

By the Committee on Comprehensive Planning; and Senator
Bennett

316-1529-04

1 A bill to be entitled
2 An act relating to agency reorganization;
3 transferring the Division of Retirement and its
4 powers, duties, functions, components, and
5 assets from the Department of Management
6 Services to the State Board of Administration;
7 amending s. 110.205, F.S.; providing status of
8 division personnel under the Career Service
9 System; amending ss. 20.22, 20.28, 112.05,
10 112.3173, 112.363, 112.625, 112.63, 112.64,
11 112.658, 112.661, 112.665, 121.021, 121.025,
12 121.031, 121.051, 121.0511, 121.0515, 121.052,
13 121.055, 121.081, 121.085, 121.091, 121.095,
14 121.101, 121.111, 121.133, 121.135, 121.136,
15 121.1905, 121.192, 121.193, 121.22, 121.23,
16 121.24, 121.30, 121.35, 121.40, 121.45,
17 121.4501, 121.4503, 121.591, 121.5911, 121.72,
18 121.73, 121.74, 122.02, 122.03, 122.05, 122.06,
19 122.07, 122.08, 122.09, 122.10, 122.12, 122.13,
20 122.15, 122.16, 122.23, 122.30, 122.34,
21 122.351, 175.032, 175.121, 175.1215, 175.341,
22 185.02, 185.10, 185.105, 185.23, 215.20,
23 215.28, 215.44, 215.50, 215.52, 238.01, 238.02,
24 238.03, 238.05, 238.07, 238.08, 238.09, 238.10,
25 238.11, 238.12, 238.14, 238.15, 238.171,
26 238.181, 238.32, 650.02, 650.06, F.S., to
27 conform to such transfer; providing duties of
28 the Department of Financial Services with
29 respect to issuing benefit payments under
30 retirement plans; providing an effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. The Division of Retirement of the
4 Department of Management Services is transferred to the State
5 Board of Administration. All powers, duties, functions,
6 records, personnel, property, and unexpended balances of
7 appropriations, allocations, and other funds relating to the
8 Division of Retirement are transferred by a type one transfer,
9 as defined in section 20.06, Florida Statutes, to the State
10 Board of Administration. This act does not alter or amend the
11 powers, operations, or functioning of the State Board of
12 Administration with respect to its duties, responsibilities,
13 and authority existing prior to the enactment of this
14 legislation.

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

17 20.22 Department of Management Services.--There is
18 created a Department of Management Services.

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

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

22 (g)(h) Division of State Group Insurance.

23 Section 3. Section 20.28, Florida Statutes, is amended
24 to read:

25 20.28 State Board of Administration.--The State Board
26 of Administration, continued by s. 4(e), Art. IV ~~s. 9, Art.~~
27 ~~XII~~ of the State Constitution, retains all of its powers,
28 duties, and functions as prescribed by law. There is
29 established under the State Board of Administration a Division
30 of Retirement, which shall be subject to the direction of the
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1 executive director of the board who is the agency head of the
2 division for purposes of chapter 120.

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

5 110.205 Career service; exemptions.--

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

8 (u) All officers and employees of the State Board of
9 Administration, including its Division of Retirement. The
10 State Board of Administration shall set the salaries and
11 benefits of these positions.

12 Section 5. Paragraph (b) of subsection (4) of section
13 112.05, Florida Statutes, is amended to read:

14 112.05 Retirement; cost-of-living adjustment;
15 employment after retirement.--

16 (4)

17 (b) Any person to whom the limitation in paragraph (a)
18 applies who violates such reemployment limitation and is
19 reemployed with any agency participating in the Florida
20 Retirement System prior to completion of the 12-month
21 limitation period shall give timely notice of this fact in
22 writing to the employer and to the Department of Management
23 Services Division; and the person's retirement benefits shall
24 be suspended for the balance of the 12-month limitation
25 period. Any person employed in violation of this subsection
26 and any employing agency which knowingly employs or appoints
27 such person without notifying the Department of Management
28 Services to suspend retirement benefits shall be jointly and
29 severally liable for reimbursement to the retirement trust
30 fund of any benefits paid during the reemployment limitation
31 period. To avoid liability, such employing agency shall have a

