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1 A bill to be entitled

2 An act relating to state financial matters; amending s.
3 112.363, F.S.; specifying spouse at time of death as
4 beneficiary for purposes of the retiree health insurance
5 subsidy; providing an exception; amending s. 121.4501,
6 F.S., relating to the Public Employee Optional Retirement
7 Program; providing a definition; providing deadlines for
8 certain employees for election and removal from the
9 optional retirement program; requiring an employer to
10 communicate retirement options to employees; authorizing
11 certain employees to change retirement plans under certain
12 circumstances; authorizing certain additional persons to
13 participate in the optional retirement program under
14 certain circumstances; amending s. 121.591, F.S., relating
15 to benefits payable under the optional retirement program;
16 authorizing the State Board of Administration and the
17 Department of Management Services to cash out certain
18 accounts under certain circumstances; removing the ability
19 of a deceased disabled retiree's beneficiary to receive
20 certain trust fund account balances; amending s. 121.78,
21 F.S.; revising criteria for certain employer
22 contributions; requiring certain participants to repay
23 excess employer contributions under certain circumstances;
24 amending s. 215.47, F.S.; providing criteria for certain
25 fixed income obligations for investments; deleting a
26 provision allowing certain general foreign government-
27 backed investments; amending s. 215.475, F.S.; providing
28 for a Florida Retirement System Defined Benefit Plan
29 Investment Policy Statement instead of a plan; revising

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30 provisions to conform; amending s. 215.5601, F.S., to
 31 conform; providing an effective date.

32

33 Be It Enacted by the Legislature of the State of Florida:

34

35 Section 1. Paragraph (e) of subsection (3) of section
 36 112.363, Florida Statutes, is amended to read:

37 112.363 Retiree health insurance subsidy.--

38 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.--

39 (e)1. Beginning July 1, 2001, each eligible retiree of the
 40 defined benefit program of the Florida Retirement System, or, if
 41 the retiree is deceased, his or her beneficiary who is receiving
 42 a monthly benefit from such retiree's account and who is a
 43 spouse, or a person who meets the definition of joint annuitant
 44 in s. 121.021(28), shall receive a monthly retiree health
 45 insurance subsidy payment equal to the number of years of
 46 creditable service, as defined in s. 121.021(17), completed at
 47 the time of retirement multiplied by \$5; however, no eligible
 48 retiree or beneficiary may receive a subsidy payment of more
 49 than \$150 or less than \$30. If there are multiple beneficiaries,
 50 the total payment must not be greater than the payment to which
 51 the retiree was entitled. The health insurance subsidy amount
 52 payable to any person receiving the retiree health insurance
 53 subsidy payment on July 1, 2001, shall not be reduced solely by
 54 operation of this subparagraph.

55 2. Beginning July 1, 2002, each eligible participant of
 56 the Public Employee Optional Retirement Program of the Florida
 57 Retirement System who has met the requirements of this section,
 58 or, if the participant is deceased, his or her spouse who is the

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59 participant's designated beneficiary, shall receive a monthly
 60 retiree health insurance subsidy payment equal to the number of
 61 years of creditable service, as provided in this subparagraph,
 62 completed at the time of retirement, multiplied by \$5; however,
 63 no eligible retiree or beneficiary may receive a subsidy payment
 64 of more than \$150 or less than \$30. For purposes of determining
 65 a participant's creditable service used to calculate the health
 66 insurance subsidy, a participant's years of service credit or
 67 fraction thereof shall be based on the participant's work year
 68 as defined in s. 121.021(54). Credit shall be awarded for a full
 69 work year whenever health insurance subsidy contributions have
 70 been made as required by law for each month in the participant's
 71 work year. In addition, all years of creditable service retained
 72 under the Florida Retirement System defined benefit program
 73 shall be included as creditable service for purposes of this
 74 section. Notwithstanding any other provisions of this section,
 75 the participant's spouse at the time of the participant's death
 76 shall be the beneficiary unless such participant designates a
 77 different beneficiary subsequent to the participant's most
 78 recent marriage.

79 Section 2. Paragraphs (j), (k), and (l) of subsection (2)
 80 of section 121.4501, Florida Statutes, are redesignated as
 81 paragraphs (k), (l), and (m), respectively, a new paragraph (j)
 82 is added to said subsection, subsection (4) and paragraph (c) of
 83 subsection (15) of said section are amended, paragraph (h) is
 84 added to subsection (10) of said section, and subsection (20) is
 85 added to said section, to read:

86 121.4501 Public Employee Optional Retirement Program.--
 87 (2) DEFINITIONS.--As used in this part, the term:

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88 (j) "Retiree" means a former participant of the Public
 89 Employee Optional Retirement Program of the Florida Retirement
 90 System who has terminated employment and has taken a distribution
 91 as provided in s. 121.591, except for a mandatory distribution of
 92 a de minimis account authorized by the state board.

