

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