1 written statement from the retiree that he or she is not
2 retired from a state-administered retirement system. Any
3 retirement benefits received by such person while reemployed
4 during this limitation period shall be repaid to the
5 retirement trust fund, and the retirement benefits shall
6 remain suspended until such repayment has been made. Any
7 benefits suspended beyond the reemployment limitation period
8 shall apply toward the repayment of benefits received in
9 violation of the reemployment limitation.

10 Section 6. Paragraph (d) of subsection (4) of section
11 112.3173, Florida Statutes, is amended to read:

12 112.3173 Felonies involving breach of public trust and
13 other specified offenses by public officers and employees;
14 forfeiture of retirement benefits.--

15 (4) NOTICE.--

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

26 Section 7. Subsections (2), (4), (5), (7), and (8) of
27 section 112.363, Florida Statutes, are amended to read:

28 112.363 Retiree health insurance subsidy.--

29 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
30 SUBSIDY.--

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1 (a) A person who is retired under a state-administered
2 retirement system, or a beneficiary who is a spouse or
3 financial dependent entitled to receive benefits under a
4 state-administered retirement system, is eligible for health
5 insurance subsidy payments provided under this section; except
6 that pension recipients under ss. 121.40, 238.07(16)(a), and
7 250.22, recipients of health insurance coverage under s.
8 110.1232, or any other special pension or relief act shall not
9 be eligible for such payments.

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

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

19 2. For a member of the Florida Retirement System
20 defined benefit program, or any employee who maintains
21 creditable service under both the defined benefit program and
22 the Public Employee Optional Retirement Program, the member
23 begins drawing retirement benefits from the defined benefit
24 program of the Florida Retirement System.

25 (c)1. Effective July 1, 2001, any person retiring on
26 or after such date as a member of the Florida Retirement
27 System, including any participant of the defined contribution
28 program administered pursuant to part II of chapter 121, must
29 have satisfied the vesting requirements for his or her
30 membership class under the Florida Retirement System defined
31 benefit program as administered under part I of chapter 121.

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

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

14 (e) Participants in the Senior Management Service
15 Optional Annuity Program as provided in s. 121.055(6) and the
16 State University System Optional Retirement Program as
17 provided in s. 121.35 shall not receive the retiree health
18 insurance subsidy provided in this section. The employer of
19 such participant shall pay the contributions required in
20 subsection (8) to the annuity program provided in s.
21 121.055(6)(d) or s. 121.35(4)(a), as applicable.

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

29 (5) TRUST FUND ESTABLISHED.--There is hereby
30 established a trust fund in the state treasury to be entitled
31 the Retiree Health Insurance Subsidy Trust Fund, which shall

1 be administered by the State Board of Administration. Said
2 trust fund shall be used to account for all moneys received
3 and disbursed pursuant to this section. Should funding for
4 the retiree health insurance subsidy program fail to provide
5 full benefits for all participants, the benefits may be
6 reduced or canceled at any time.

7 (7) ADMINISTRATION OF SYSTEM.--The Division of
8 Retirement of the State Board of Administration ~~Department of~~
9 ~~Management Services~~ may adopt such rules and regulations as
10 are necessary for the effective and efficient administration
11 of this section. The cost of administration is ~~shall be~~
12 appropriated from the trust fund.

13 (8) CONTRIBUTIONS.--For purposes of funding the
14 insurance subsidy provided by this section:

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

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

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

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

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

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

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5 Such contributions shall be submitted to the Division of
6 Retirement of the State Board of Administration ~~Department of~~
7 ~~Management Services~~ and deposited in the Retiree Health
8 Insurance Subsidy Trust Fund.