93 (4) PARTICIPATION; ENROLLMENT.--

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

97 a. Any such employee may elect to participate in the
 98 Public Employee Optional Retirement Program in lieu of retaining
 99 his or her membership in the defined benefit program of the
 100 Florida Retirement System. The election must be made in writing
 101 or by electronic means and must be filed with the third-party
 102 administrator by August 31, 2002, or, in the case of an active
 103 employee who is on a leave of absence on April 1, 2002, by
 104 August 31, 2002, or by the last business day of the 5th month
 105 following ~~within 90 days after~~ the conclusion of the leave of
 106 absence, whichever is later. This election is irrevocable,
 107 except as provided in paragraph (e). Upon making such election,
 108 the employee shall be enrolled as a participant of the Public
 109 Employee Optional Retirement Program, the employee's membership
 110 in the Florida Retirement System shall be governed by the
 111 provisions of this part, and the employee's membership in the
 112 defined benefit program of the Florida Retirement System shall
 113 terminate. The employee's enrollment in the Public Employee
 114 Optional Retirement Program shall be effective the first day of
 115 the month for which a full month's employer contribution is made
 116 to the optional program.

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117 b. Any such employee who fails to elect to participate in
 118 the Public Employee Optional Retirement Program within the
 119 prescribed time period is deemed to have elected to retain
 120 membership in the defined benefit program of the Florida
 121 Retirement System, and the employee's option to elect to
 122 participate in the optional program is forfeited.

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

127 a. Any such employee shall, by default, be enrolled in the
 128 defined benefit retirement program of the Florida Retirement
 129 System at the commencement of employment, and may, by the last
 130 business day ~~end~~ of the 5th month following the employee's month
 131 of hire, elect to participate in the Public Employee Optional
 132 Retirement Program. The employee's election must be made in
 133 writing or by electronic means and must be filed with the third-
 134 party administrator. The election to participate in the optional
 135 program is irrevocable, except as provided in paragraph (e).

136 b. If the employee files such election within the
 137 prescribed time period, enrollment in the optional program shall
 138 be effective on the first day of employment. The employer
 139 retirement contributions paid through the month of the employee
 140 plan change shall be transferred to the optional program, and,
 141 effective the first day of the next month, the employer shall
 142 pay the applicable contributions based on the employee
 143 membership class in the optional program.

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

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146 prescribed time period is deemed to have elected to retain
 147 membership in the defined benefit program of the Florida
 148 Retirement System, and the employee's option to elect to
 149 participate in the optional program is forfeited.

150 3. With respect to employees who become eligible to
 151 participate in the Public Employee Optional Retirement Program
 152 pursuant to s. 121.051(2)(c)3., any such employee may elect to
 153 participate in the Public Employee Optional Retirement Program
 154 in lieu of retaining his or her participation in the State
 155 Community College Optional Retirement Program. The election must
 156 be made in writing or by electronic means and must be filed with
 157 the third-party administrator. This election is irrevocable,
 158 except as provided in paragraph (e). Upon making such election,
 159 the employee shall be enrolled as a participant of the Public
 160 Employee Optional Retirement Program, the employee's membership
 161 in the Florida Retirement System shall be governed by the
 162 provisions of this part, and the employee's participation in the
 163 State Community College Optional Retirement Program shall
 164 terminate. The employee's enrollment in the Public Employee
 165 Optional Retirement Program shall be effective the first day of
 166 the month for which a full month's employer contribution is made
 167 to the optional program.

168 4. For purposes of this paragraph, "state employer" means
 169 any agency, board, branch, commission, community college,
 170 department, institution, institution of higher education, or
 171 water management district of the state, which participates in
 172 the Florida Retirement System for the benefit of certain
 173 employees.

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

177 a. Any such employee may elect to participate in the
178 Public Employee Optional Retirement Program in lieu of retaining
179 his or her membership in the defined benefit program of the
180 Florida Retirement System. The election must be made in writing
181 or by electronic means and must be filed with the third-party
182 administrator by November 30, or, in the case of an active
183 employee who is on a leave of absence on July 1, 2002, by
184 November 30, 2002, or by the last business day of the 5th month
185 following ~~within 90 days after~~ the conclusion of the leave of
186 absence, whichever is later. This election is irrevocable,
187 except as provided in paragraph (e). Upon making such election,
188 the employee shall be enrolled as a participant of the Public
189 Employee Optional Retirement Program, the employee's membership
190 in the Florida Retirement System shall be governed by the
191 provisions of this part, and the employee's membership in the
192 defined benefit program of the Florida Retirement System shall
193 terminate. The employee's enrollment in the Public Employee
194 Optional Retirement Program shall be effective the first day of
195 the month for which a full month's employer contribution is made
196 to the optional program.

197 b. Any such employee who fails to elect to participate in
198 the Public Employee Optional Retirement Program within the
199 prescribed time period is deemed to have elected to retain
200 membership in the defined benefit program of the Florida
201 Retirement System, and the employee's option to elect to
202 participate in the optional program is forfeited.

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

207 a. Any such employee shall, by default, be enrolled in the
 208 defined benefit retirement program of the Florida Retirement
 209 System at the commencement of employment, and may, by the last
 210 business day ~~end~~ of the 5th month following the employee's month
 211 of hire, elect to participate in the Public Employee Optional
 212 Retirement Program. The employee's election must be made in
 213 writing or by electronic means and must be filed with the third-
 214 party administrator. The election to participate in the optional
 215 program is irrevocable, except as provided in paragraph (e).

216 b. If the employee files such election within the
 217 prescribed time period, enrollment in the optional program shall
 218 be effective on the first day of employment. The employer
 219 retirement contributions paid through the month of the employee
 220 plan change shall be transferred to the optional program, and,
 221 effective the first day of the next month, the employer shall
 222 pay the applicable contributions based on the employee
 223 membership class in the optional program.

