must be made in
29 writing or by electronic means and must be filed with the
30 third-party administrator. The election to participate in the
31

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

3 b. If the employee files such election within the
4 prescribed time period, enrollment in the optional program
5 shall be effective on the first day of employment. The
6 employer retirement contributions paid through the month of
7 the employee plan change shall be transferred to the optional
8 program, and, effective the first day of the next month, the
9 employer shall pay the applicable contributions based on the
10 employee membership class in the optional program.

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

17 3. With respect to employees who become eligible to
18 participate in the Public Employee Optional Retirement Program
19 pursuant to s. 121.051(2)(c)3., any such employee may elect to
20 participate in the Public Employee Optional Retirement Program
21 in lieu of retaining his or her participation in the State
22 Community College Optional Retirement Program. The election
23 must be made in writing or by electronic means and must be
24 filed with the third-party administrator. This election is
25 irrevocable, except as provided in paragraph (e). Upon making
26 such election, the employee shall be enrolled as a participant
27 of the Public Employee Optional Retirement Program, the
28 employee's membership in the Florida Retirement System shall
29 be governed by the provisions of this part, and the employee's
30 participation in the State Community College Optional
31 Retirement Program shall terminate. The employee's enrollment

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

4 ~~4.3.~~ For purposes of this paragraph, "state employer"
5 means any agency, board, branch, commission, community
6 college, department, institution, institution of higher
7 education, or water management district of the state, which
8 participates in the Florida Retirement System for the benefit
9 of certain employees.

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

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

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

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

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

22 b. If the employee files such election within the
23 prescribed time period, enrollment in the optional program
24 shall be effective on the first day of employment. The
25 employer retirement contributions paid through the month of
26 the employee plan change shall be transferred to the optional
27 program, and, effective the first day of the next month, the
28 employer shall pay the applicable contributions based on the
29 employee membership class in the optional program.

30 c. Any such employee who fails to elect to participate
31 in the Public Employee Optional Retirement Program within the

1 prescribed time period is deemed to have elected to retain
2 membership in the defined benefit program of the Florida
3 Retirement System, and the employee's option to elect to
4 participate in the optional program is forfeited.

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

11 (c)1. With respect to an eligible employee who is
12 employed in a regularly established position on December 1,
13 2002, by a local employer:

14 a. Any such employee may elect to participate in the
15 Public Employee Optional Retirement Program in lieu of
16 retaining his or her membership in the defined benefit program
17 of the Florida Retirement System. The election must be made in
18 writing or by electronic means and must be filed with the
19 third-party administrator by February 28, 2003, or, in the
20 case of an active employee who is on a leave of absence on
21 October 1, 2002, by February 28, 2003, or within 90 days after
22 the conclusion of the leave of absence, whichever is later.
23 This election is irrevocable, except as provided in paragraph
24 (e). Upon making such election, the employee shall be enrolled
25 as a participant of the Public Employee Optional Retirement
26 Program, the employee's membership in the Florida Retirement
27 System shall be governed by the provisions of this part, and
28 the employee's membership in the defined benefit program of
29 the Florida Retirement System shall terminate. The employee's
30 enrollment in the Public Employee Optional Retirement Program

31

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

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

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

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

23 b. If the employee files such election within the
24 prescribed time period, enrollment in the optional program
25 shall be effective on the first day of employment. The
26 employer retirement contributions paid through the month of
27 the employee plan change shall be transferred to the optional
28 program, and, effective the first day of the next month, the
29 employer shall pay the applicable contributions based on the
30 employee membership class in the optional program.

31

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

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

10 (d) Contributions available for self-direction by a
11 participant who has not selected one or more specific
12 investment products shall be allocated as prescribed by the
13 board. The third-party administrator shall notify any such
14 participant at least quarterly that the participant should
15 take an affirmative action to make an asset allocation among
16 the optional program products.

17 (e) After the period during which an eligible employee
18 had the choice to elect the defined benefit program or the
19 Public Employee Optional Retirement Program, the employee
20 shall have one opportunity, at the employee's discretion, to
21 choose to move from the defined benefit program to the Public
22 Employee Optional Retirement Program or from the Public
23 Employee Optional Retirement Program to the defined benefit
24 program. This paragraph shall be contingent upon approval from
25 the Internal Revenue Service for including the choice
26 described herein within the programs offered by the Florida
27 Retirement System.

28 1. If the employee chooses to move to the Public
29 Employee Optional Retirement Program, the applicable
30 provisions of this section shall govern the transfer.