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

11 112.625 Definitions.--As used in this act:

12 (10) "Division" means the Division of Retirement of
13 the State Board of Administration.

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

16 112.63 Actuarial reports and statements of actuarial
17 impact; review.--

18 (2) The frequency of actuarial reports must be at
19 least every 3 years commencing from the last actuarial report
20 of the plan or system or October 1, 1980, if no actuarial
21 report has been issued within the 3-year period prior to
22 October 1, 1979. The results of each actuarial report shall be
23 filed with the plan administrator within 60 days of
24 certification. Thereafter, the results of each actuarial
25 report shall be made available for inspection upon request.
26 Additionally, each retirement system or plan covered by this
27 act which is not administered directly by the division
28 ~~Department of Management Services~~ shall furnish a copy of each
29 actuarial report to the division ~~Department of Management~~
30 ~~Services~~ within 60 days after receipt from the actuary. The
31 requirements of this section are supplemental to actuarial

1 valuations necessary to comply with the requirements of ss.
2 218.321 and 218.39.

3 (4) Upon receipt, pursuant to subsection (2), of an
4 actuarial report, or upon receipt, pursuant to subsection (3),
5 of a statement of actuarial impact, the division ~~Department of~~
6 ~~Management Services~~ shall acknowledge such receipt, but shall
7 only review and comment on each retirement system's or plan's
8 actuarial valuations at least on a triennial basis. If the
9 division ~~department~~ finds that the actuarial valuation is not
10 complete, accurate, or based on reasonable assumptions, or if
11 the division ~~department~~ does not receive the actuarial report
12 or statement of actuarial impact, the division ~~department~~
13 shall notify the local government and request appropriate
14 adjustment. If, after a reasonable period of time, a
15 satisfactory adjustment is not made, the affected local
16 government or the division ~~department~~ may petition for a
17 hearing under the provisions of ss. 120.569 and 120.57. If the
18 administrative law judge recommends in favor of the division
19 ~~department~~, the division ~~department~~ shall perform an actuarial
20 review or prepare the statement of actuarial impact. The cost
21 to the division ~~department~~ of performing such actuarial review
22 or preparing such statement shall be charged to the
23 governmental entity of which the employees are covered by the
24 retirement system or plan. If payment of such costs is not
25 received by the division ~~department~~ within 60 days after
26 receipt by the governmental entity of the request for payment,
27 the division ~~department~~ shall certify to the Chief Financial
28 Officer the amount due, and the Chief Financial Officer shall
29 pay such amount to the division ~~department~~ from any funds
30 payable to the governmental entity of which the employees are
31 covered by the retirement system or plan. If the

1 administrative law judge recommends in favor of the local
2 retirement system and the division ~~department~~ performs an
3 actuarial review, the cost to the division ~~department~~ of
4 performing the actuarial review shall be paid by the division
5 ~~department~~.

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

8 112.64 Administration of funds; amortization of
9 unfunded liability.--

10 (1) Employee contributions shall be deposited in the
11 retirement system or plan at least monthly. Employer
12 contributions shall be deposited at least quarterly; however,
13 any revenues received from any source by an employer which are
14 specifically collected for the purpose of allocation for
15 deposit into a retirement system or plan shall be so deposited
16 within 30 days of receipt by the employer. All employers and
17 employees participating in the Florida Retirement System and
18 other existing retirement systems which are administered by
19 the division ~~Department of Management Services~~ shall continue
20 to make contributions at least monthly.

21 Section 11. Subsections (1) and (3) of section
22 112.658, Florida Statutes, are amended to read:

23 112.658 Office of Program Policy Analysis and
24 Government Accountability to determine compliance of the
25 Florida Retirement System.--

26 (1) The Office of Program Policy Analysis and
27 Government Accountability shall determine, through the
28 examination of actuarial reviews, financial statements, and
29 the practices and procedures of the Division of Retirement
30 ~~Department of Management Services~~, the compliance of the
31 Florida Retirement System with the provisions of this act.