224 c. Any such employee who fails to elect to participate in
 225 the Public Employee Optional Retirement Program within the
 226 prescribed time period is deemed to have elected to retain
 227 membership in the defined benefit program of the Florida
 228 Retirement System, and the employee's option to elect to
 229 participate in the optional program is forfeited.

230 3. For purposes of this paragraph, "district school board
 231 employer" means any district school board that participates in

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

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

239 a. Any such employee may elect to participate in the
 240 Public Employee Optional Retirement Program in lieu of retaining
 241 his or her membership in the defined benefit program of the
 242 Florida Retirement System. The election must be made in writing
 243 or by electronic means and must be filed with the third-party
 244 administrator by February 28, 2003, or, in the case of an active
 245 employee who is on a leave of absence on October 1, 2002, by
 246 February 28, 2003, or by the last business day of the 5th month
 247 following ~~within 90 days after~~ the conclusion of the leave of
 248 absence, whichever is later. This election is irrevocable,
 249 except as provided in paragraph (e). Upon making such election,
 250 the employee shall be enrolled as a participant of the Public
 251 Employee Optional Retirement Program, the employee's membership
 252 in the Florida Retirement System shall be governed by the
 253 provisions of this part, and the employee's membership in the
 254 defined benefit program of the Florida Retirement System shall
 255 terminate. The employee's enrollment in the Public Employee
 256 Optional Retirement Program shall be effective the first day of
 257 the month for which a full month's employer contribution is made
 258 to the optional program.

259 b. Any such employee who fails to elect to participate in
 260 the Public Employee Optional Retirement Program within the

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261 prescribed time period is deemed to have elected to retain
 262 membership in the defined benefit program of the Florida
 263 Retirement System, and the employee's option to elect to
 264 participate in the optional program is forfeited.

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

269 a. Any such employee shall, by default, be enrolled in the
 270 defined benefit retirement program of the Florida Retirement
 271 System at the commencement of employment, and may, by the last
 272 business day ~~end~~ of the 5th month following the employee's month
 273 of hire, elect to participate in the Public Employee Optional
 274 Retirement Program. The employee's election must be made in
 275 writing or by electronic means and must be filed with the third-
 276 party administrator. The election to participate in the optional
 277 program is irrevocable, except as provided in paragraph (e).

278 b. If the employee files such election within the
 279 prescribed time period, enrollment in the optional program shall
 280 be effective on the first day of employment. The employer
 281 retirement contributions paid through the month of the employee
 282 plan change shall be transferred to the optional program, and,
 283 effective the first day of the next month, the employer shall
 284 pay the applicable contributions based on the employee
 285 membership class in the optional program.

286 c. Any such employee who fails to elect to participate in
 287 the Public Employee Optional Retirement Program within the
 288 prescribed time period is deemed to have elected to retain
 289 membership in the defined benefit program of the Florida

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290 Retirement System, and the employee's option to elect to
291 participate in the optional program is forfeited.

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

294 (d) Contributions available for self-direction by a
295 participant who has not selected one or more specific investment
296 products shall be allocated as prescribed by the board. The
297 third-party administrator shall notify any such participant at
298 least quarterly that the participant should take an affirmative
299 action to make an asset allocation among the optional program
300 products.

301 (e) After the period during which an eligible employee had
302 the choice to elect the defined benefit program or the Public
303 Employee Optional Retirement Program, or the month following the
304 date the eligible employee's plan selection became effective, if
305 sooner, the employee or terminated vested employee shall have
306 one opportunity, at the employee's discretion during his or her
307 lifetime, to choose to move from the defined benefit program to
308 the Public Employee Optional Retirement Program or from the
309 Public Employee Optional Retirement Program to the defined
310 benefit program. This paragraph shall be contingent upon
311 approval from the Internal Revenue Service for including the
312 choice described herein within the programs offered by the
313 Florida Retirement System.

314 1. If the employee chooses to move to the Public Employee
315 Optional Retirement Program, the applicable provisions of this
316 section shall govern the transfer.

317 2. If the employee chooses to move to the defined benefit
318 program, the employee must transfer from his or her Public

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319 Employee Optional Retirement Program account and from other
320 employee moneys as necessary, a sum representing the present
321 value of that employee's accumulated benefit obligation
322 immediately following the time of such movement, determined
323 assuming that attained service equals the sum of service in the
324 defined benefit program and service in the Public Employee
325 Optional Retirement Program. Benefit commencement occurs on the
326 first date the employee would become eligible for unreduced
327 benefits, using the discount rate and other relevant actuarial
328 assumptions that were used to value the Florida Retirement
329 System defined benefit plan liabilities in the most recent
330 actuarial valuation. For any employee who, at the time of the
331 second election, already maintains an accrued benefit amount in
332 the defined benefit plan, the then-present value of such accrued
333 benefit shall be deemed part of the required transfer amount
334 described in this subparagraph. The division shall ensure that
335 the transfer sum is prepared using a formula and methodology
336 certified by an enrolled actuary.

337 3. Notwithstanding subparagraph 2., an employee who
338 chooses to move to the defined benefit program and who became
339 eligible to participate in the Public Employee Optional
340 Retirement Program by reason of employment in a regularly
341 established position with a state employer after June 1, 2002; a
342 district school board employer after September 1, 2002; or a
343 local employer after December 1, 2002, must transfer from his or
344 her Public Employee Optional Retirement Program account and,
345 from other employee moneys as necessary, a sum representing that
346 employee's actuarial accrued liability.