31

1 2. If the employee chooses to move to the defined
2 benefit program, the employee must transfer from his or her
3 Public Employee Optional Retirement Program account and from
4 other employee moneys as necessary, a sum representing the
5 present value of that employee's accumulated benefit
6 obligation immediately following the time of such movement,
7 determined assuming that attained service equals the sum of
8 service in the defined benefit program and service in the
9 Public Employee Optional Retirement Program. Benefit
10 commencement occurs on the first date the employee would
11 become eligible for unreduced benefits, using the discount
12 rate and other relevant actuarial assumptions that were used
13 to value the Florida Retirement System defined benefit plan
14 liabilities in the most recent actuarial valuation. For any
15 employee who, at the time of the second election, already
16 maintains an accrued benefit amount in the defined benefit
17 plan, the then-present value of such accrued benefit shall be
18 deemed part of the required transfer amount described in this
19 subparagraph. The division shall ensure that the transfer sum
20 is prepared using a formula and methodology certified by an
21 enrolled actuary.

22 3. Notwithstanding subparagraph 2., an employee who
23 chooses to move to the defined benefit program and who became
24 eligible to participate in the Public Employee Optional
25 Retirement Program by reason of employment in a regularly
26 established position with a state employer after June 1, 2002;
27 a district school board employer after September 1, 2002; or a
28 local employer after December 1, 2002, must transfer from his
29 or her Public Employee Optional Retirement Program account
30 and, from other employee moneys as necessary, a sum
31 representing that employee's actuarial accrued liability.

1 4. Employees' ability to transfer from the Florida
2 Retirement System defined benefit program to the Public
3 Employee Optional Retirement Program pursuant to paragraphs
4 (a) through (d), and the ability for current employees to have
5 an option to later transfer back into the defined benefit
6 program under subparagraph 2., shall be deemed a significant
7 system amendment. Pursuant to s. 121.031(4), any such
8 resulting unfunded liability arising from actual original
9 transfers from the defined benefit program to the optional
10 program shall be amortized within 30 plan years as a separate
11 unfunded actuarial base independent of the reserve
12 stabilization mechanism defined in s. 121.031(3)(f). For the
13 first 25 years, no direct amortization payment shall be
14 calculated for this base. During this 25-year period, such
15 separate base shall be used to offset the impact of employees
16 exercising their second program election under this paragraph.
17 It is the legislative intent that the actuarial funded status
18 of the Florida Retirement System defined benefit plan is
19 neither beneficially nor adversely impacted by such second
20 program elections in any significant manner, after due
21 recognition of the separate unfunded actuarial base. Following
22 this initial 25-year period, any remaining balance of the
23 original separate base shall be amortized over the remaining 5
24 years of the required 30-year amortization period.

25 Section 8. Section 1012.875, Florida Statutes, is
26 amended to read:

27 1012.875 Community College Optional Retirement
28 Program.--Each community college may implement an optional
29 retirement program, if such program is established therefor
30 pursuant to s. 1001.64(20), under which annuity or other
31 contracts providing retirement and death benefits may be

1 purchased by, and on behalf of, eligible employees who
2 participate in the program, in accordance with s. 403(b) of
3 the Internal Revenue Code. Except as otherwise provided
4 herein, this retirement program, which shall be known as the
5 State Community College System Optional Retirement Program,
6 may be implemented and administered only by an individual
7 community college or by a consortium of community colleges.

8 (1) As used in this section, the term:

9 (a) "Activation" means the date upon which an optional
10 retirement program is first made available by the program
11 administrator to eligible employees.

12 (b) "College" means community colleges as defined in
13 s. 1000.21.

14 (c) "Department" means the Department of Management
15 Services.

16 (d) "Program administrator" means the individual
17 college or consortium of colleges responsible for implementing
18 and administering an optional retirement program.

19 (e) "Program participant" means an eligible employee
20 who has elected to participate in an available optional
21 retirement program as authorized by this section.

22 (2) Participation in the optional retirement program
23 provided by this section is limited to employees who satisfy
24 the criteria set forth in s. 121.051(2)(c).

25 (3)(a) With respect to any employee who is eligible to
26 participate in the optional retirement program by reason of
27 qualifying employment commencing before the program's
28 activation:

29 1. The employee may elect to participate in the
30 optional retirement program in lieu of participation in the
31 Florida Retirement System. To become a program participant,

1 the employee must file with the personnel officer of the
2 college, within 90 ~~60~~ days after the program's activation,
3 ~~both~~ a written election on a form provided by the Florida
4 Retirement System ~~department~~ and a completed application for
5 an individual contract or certificate.