1 (3) The Office of Program Policy Analysis and
2 Government Accountability shall employ the same actuarial
3 standards to monitor the division ~~Department of Management~~
4 ~~Services~~ as the division ~~Department of Management Services~~
5 uses to monitor local governments.

6 Section 12. Subsections (9), (16), and (17) of section
7 112.661, Florida Statutes, are amended to read:

8 112.661 Investment policies.--Investment of the assets
9 of any local retirement system or plan must be consistent with
10 a written investment policy adopted by the board. Such
11 policies shall be structured to maximize the financial return
12 to the retirement system or plan consistent with the risks
13 incumbent in each investment and shall be structured to
14 establish and maintain an appropriate diversification of the
15 retirement system or plan's assets.

16 (9) EXPECTED ANNUAL RATE OF RETURN.--The investment
17 policy shall require that, for each actuarial valuation, the
18 board determine the total expected annual rate of return for
19 the current year, for each of the next several years, and for
20 the long term thereafter. This determination must be filed
21 promptly with the division ~~Department of Management Services~~
22 and with the plan's sponsor and the consulting actuary. The
23 division ~~department~~ shall use this determination only to
24 notify the board, the plan's sponsor, and consulting actuary
25 of material differences between the total expected annual rate
26 of return and the actuarial assumed rate of return.

27 (16) FILING OF INVESTMENT POLICY.--Upon adoption by
28 the board, the investment policy shall be promptly filed with
29 the division ~~Department of Management Services~~ and the plan's
30 sponsor and consulting actuary. The effective date of the
31 investment policy, and any amendment thereto, shall be the

1 31st calendar day following the filing date with the plan
2 sponsor.

3 (17) VALUATION OF ILLIQUID INVESTMENTS.--The
4 investment policy shall provide for the valuation of illiquid
5 investments for which a generally recognized market is not
6 available or for which there is no consistent or generally
7 accepted pricing mechanism. If those investments are utilized,
8 the investment policy must include the criteria set forth in
9 s. 215.47(6), except that submission to the Investment
10 Advisory Council is not required. The investment policy shall
11 require that, for each actuarial valuation, the board must
12 verify the determination of the fair market value for those
13 investments and ascertain that the determination complies with
14 all applicable state and federal requirements. The investment
15 policy shall require that the board disclose to the division
16 ~~Department of Management Services~~ and the plan's sponsor each
17 such investment for which the fair market value is not
18 provided.

19 Section 13. Section 112.665, Florida Statutes, is
20 amended to read:

21 112.665 Duties of Division of Retirement ~~Department of~~
22 ~~Management Services~~.--

23 (1) The Division of Retirement ~~Department of~~
24 ~~Management Services~~ shall:

25 (a) Gather, catalog, and maintain complete,
26 computerized data information on all public employee
27 retirement systems or plans in the state, based upon a review
28 of audits, reports, and other data pertaining to the systems
29 or plans;

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1 (b) Receive and comment upon all actuarial reviews of
2 retirement systems or plans maintained by units of local
3 government;

4 (c) Cooperate with local retirement systems or plans
5 on matters of mutual concern and provide technical assistance
6 to units of local government in the assessment and revision of
7 retirement systems or plans;

8 (d) Issue, by January 1 annually, a report to the
9 President of the Senate and the Speaker of the House of
10 Representatives, which report details division activities,
11 findings, and recommendations concerning all governmental
12 retirement systems. The report may include legislation
13 proposed to carry out such recommendations;

14 (e) Issue, by January 1 annually, a report to the
15 Special District Information Program of the Department of
16 Community Affairs that includes the participation in and
17 compliance of special districts with the local government
18 retirement system provisions in s. 112.63 and the
19 state-administered retirement system provisions as specified
20 in part I of chapter 121; and

21 (f) Adopt reasonable rules to administer the
22 provisions of this part.