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347 4. Employees' ability to transfer from the Florida
348 Retirement System defined benefit program to the Public Employee
349 Optional Retirement Program pursuant to paragraphs (a) through
350 (d), and the ability for current employees to have an option to
351 later transfer back into the defined benefit program under
352 subparagraph 2., shall be deemed a significant system amendment.
353 Pursuant to s. 121.031(4), any such resulting unfunded liability
354 arising from actual original transfers from the defined benefit
355 program to the optional program shall be amortized within 30
356 plan years as a separate unfunded actuarial base independent of
357 the reserve stabilization mechanism defined in s. 121.031(3)(f).
358 For the first 25 years, no direct amortization payment shall be
359 calculated for this base. During this 25-year period, such
360 separate base shall be used to offset the impact of employees
361 exercising their second program election under this paragraph.
362 It is the legislative intent that the actuarial funded status of
363 the Florida Retirement System defined benefit plan is neither
364 beneficially nor adversely impacted by such second program
365 elections in any significant manner, after due recognition of
366 the separate unfunded actuarial base. Following this initial 25-
367 year period, any remaining balance of the original separate base
368 shall be amortized over the remaining 5 years of the required
369 30-year amortization period.

370 5. Notwithstanding the provisions of this section, any
371 terminated vested employee who is a participant in the Public
372 Employee Optional Retirement Program or the defined benefit
373 program may use his or her one-time opportunity to change
374 retirement plans as provided in this paragraph without having to

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375 return to employment with an employer participating in the
 376 Florida Retirement System.

377 (10) EDUCATION COMPONENT.--

378 (h) Pursuant to paragraph (8)(a), all Florida Retirement
 379 System employers have an obligation to regularly communicate the
 380 existence of the two Florida Retirement System plans and the plan
 381 choice in the natural course of administering their personnel
 382 functions using the educational materials supplied by the state
 383 board and the Department of Management Services.

384 (15) STATEMENT OF FIDUCIARY STANDARDS AND
 385 RESPONSIBILITIES.--

386 (c) Subparagraph (8)(b)4. and paragraph (15)(b)
 387 incorporate the federal law concept of participant control,
 388 established by regulations of the United States Department of
 389 Labor under s. 404(c) of the Employee Retirement Income Security
 390 Act of 1974 (ERISA). The purpose of this paragraph is to assist
 391 employers and the State Board of Administration in maintaining
 392 compliance with s. 404(c), while avoiding unnecessary costs and
 393 eroding participant benefits under the Public Employee Optional
 394 Retirement Program. Pursuant to 29 C.F.R. s. 2550.404c-
 395 1(b)(2)(i)(B)(1)(viii), the State Board of Administration or its
 396 designated agents shall deliver to participants of the Public
 397 Employee Optional Retirement Program a copy of the prospectus
 398 most recently provided to the plan and, pursuant to 29 C.F.R. s.
 399 2550.404c-1(b)(2), ~~or~~ shall provide such participants an
 400 opportunity to obtain this information, except that:

401 1. The requirement to deliver a prospectus shall be deemed
 402 to be satisfied by delivery of a fund profile that contains the
 403 information that would be included in a summary prospectus as

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404 described by Rule 498 under the Securities Act of 1933, 17
405 C.F.R. s. 230.498. When the transaction fees, expense
406 information or other information provided by a mutual fund in
407 the prospectus does not reflect terms negotiated by the State
408 Board of Administration or its designated agents, the
409 aforementioned requirement is deemed to be satisfied by delivery
410 of a separate document described by Rule 498 substituting
411 accurate information; and

412 2. Delivery shall be deemed to have been effected if
413 delivery is through electronic means and the following standards
414 are satisfied:

415 a. Electronically-delivered documents are prepared and
416 provided consistent with style, format, and content requirements
417 applicable to printed documents;

418 b. Each participant is provided timely and adequate notice
419 of the documents that are to be delivered and their significance
420 thereof, and of the participant's right to obtain a paper copy
421 of such documents free of charge;

422 c.(I) Participants have adequate access to the electronic
423 documents, at locations such as their worksites or public
424 facilities, and have the ability to convert the documents to
425 paper free of charge by the State Board of Administration, and
426 the board or its designated agents take appropriate and
427 reasonable measures to ensure that the system for furnishing
428 electronic documents results in actual receipt, or

429 (II) Participants have provided consent to receive
430 information in electronic format, which consent may be revoked;
431 and

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432 d. The State Board of Administration, or its designated
 433 agent, actually provides paper copies of the documents free of
 434 charge, upon request.

435 (20) PARTICIPATION BY VESTED TERMINATED FLORIDA RETIREMENT
 436 SYSTEM MEMBERS.--Eligible employees shall include persons who are
 437 vested in the defined benefit retirement plan offered under the
 438 Florida Retirement System in compliance with the vesting
 439 provisions in effect at the time of their termination, who
 440 terminated covered employment prior to the establishment of the
 441 Public Employee Optional Retirement Program, and who may not
 442 otherwise be eligible to participate in the Public Employee
 443 Optional Retirement Program pursuant to subsection (4). The State
 444 Board of Administration shall not be responsible for locating
 445 those persons who may be eligible to participate in the Public
 446 Employee Optional Retirement Program under this subsection.