6 2. An employee's participation in the optional
7 retirement program commences on the first day of the next full
8 calendar month following the filing of the election and
9 completed application with the program administrator and
10 receipt of such election by the department. An employee's
11 membership in the Florida Retirement System terminates on this
12 same date.

13 3. Any such employee who fails to make an election to
14 participate in the optional retirement program within 60 days
15 after its activation has elected to retain membership in the
16 Florida Retirement System.

17 (b) With respect to any employee who becomes eligible
18 to participate in an optional retirement program by reason of
19 qualifying employment commencing on or after the program's
20 activation:

21 1. The employee may elect to participate in the
22 optional retirement program in lieu of participation in the
23 Florida Retirement System. To become a program participant,
24 the employee must file with the personnel officer of the
25 college, within 90 ~~60~~ days after commencing qualifying
26 employment as provided in s. 121.051(2)(c)4., ~~both~~ a written
27 election on a form provided by the Florida Retirement System
28 ~~department~~ and a completed application for an individual
29 contract or certificate.

30 2. An employee's participation in the optional
31 retirement program commences retroactive to ~~on~~ the first day

1 of qualifying employment ~~the next full calendar month~~
2 following the filing of the election and completed application
3 with the program administrator and receipt of such election by
4 the department. An employee's membership in the Florida
5 Retirement System terminates on this same date.

6 ~~3. If the employee makes an election to participate in~~
7 ~~the optional retirement program before the community college~~
8 ~~submits its initial payroll for the employee, participation in~~
9 ~~the optional retirement program commences on the first date of~~
10 ~~employment.~~

11 ~~3.4.~~ Any such employee who fails to make an election
12 to participate in the optional retirement program within 90 ~~60~~
13 days after commencing qualifying employment has elected to
14 retain membership in the Florida Retirement System.

15 (c) Any employee who, on or after an optional
16 retirement program's activation, becomes eligible to
17 participate in the program by reason of a change in status due
18 to the subsequent designation of the employee's position as
19 one of those referenced in subsection (2), or due to the
20 employee's appointment, promotion, transfer, or
21 reclassification to a position referenced in subsection (2),
22 must be notified by the ~~community~~ college of the employee's
23 eligibility to participate in the optional retirement program
24 in lieu of participation in the Florida Retirement System.
25 These eligible employees are subject to the provisions of
26 paragraph (b) and may elect to participate in the optional
27 retirement program in the same manner as those employees
28 described in paragraph (b), except that the 90-day ~~60-day~~
29 election period commences upon the date notice of eligibility
30 is received by the employee and participation in the program
31

1 begins the first day of the first full calendar month that the
2 change in status becomes effective.

3 (d) Program participants must be fully and immediately
4 vested in the optional retirement program upon issuance of an
5 optional retirement program contract.

6 (e) The election by an eligible employee to
7 participate in the optional retirement program is irrevocable
8 for so long as the employee continues to meet the eligibility
9 requirements set forth in this section and in s.

10 121.051(2)(c), except as provided in paragraph (i) or as
11 provided in s. 121.051(2)(c)3.

12 (f) If a program participant becomes ineligible to
13 continue participating in the optional retirement program
14 pursuant to the criteria referenced in subsection (2), the
15 employee becomes a member of the Florida Retirement System if
16 eligible. The college must notify the department of an
17 employee's change in eligibility status within 30 days after
18 the event that makes the employee ineligible to continue
19 participation in the optional retirement program.

20 (g) An eligible employee who is a member of the
21 Florida Retirement System at the time of election to
22 participate in the optional retirement program retains all
23 retirement service credit earned under the Florida Retirement
24 System at the rate earned. Additional service credit in the
25 Florida Retirement System may not be earned while the employee
26 participates in the optional retirement program, nor is the
27 employee eligible for disability retirement under the Florida
28 Retirement System. An eligible employee may transfer from the
29 Florida Retirement System to his or her accounts under the
30 State Community College Optional Retirement Program a sum
31 representing the present value of his or her service credit

1 accrued under the defined benefit program of the Florida
2 Retirement System for the period between his or her first
3 eligible transfer date from the defined benefit plan to the
4 optional retirement program and the actual date of such
5 transfer as provided in s. 121.051(2)(c)7. Upon such transfer,
6 all such service credit previously earned under the defined
7 benefit program of the Florida Retirement System during this
8 period shall be nullified for purposes of entitlement to a
9 future benefit under the defined benefit program of the
10 Florida Retirement System.

11 (h) A program participant may not simultaneously
12 participate in any other state-administered retirement system,
13 plan, or class.