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

27 Section 14. Subsections (4), (5), (32), and (36) and
28 paragraph (a) of subsection (39) of section 121.021, Florida
29 Statutes, are amended, and subsection (62) is added to that
30 section, to read:

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1 121.021 Definitions.--The following words and phrases
2 as used in this chapter have the respective meanings set forth
3 unless a different meaning is plainly required by the context:

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

7 (5) "Administrator" means the executive director of
8 the State Board of Administration ~~secretary of the Department~~
9 ~~of Management Services~~.

10 (32) "State agency" means the Division of Retirement
11 ~~Department of Management Services~~ within the provisions and
12 contemplation of chapter 650.

13 (36) "System Trust Fund" means the trust fund
14 established in the State Treasury by this chapter and
15 administered by the State Board of Administration for the
16 purpose of holding and investing the contributions paid by
17 members and employers and paying the benefits to which members
18 or their beneficiaries may become entitled. Other trust funds
19 may be established in the State Treasury to administer the
20 "System Trust Fund."

21 (39)(a) "Termination" occurs, except as provided in
22 paragraph (b), when a member ceases all employment
23 relationships with employers under this system, as defined in
24 subsection (10), but in the event a member should be employed
25 by any such employer within the next calendar month,
26 termination shall be deemed not to have occurred. A leave of
27 absence shall constitute a continuation of the employment
28 relationship, except that a leave of absence without pay due
29 to disability may constitute termination for a member, if such
30 member makes application for and is approved for disability
31 retirement in accordance with s. 121.091(4). The division

1 ~~department~~ may require other evidence of termination as it
2 deems necessary.

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

4 Section 15. Section 121.025, Florida Statutes, is
5 amended to read:

6 121.025 Administrator; powers and duties.--The
7 executive director of the State Board of Administration
8 ~~secretary of the Department of Management Services~~ shall be
9 the administrator of the retirement and pension systems
10 assigned or transferred to the division ~~Department of~~
11 ~~Management Services~~ by law. The executive director of the
12 State Board of Administration is the trustee of the System
13 Trust Fund and shall have the authority to sign the contracts
14 necessary to carry out the duties and responsibilities
15 assigned by law to the division ~~Department of Management~~
16 ~~Services~~.

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

20 121.031 Administration of system; appropriation;
21 oaths; actuarial studies; public records.--

22 (1) The division ~~Department of Management Services~~ has
23 the authority to adopt rules pursuant to ss. 120.536(1) and
24 120.54 to implement the provisions of law conferring duties
25 upon the division ~~department~~ and to adopt rules as are
26 necessary for the effective and efficient administration of
27 this system. The funds to pay the expenses for administration
28 of the system are hereby appropriated from the interest earned
29 on investments made for the retirement and social security
30 trust funds and the assessments allowed under chapter 650.

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

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

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

18 (5) The names and addresses of retirees are
19 confidential and exempt from the provisions of s. 119.07(1) to
20 the extent that no state or local governmental agency may
21 provide the names or addresses of such persons in aggregate,
22 compiled, or list form to any person except to a public agency
23 engaged in official business. However, a state or local
24 government agency may provide the names and addresses of
25 retirees from that agency to a bargaining agent as defined in
26 s. 447.203(12) or to a retiree organization for official
27 business use. Lists of names or addresses of retirees may be
28 exchanged by public agencies, but such lists shall not be
29 provided to, or open for inspection by, the public. Any person
30 may view or copy any individual's retirement records at the
31 division ~~Department of Management Services~~, one record at a

1 time, or may obtain information by a separate written request
2 for a named individual for which information is desired.