447 Section 3. Section 121.591, Florida Statutes, is amended
 448 to read:

449 121.591 Benefits payable under the Public Employee
 450 Optional Retirement Program of the Florida Retirement
 451 System.--Benefits may not be paid under this section unless the
 452 member has terminated employment as provided in s.
 453 121.021(39)(a) or is deceased and a proper application has been
 454 filed in the manner prescribed by the state board or the
 455 department. The state board or department, as appropriate, may
 456 cancel an application for retirement benefits when the member or
 457 beneficiary fails to timely provide the information and
 458 documents required by this chapter and the rules of the state
 459 board and department. In accordance with their respective
 460 responsibilities as provided herein, the State Board of

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461 Administration and the Department of Management Services shall
 462 adopt rules establishing procedures for application for
 463 retirement benefits and for the cancellation of such application
 464 when the required information or documents are not received. The
 465 State Board of Administration and the Department of Management
 466 Services, as appropriate, are authorized to cash out a de
 467 minimis account of a participant who has been terminated from
 468 Florida Retirement System covered employment for a minimum of 6
 469 calendar months. A de minimis account is an account containing
 470 employer contributions and accumulated earnings of not more than
 471 \$5,000 made under the provisions of this chapter. Such cash-out
 472 must either be a complete lump-sum liquidation of the account
 473 balance, subject to the provisions of the Internal Revenue Code,
 474 or a lump-sum direct rollover distribution paid directly to the
 475 custodian of an eligible retirement plan, as defined by the
 476 Internal Revenue Code, on behalf of the participant.

477 (1) NORMAL BENEFITS.--Under the Public Employee Optional
 478 Retirement Program:

479 (a) Benefits in the form of vested accumulations as
 480 described in s. 121.4501(6) shall be payable under this
 481 subsection in accordance with the following terms and
 482 conditions:

483 1. To the extent vested, benefits shall be payable only to
 484 a participant.

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

488 3. To receive benefits under this subsection, the
 489 participant must be terminated from all employment with all

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490 Florida Retirement System employers, as provided in s.
 491 121.021(39).

492 (b) If a participant elects to receive his or her benefits
 493 upon termination of employment, the participant must submit a
 494 written application to the third-party administrator indicating
 495 his or her preferred distribution date and selecting an
 496 authorized method of distribution as provided in paragraph (c).
 497 The participant may defer receipt of benefits until he or she
 498 chooses to make such application, subject to federal
 499 requirements.

500 (c) Upon receipt by the third-party administrator of a
 501 properly executed application for distribution of benefits, the
 502 total accumulated benefit shall be payable to the participant,
 503 as:

- 504 1. A lump-sum distribution to the participant;
- 505 2. A lump-sum direct rollover distribution whereby all
 506 accrued benefits, plus interest and investment earnings, are
 507 paid from the participant's account directly to the custodian of
 508 an eligible retirement plan, as defined in s. 402(c)(8)(B) of
 509 the Internal Revenue Code, on behalf of the participant; or
- 510 3. Periodic distributions, as authorized by the state
 511 board.

512 (2) ~~DISABILITY RETIREMENT BENEFITS.~~--Benefits provided
 513 under this subsection are payable in lieu of the benefits which
 514 would otherwise be payable under the provisions of subsection
 515 (1). Such benefits shall be funded entirely from employer
 516 contributions made under s. 121.571, transferred participant
 517 funds accumulated pursuant to paragraph (a), and interest and
 518 earnings thereon. Pursuant thereto:

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

521 1. All moneys accumulated in the participant's Public
522 Employee Optional Retirement Program accounts, including vested
523 and nonvested accumulations as described in s. 121.4501(6),
524 shall be transferred from such individual accounts to the
525 Division of Retirement for deposit in the disability account of
526 the Florida Retirement System Trust Fund. Such moneys shall be
527 separately accounted for. Earnings shall be credited on an
528 annual basis for amounts held in the disability accounts of the
529 Florida Retirement System Trust Fund based on actual earnings of
530 the Florida Retirement System Trust Fund.

531 2. If the participant has retained retirement credit he or
532 she had earned under the defined benefit program of the Florida
533 Retirement System as provided in s. 121.4501(3)(b), a sum
534 representing the actuarial present value of such credit within
535 the Florida Retirement System Trust Fund shall be reassigned by
536 the Division of Retirement from the defined benefit program to
537 the disability program as implemented under this subsection and
538 shall be deposited in the disability account of the Florida
539 Retirement System Trust Fund. Such moneys shall be separately
540 accounted for.

541 (b) Disability retirement; entitlement.--

542 1. A participant of the Public Employee Optional
543 Retirement Program who becomes totally and permanently disabled,
544 as defined in s. 121.091(4)(b), after completing 8 years of
545 creditable service, or a participant who becomes totally and
546 permanently disabled in the line of duty regardless of his or

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547 her length of service, shall be entitled to a monthly disability
 548 benefit as provided herein.

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

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

557 b. If the participant has elected to retain credit for his
 558 or her service under the defined benefit program of the Florida
 559 Retirement System as provided under s. 121.4501(3)(b), all such
 560 service will be considered creditable service.