14 (i) Except as provided in s. 121.052(6)(d), a program
15 participant who is or who becomes dually employed in two or
16 more positions covered by the Florida Retirement System, one
17 of which is eligible for an optional retirement program
18 pursuant to this section and one of which is not, is subject
19 to the dual employment provisions of chapter 121.

20 (4)(a) Each college must contribute on behalf of each
21 program participant an amount equal to 10.43 percent of the
22 participant's gross monthly compensation. The college shall
23 deduct an amount approved by the district board of trustees of
24 the ~~community~~ college to provide for the administration of the
25 optional retirement program. Payment of this contribution must
26 be made either directly by the ~~community~~ college or through
27 the program administrator to the designated company
28 contracting for payment of benefits to the program
29 participant.

30 (b) Each ~~community~~ college must contribute on behalf
31 of each program participant an amount equal to the unfunded

1 actuarial accrued liability portion of the employer
2 contribution which would be required if the program
3 participant were a member of the Regular Class of the Florida
4 Retirement System. Payment of this contribution must be made
5 directly by the college to the department for deposit in the
6 Florida Retirement System Trust Fund.

7 (c) Each program participant who has been issued
8 ~~executed~~ an optional retirement program annuity contract may
9 contribute by way of salary reduction or deduction a
10 percentage of the program participant's gross compensation,
11 but this percentage may not exceed the corresponding
12 percentage contributed by the community college to the
13 optional retirement program. Payment of this contribution may
14 be made either directly by the college or through the program
15 administrator to the designated company contracting for
16 payment of benefits to the program participant.

17 (d) Contributions to an optional retirement program by
18 a college or a program participant are in addition to, and
19 have no effect upon, contributions required now or in future
20 by the federal Social Security Act.

21 (e) The college may accept for deposit into
22 participant account or accounts contributions in the form of
23 rollovers or direct trustee-to-trustee transfers by or on
24 behalf of participants who are reasonably determined by the
25 college to be eligible for rollover or transfer to the
26 optional retirement program pursuant to the Internal Revenue
27 Code, if such contributions are made in accordance with the
28 applicable requirements of the college. Accounting for such
29 contributions shall be in accordance with any applicable
30 requirements of the Internal Revenue Code and the college.

31

1 (5)(a) The benefits to be provided to program
2 participants must be provided through contracts, including
3 individual contracts or individual certificates issued for
4 group annuity or other ~~group annuity~~ contracts, which may be
5 fixed, variable, or both, in accordance with s. 403(b) of the
6 Internal Revenue Code. Each individual contract or certificate
7 must state the type of ~~annuity~~ contract on its face page, and
8 must include at least a statement of ownership, the contract
9 benefits, distribution ~~annuity income~~ options, limitations,
10 expense charges, and surrender charges, if any.

11 (b) Benefits are payable under the optional retirement
12 program to program participants or their beneficiaries, and
13 the benefits must be paid only by the designated company in
14 accordance with the terms of the ~~annuity~~ contracts applicable
15 to the program participant. Benefits shall accrue in
16 individual accounts that are participant-directed, portable,
17 and funded by employer contributions and the earnings
18 thereon., ~~provided that~~ Benefits funded by employer
19 contributions are payable in accordance with the following
20 terms and conditions only as a lifetime annuity to the program
21 participant, except for:

22 1. Benefits shall be payable only to a participant, to
23 his or her beneficiaries, or to his or her estate, as
24 designated by the participant.

25 2. Benefits shall be paid by the provider company or
26 companies in accordance with the law, the provisions of the
27 contract, and any applicable employer rule or policy.

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

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

8 (c) Upon receipt by the provider company of a properly
9 executed application for distribution of benefits, the total
10 accumulated benefits shall be payable to the participant as:

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

17 3. Periodic distributions;

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

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

25 (d) Survivor benefits shall be payable as:

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

28 2. An eligible rollover distribution on behalf of the
29 surviving spouse or beneficiary of a deceased participant
30 whereby all accrued benefits, plus interest and investment
31 earnings, are paid from the deceased participant's account

1 directly to an eligible retirement plan, as described in s.
2 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
3 surviving spouse;

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

6 4. A partial lump-sum payment whereby a portion of the
7 accrued benefits are paid to the deceased participant's
8 surviving spouse or other designated beneficiaries, less
9 withholding taxes remitted to the Internal Revenue Service, if
10 any, and the remaining amount is transferred directly to an
11 eligible retirement plan, as described in s. 402(c)(8)(B) of
12 the Internal Revenue Code, on behalf of the surviving spouse.
13 The proportions must be specified by the participant or the
14 surviving beneficiary.