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

6 121.051 Participation in the system.--

7 (1) COMPULSORY PARTICIPATION.--

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

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

24 (2) OPTIONAL PARTICIPATION.--

25 (b)1. The governing body of any municipality or
26 special district in the state may elect to participate in the
27 system upon proper application to the administrator and may
28 cover all or any of its units as approved by the Secretary of
29 Health and Human Services and the administrator. The division
30 ~~department~~ shall adopt rules establishing provisions for the
31 submission of documents necessary for such application. Prior

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

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

29 3. The governing body of any city or special district
30 complying with subparagraph 1. may elect to provide, or not
31 provide, benefits based on past service of officers and

1 employees as described in s. 121.081(1). However, if such
2 employer elects to provide past service benefits, such
3 benefits must be provided for all officers and employees of
4 its covered group.

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

10 5. Subject to the conditions set forth in subparagraph
11 6., the governing body of any hospital licensed under chapter
12 395 which is governed by the board of a special district as
13 defined in s. 189.403(1) or by the board of trustees of a
14 public health trust created under s. 154.07, hereinafter
15 referred to as "hospital district," and which participates in
16 the system, may elect to cease participation in the system
17 with regard to future employees in accordance with the
18 following procedure:

19 a. No more than 30 days and at least 7 days before
20 adopting a resolution to partially withdraw from the Florida
21 Retirement System and establish an alternative retirement plan
22 for future employees, a public hearing must be held on the
23 proposed withdrawal and proposed alternative plan.

24 b. From 7 to 15 days before such hearing, notice of
25 intent to withdraw, specifying the time and place of the
26 hearing, must be provided in writing to employees of the
27 hospital district proposing partial withdrawal and must be
28 published in a newspaper of general circulation in the area
29 affected, as provided by ss. 50.011-50.031. Proof of
30 publication of such notice shall be submitted to the division
31 ~~Department of Management Services.~~

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

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

19 6. Following the adoption of a resolution under
20 sub-subparagraph 5.d., all employees of the withdrawing
21 hospital district who were participants in the Florida
22 Retirement System prior to January 1, 1996, shall remain as
23 participants in the system for as long as they are employees
24 of the hospital district, and all rights, duties, and
25 obligations between the hospital district, the system, and the
26 employees shall remain in full force and effect. Any employee
27 who is hired or appointed on or after January 1, 1996, may not
28 participate in the Florida Retirement System, and the
29 withdrawing hospital district shall have no obligation to the
30 system with respect to such employees.

31

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

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

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

20 121.0511 Revocation of election and alternative
21 plan.--The governing body of any municipality or independent
22 special district that has elected to participate in the
23 Florida Retirement System may revoke its election in
24 accordance with the following procedure:

25 (2) At least 7 days, but not more than 15 days, before
26 the hearing, notice of intent to revoke, specifying the time
27 and place of the hearing, must be published in a newspaper of
28 general circulation in the area affected, as provided by ss.
29 50.011-50.031. Proof of publication of the notice must be
30 submitted to the division ~~Department of Management Services~~.

31

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

4 121.0515 Special risk membership.--

5 (3) PROCEDURE FOR DESIGNATING.--

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

1 and the employer contributions shall be paid in full within 1
2 year after such final ruling.

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

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

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

24 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT
25 DATE.--

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

28 Section 20. Paragraph (e) of subsection (3) of section
29 121.052, Florida Statutes, is amended to read:

30 121.052 Membership class of elected officers.--

31

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

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

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

20 121.055 Senior Management Service Class.--There is
21 hereby established a separate class of membership within the
22 Florida Retirement System to be known as the "Senior
23 Management Service Class," which shall become effective
24 February 1, 1987.