561 c. If the participant has elected to transfer to his or
 562 her participant accounts a sum representing the present value of
 563 his or her retirement credit under the defined benefit program
 564 as provided under s. 121.4501(3)(c), the period of service under
 565 the defined benefit program represented in the present value
 566 amounts transferred will be considered creditable service for
 567 purposes of vesting for disability benefits, except as provided
 568 in subparagraph d.

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

573 (c) Disability retirement effective date.--The effective
 574 retirement date for a participant who applies and is approved

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575 for disability retirement shall be established as provided under
 576 s. 121.091(4)(a)2. and 3.

577 (d) Total and permanent disability.--A participant shall
 578 be considered totally and permanently disabled if, in the
 579 opinion of the division, he or she is prevented, by reason of a
 580 medically determinable physical or mental impairment, from
 581 rendering useful and efficient service as an officer or
 582 employee.

583 (e) Proof of disability.--The division, before approving
 584 payment of any disability retirement benefit, shall require
 585 proof that the participant is totally and permanently disabled
 586 in the same manner as provided for members of the defined
 587 benefit program of the Florida Retirement System under s.
 588 121.091(4)(c).

589 (f) Disability retirement benefit.--Upon the disability
 590 retirement of a participant under this subsection, the
 591 participant shall receive a monthly benefit that shall begin to
 592 accrue on the first day of the month of disability retirement,
 593 as approved by the division, and shall be payable on the last
 594 day of that month and each month thereafter during his or her
 595 lifetime and continued disability. All disability benefits
 596 payable to such member shall be paid out of the disability
 597 account of the Florida Retirement System Trust Fund established
 598 under this subsection.

599 (g) Computation of disability retirement benefit.--The
 600 amount of each monthly payment shall be calculated in the same
 601 manner as provided for members of the defined benefit program of
 602 the Florida Retirement System under s. 121.091(4)(f). For such
 603 purpose, creditable service under both the defined benefit

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604 program and the Public Employee Optional Retirement Program of
 605 the Florida Retirement System shall be applicable as provided
 606 under paragraph (b).

607 (h) Reapplication.--A participant whose initial
 608 application for disability retirement has been denied may
 609 reapply for disability benefits in the same manner, and under
 610 the same conditions, as provided for members of the defined
 611 benefit program of the Florida Retirement System under s.
 612 121.091(4)(g).

613 (i) Membership.--Upon approval of an application for
 614 disability benefits under this subsection, the applicant shall
 615 be transferred to the defined benefit program of the Florida
 616 Retirement System, effective upon his or her disability
 617 retirement effective date.

618 (j) Option to cancel.--Any participant whose application
 619 for disability benefits is approved may cancel his or her
 620 application for disability benefits, provided that the
 621 cancellation request is received by the division before a
 622 disability retirement warrant has been deposited, cashed, or
 623 received by direct deposit. Upon such cancellation:

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

626 2. The participant shall be retroactively reinstated in
 627 the Public Employee Optional Retirement Program without hiatus;

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

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

634 (k) Recovery from disability.--

635 1. The division may require periodic reexaminations at the
 636 expense of the disability program account of the Florida
 637 Retirement System Trust Fund. Except as otherwise provided in
 638 subparagraph 2., the requirements, procedures, and restrictions
 639 relating to the conduct and review of such reexaminations,
 640 discontinuation or termination of benefits, reentry into
 641 employment, disability retirement after reentry into covered
 642 employment, and all other matters relating to recovery from
 643 disability shall be the same as are set forth under s.

644 121.091(4)(h).

645 2. Upon recovery from disability, any recipient of
 646 disability retirement benefits under this subsection shall be a
 647 compulsory member of the Public Employee Optional Retirement
 648 Program of the Florida Retirement System. The net difference
 649 between the recipient's original account balance transferred to
 650 the Florida Retirement System Trust Fund, including earnings,
 651 under paragraph (a) and total disability benefits paid to such
 652 recipient, if any, shall be determined as provided in sub-
 653 subparagraph a.

654 a. An amount equal to the total benefits paid shall be
 655 subtracted from that portion of the transferred account balance
 656 consisting of vested accumulations as described under s.
 657 121.4501(6), if any, and an amount equal to the remainder of
 658 benefit amounts paid, if any, shall then be subtracted from any

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659 remaining portion consisting of nonvested accumulations as
 660 described under s. 121.4501(6).

661 b. Amounts subtracted under sub-subparagraph a. shall be
 662 retained within the disability account of the Florida Retirement
 663 System Trust Fund. Any remaining account balance shall be
 664 transferred to the third-party administrator for disposition as
 665 provided under sub-subparagraph c. or sub-subparagraph d., as
 666 appropriate.

667 c. If the recipient returns to covered employment,
 668 transferred amounts shall be deposited in individual accounts
 669 under the Public Employee Optional Retirement Program, as
 670 directed by the participant. Vested and nonvested amounts shall
 671 be separately accounted for as provided in s. 121.4501(6).

672 d. If the recipient fails to return to covered employment
 673 upon recovery from disability:

674 (I) Any remaining vested amount shall be deposited in
 675 individual accounts under the Public Employee Optional
 676 Retirement Program, as directed by the participant, and shall be
 677 payable as provided in subsection (1).