15
16 Nothing in this paragraph abrogates other applicable
17 provisions of state or federal law providing payment of death
18 benefits.

19 ~~1. A lump-sum payment to the program participant's~~
20 ~~beneficiary or estate upon the death of the program~~
21 ~~participant; or~~

22 ~~2. A cash-out of a de minimis account upon the request~~
23 ~~of a former program participant who has been terminated for a~~
24 ~~minimum of 6 months from the employment that caused the~~
25 ~~participant to be eligible for participation. A de minimis~~
26 ~~account is an account with a designated company containing~~
27 ~~employer contributions and accumulated earnings of not more~~
28 ~~than \$3,500. The cash-out must be a complete liquidation of~~
29 ~~the account balance with that designated company and is~~
30 ~~subject to the provisions of the Internal Revenue Code.~~

31

1 ~~(e)~~(c) The benefits payable to any person under the
2 optional retirement program, and any contribution accumulated
3 under the program, are not subject to assignment, execution,
4 attachment, or to any legal process whatsoever.

5 (6)(a) The optional retirement program authorized by
6 this section must be implemented and administered by the
7 program administrator under s. 403(b) of the Internal Revenue
8 Code. The program administrator has the express authority to
9 contract with a third party to fulfill any of the program
10 administrator's duties.

11 (b) The program administrator shall solicit
12 competitive bids or issue a request for proposal and select no
13 more than four companies from which optional retirement
14 program annuity contracts may be purchased under the optional
15 retirement program. In making these selections, the program
16 administrator shall consider the following factors:

- 17 1. The financial soundness of the company.
- 18 2. The extent of the company's experience in providing
19 annuity or other contracts to fund retirement programs.
- 20 3. The nature and extent of the rights and benefits
21 provided to program participants in relation to the premiums
22 paid.
- 23 4. The suitability of the rights and benefits provided
24 to the needs of eligible employees and the interests of the
25 college in the recruitment and retention of employees.

26
27 In lieu of soliciting competitive bids or issuing a request
28 for proposals, the program administrator may authorize the
29 purchase of annuity contracts under the optional retirement
30 program from those companies currently selected by the
31 department to offer such contracts through the State

1 University System Optional Retirement Program, as set forth in
2 s. 121.35.

3 (c) Optional retirement program annuity contracts must
4 be approved in form and content by the program administrator
5 in order to qualify. The program administrator may use the
6 same annuity contracts currently used within the State
7 University System Optional Retirement Program, as set forth in
8 s. 121.35.

9 (d) The provision of each annuity contract applicable
10 to a program participant must be contained in a written
11 program description that includes a report of pertinent
12 financial and actuarial information on the solvency and
13 actuarial soundness of the program and the benefits applicable
14 to the program participant. The company must furnish the
15 description annually to the program administrator, and to each
16 program participant upon commencement of participation in the
17 program and annually thereafter.

18 (e) The program administrator must ensure that each
19 program participant is provided annually with an accounting of
20 the total contributions and the annual contributions made by
21 and on the behalf of the program participant.

22 Section 9. It is the intent of the Legislature that
23 the costs attributable to the modifications to the retirement
24 laws by this act regarding the reemployment of instructional
25 personnel shall be funded by an increase in payroll
26 contribution rates beginning in fiscal year 2004-2005. For
27 fiscal year 2003-2004 only, the costs of such modifications
28 shall be funded by recognition of excess actuarial assets of
29 the Florida Retirement System Trust Fund not to exceed \$25
30 million.

31

1 Section 10. The contribution rates proposed in this
2 act shall be in addition to all other changes to such
3 contribution rates which may be enacted into law to take
4 effect on July 1, 2003. The Division of Statutory Revision is
5 directed to adjust the contribution rates set forth herein
6 accordingly.

7 Section 11. This act shall take effect July 1, 2003,
8 except that changes effected by this act to the Deferred
9 Retirement Option Program shall take effect June 1, 2003.

10
11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 Senate Bill CS/SB 958

14 The Committee Substitute for CS/SB 958:

15 Eliminates compulsory participation in the defined
16 contribution program for reemployed instructional personnel.

17 Sets the assessment on FRS employers for educational and
18 administrative costs incurred by the State Board of
Administration at 0.10% of payroll.

19 Continues the requirement that an application be completed as
20 a condition of participating in the Community College Optional
Retirement Program.

21 Provides concurrent funding for the increased benefits
22 provided to reemployed instructional personnel. For FY
23 2003-04, up to \$25 million of excess actuarial assets will be
recognized to fund the costs; thereafter, the contribution
rates paid by FRS participating employers will be adjusted to
fund the increased costs.