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

681 3. If present value was reassigned from the defined
 682 benefit program to the disability program of the Florida
 683 Retirement System as provided under subparagraph (a)2., the full
 684 present value amount shall be returned to the defined benefit
 685 account within the Florida Retirement System Trust Fund and the
 686 affected individual's associated retirement credit under the
 687 defined benefit program shall be reinstated in full. Any benefit

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688 based upon such credit shall be calculated as provided in s.
689 121.091(4)(h)1.

690 (l) Nonadmissible causes of disability.--A participant
691 shall not be entitled to receive a disability retirement benefit
692 if the disability results from any injury or disease sustained
693 or inflicted as described in s. 121.091(4)(i).

694 (m) Disability retirement of justice or judge by order of
695 Supreme Court.--

696 1. If a participant is a justice of the Supreme Court,
697 judge of a district court of appeal, circuit judge, or judge of
698 a county court who has served for 6 years or more as an elected
699 constitutional judicial officer, including service as a judicial
700 officer in any court abolished pursuant to Art. V of the State
701 Constitution, and who is retired for disability by order of the
702 Supreme Court upon recommendation of the Judicial Qualifications
703 Commission pursuant to the provisions of Art. V of the State
704 Constitution, the participant's Option 1 monthly disability
705 benefit amount as provided in s. 121.091(6)(a)1. shall be two-
706 thirds of his or her monthly compensation as of the
707 participant's disability retirement date. Such a participant may
708 alternatively elect to receive an actuarially adjusted
709 disability retirement benefit under any other option as provided
710 in s. 121.091(6)(a), or to receive the normal benefit payable
711 under the Public Employee Optional Retirement Program as set
712 forth in subsection (1).

713 2. If any justice or judge who is a participant of the
714 Public Employee Optional Retirement Program of the Florida
715 Retirement System is retired for disability by order of the
716 Supreme Court upon recommendation of the Judicial Qualifications

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717 Commission pursuant to the provisions of Art. V of the State
 718 Constitution and elects to receive a monthly disability benefit
 719 under the provisions of this paragraph:

720 a. Any present value amount that was transferred to his or
 721 her program account and all employer contributions made to such
 722 account on his or her behalf, plus interest and earnings
 723 thereon, shall be transferred to and deposited in the disability
 724 account of the Florida Retirement System Trust Fund; and

725 b. The monthly benefits payable under this paragraph for
 726 any affected justice or judge retired from the Florida
 727 Retirement System pursuant to Art. V of the State Constitution
 728 shall be paid from the disability account of the Florida
 729 Retirement System Trust Fund.

730 (n) Death of retiree or beneficiary.--Upon the death of a
 731 disabled retiree or beneficiary thereof who is receiving monthly
 732 benefits under this subsection, the monthly benefits shall be
 733 paid through the last day of the month of death and shall
 734 terminate, or be adjusted, if applicable, as of that date in
 735 accordance with the optional form of benefit selected at the
 736 time of retirement. ~~The deceased disabled retiree's beneficiary~~
 737 ~~shall also receive the amount of the participant's remaining~~
 738 ~~account balance, if any, in the Florida Retirement System Trust~~
 739 ~~Fund.~~ The Department of Management Services may adopt rules
 740 necessary to administer this paragraph.

741 (3) DEATH BENEFITS.--Under the Public Employee Optional
 742 Retirement Program:

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

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745 1. To the extent vested, benefits shall be payable only to
 746 a participant's beneficiary or beneficiaries as designated by
 747 the participant. If a participant designates a primary
 748 beneficiary other than the participant's spouse, the
 749 participant's spouse shall be notified of the designation. This
 750 requirement shall not apply to the designation of one or more
 751 contingent beneficiaries to receive any benefits remaining upon
 752 the death of the primary beneficiary or beneficiaries.

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

756 3. To receive benefits under this subsection, the
 757 participant must be deceased.

758 (b) In the event of a participant's death, all vested
 759 accumulations as described in s. 121.4501(6), less withholding
 760 taxes remitted to the Internal Revenue Service, shall be
 761 distributed, as provided in paragraph (c), to the participant's
 762 designated beneficiary or beneficiaries, or to the participant's
 763 estate, as if the participant retired on the date of death. No
 764 other death benefits shall be available for survivors of
 765 participants under the Public Employee Optional Retirement
 766 Program, except for such benefits, or coverage for such
 767 benefits, as are otherwise provided by law or are separately
 768 afforded by the employer, at the employer's discretion.

769 (c) Upon receipt by the third-party administrator of a
 770 properly executed application for distribution of benefits, the
 771 total accumulated benefit shall be payable by the third-party
 772 administrator to the participant's surviving beneficiary or
 773 beneficiaries, as:

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

776 2. An eligible rollover distribution on behalf of the
777 surviving spouse of a deceased participant, whereby all accrued
778 benefits, plus interest and investment earnings, are paid from
779 the deceased participant's account directly to the custodian of
780 an eligible retirement plan, as described in s. 402(c)(8)(B) of
781 the Internal Revenue Code, on behalf of the surviving spouse; or

782 3. A partial lump-sum payment whereby a portion of the
783 accrued benefit is paid to the deceased participant's surviving
784 spouse or other designated beneficiaries, less withholding taxes
785 remitted to the Internal Revenue Service, and the remaining
786 amount is transferred directly to the custodian of an eligible
787 retirement plan, as described in s. 402(c)(8)(B) of the Internal
788 Revenue Code, on behalf of the surviving spouse. The proportions
789 must be specified by the participant or the surviving
790 beneficiary.

791
792 This paragraph does not abrogate other applicable provisions of
793 state or federal law providing for payment of death benefits.

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

801 Section 4. Paragraph (b) of subsection (3) of section
802 121.78, Florida Statutes, is amended to read:

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803 121.78 Payment and distribution of contributions.--
 804 (3)
 805 (b) If contributions made by an employer on behalf of
 806 participants of the optional retirement program or accompanying
 807 payroll data are not received within the calendar month they are
 808 due, including, but not limited to, contribution adjustments as
 809 a result of employer errors or corrections, and if that
 810 delinquency results in market losses to participants, the
 811 employer shall reimburse each participant's account for market
 812 losses resulting from the late contributions. In the event a
 813 participant has terminated employment and taken a distribution,
 814 the participant is responsible for returning any excess
 815 contributions erroneously provided by employers, adjusted for
 816 any investment gain or loss incurred during the period such
 817 excess contributions were in the participant's Public Employee
 818 Optional Retirement Program account. The State Board of
 819 Administration, or its designated agent, shall communicate to
 820 terminated participants any obligation to repay such excess
 821 contribution amounts, but the State Board of Administration, its
 822 designated agent, or the Public Employee Optional Retirement
 823 Program Trust Fund shall not incur any loss or gain as a result
 824 of employers' correcting such excess contributions. The third-
 825 party administrator, hired by the board pursuant to s.
 826 121.4501(8), shall calculate the market losses for each affected
 827 participant. When contributions made on behalf of participants
 828 of the optional retirement program or accompanying payroll data
 829 are not received within the calendar month due, the employer
 830 shall also pay the cost of the third-party administrator's
 831 calculation and reconciliation adjustments resulting from the

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832 late contributions. The third-party administrator shall notify
 833 the employer of the results of the calculations and the total
 834 amount due from the employer for such losses and the costs of
 835 calculation and reconciliation. The employer shall remit to the
 836 division the amount due within 10 working days after the date of
 837 the penalty notice sent by the division. The division shall
 838 transfer said amount to the third-party administrator, who shall
 839 deposit proceeds from the 1-percent assessment and from
 840 individual market losses into participant accounts, as
 841 appropriate. The board is authorized to adopt rules to implement
 842 the provisions regarding late contributions, late submission of
 843 payroll data, the process for reimbursing participant accounts
 844 for resultant market losses, and the penalties charged to the
 845 employers.

846 Section 5. Paragraphs (g) and (i) of subsection (2) of
 847 section 215.47, Florida Statutes, are amended to read:

848 215.47 Investments; authorized securities; loan of
 849 securities.--Subject to the limitations and conditions of the
 850 State Constitution or of the trust agreement relating to a trust
 851 fund, moneys available for investments under ss. 215.44-215.53
 852 may be invested as follows:

853 (2) With no more than 25 percent of any fund in:

854 (g) Fixed-income obligations not otherwise authorized by
 855 this section issued by foreign governments, or political
 856 subdivisions or agencies thereof, supranational agencies,
 857 foreign corporations, or foreign commercial entities, provided
 858 the obligations are rated investment grade by at least one
 859 nationally recognized rating service ~~General obligations backed~~
 860 ~~by the full faith and credit of a foreign government which has~~

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861 ~~not defaulted on similar obligations for a minimum period of 25~~
 862 ~~years prior to purchase of the obligation and has met its~~
 863 ~~payments of similar obligations when due.~~

864 (i) Obligations of agencies of the government of the
 865 United States, provided such obligations have been included in
 866 and authorized by the Florida Retirement System Defined Benefit
 867 ~~Total Fund Investment~~ Plan Investment Policy Statement
 868 established in s. 215.475.

869 Section 6. Section 215.475, Florida Statutes, is amended
 870 to read:

871 215.475 Investment policy statement ~~plan~~.--

872 (1) In making investments for the System Trust Fund
 873 pursuant to ss. 215.44-215.53, the board shall make no
 874 investment which is not in conformance with the Florida
 875 Retirement System Defined Benefit ~~Total Fund Investment~~ Plan
 876 Investment Policy Statement, hereinafter referred to as "the
 877 statement ~~plan~~," as developed by the executive director and
 878 approved by the board. The statement ~~plan~~ must include, among
 879 other items, the investment objectives of the System Trust Fund;
 880 permitted types of securities in which the board may invest; and
 881 evaluation criteria necessary to measure the investment
 882 performance of the fund. As required from time to time, the
 883 executive director of the board may present recommended changes
 884 in the statement ~~plan~~ to the board for approval.

885 (2) Prior to any recommended changes in the statement ~~plan~~
 886 being presented to the board, the executive director of the
 887 board shall present such changes to the Investment Advisory
 888 Council for review. The council shall present the results of its

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889 review to the board prior to the board's final approval of the
 890 statement plan or changes in the statement plan.

891 Section 7. Paragraph (a) of subsection (4) of section
 892 215.5601, Florida Statutes, is amended to read:

893 215.5601 Lawton Chiles Endowment Fund.--

894 (4) ADMINISTRATION.--

895 (a) The board may invest and reinvest funds of the
 896 endowment in accordance with s. 215.47 and consistent with an
 897 investment policy statement plan developed by the executive
 898 director and approved by the board.

899 Section 8. This act shall take effect July 1, 2004.