25 (1)

26 (b)1. Except as provided in subparagraph 2., effective
27 January 1, 1990, participation in the Senior Management
28 Service Class shall be compulsory for the president of each
29 community college, the manager of each participating city or
30 county, and all appointed district school superintendents.
31 Effective January 1, 1994, additional positions may be

1 designated for inclusion in the Senior Management Service
2 Class of the Florida Retirement System, provided that:
3 a. Positions to be included in the class shall be
4 designated by the local agency employer. Notice of intent to
5 designate positions for inclusion in the class shall be
6 published once a week for 2 consecutive weeks in a newspaper
7 of general circulation published in the county or counties
8 affected, as provided in chapter 50.
9 b. Up to 10 nonelective full-time positions may be
10 designated for each local agency employer reporting to the
11 division ~~Department of Management Services~~; for local agencies
12 with 100 or more regularly established positions, additional
13 nonelective full-time positions may be designated, not to
14 exceed 1 percent of the regularly established positions within
15 the agency.
16 c. Each position added to the class must be a
17 managerial or policymaking position filled by an employee who
18 is not subject to continuing contract and serves at the
19 pleasure of the local agency employer without civil service
20 protection, and who:
21 (I) Heads an organizational unit; or
22 (II) Has responsibility to effect or recommend
23 personnel, budget, expenditure, or policy decisions in his or
24 her areas of responsibility.
25 2. In lieu of participation in the Senior Management
26 Service Class, members of the Senior Management Service Class
27 pursuant to the provisions of subparagraph 1. may withdraw
28 from the Florida Retirement System altogether. The decision to
29 withdraw from the Florida Retirement System shall be
30 irrevocable for as long as the employee holds such a position.
31 Any service creditable under the Senior Management Service

1 Class shall be retained after the member withdraws from the
2 Florida Retirement System; however, additional service credit
3 in the Senior Management Service Class shall not be earned
4 after such withdrawal. Such members shall not be eligible to
5 participate in the Senior Management Service Optional Annuity
6 Program.

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

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

29 b. One nonelective full-time position may be
30 designated for each state attorney and public defender
31 reporting to the division ~~Department of Management Services~~;

1 for agencies with 200 or more regularly established positions
2 under the state attorney or public defender, additional
3 nonelective full-time positions may be designated, not to
4 exceed 0.5 percent of the regularly established positions
5 within the agency.

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

10 (I) Heads an organizational unit; or

11 (II) Has responsibility to effect or recommend
12 personnel, budget, expenditure, or policy decisions in his or
13 her areas of responsibility.

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

25 3. In lieu of participation in the Senior Management
26 Service Class, such members, excluding assistant state
27 attorneys, assistant public defenders, assistant statewide
28 prosecutors, assistant attorneys general, and assistant
29 capital collateral regional counsels, may participate in the
30 Senior Management Service Optional Annuity Program as
31 established in subsection (6).

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

21 (c) Participation.--

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

1 have elected membership in the Senior Management Service
2 Class.

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

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

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

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

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

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

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

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

31 | (d) Contributions.--

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

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

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

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

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

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

23 (f) Administration.--

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

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

6 2. ~~Effective July 1, 1997, the State Board of~~
7 ~~Administration shall review and make recommendations to the~~
8 ~~department on the acceptability of all investment products~~
9 ~~proposed by provider companies of the optional annuity program~~
10 ~~before such products are offered through annuity contracts to~~
11 ~~the participants and may advise the department of any changes~~
12 ~~deemed necessary to ensure that the optional annuity program~~
13 ~~offers an acceptable mix of investment products.~~The board
14 department shall determine which ~~make the final determination~~
15 ~~as to whether an investment~~ products ~~product~~ will be included
16 in approved for the program.

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

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

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

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

7 (1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 benefits payable shall be computed separately with respect to
2 each such age and the sum of such computed amounts shall be
3 paid as provided in this section.

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

11 (a) The amount of each monthly payment shall be
12 computed in the same manner as for a normal retirement
13 benefit, in accordance with subsection (1), but shall be based
14 on the member's average monthly compensation and creditable
15 service as of the member's early retirement date. The benefit
16 so computed shall be reduced by five-twelfths of 1 percent for
17 each complete month by which the early retirement date
18 precedes the normal retirement date of age 62 for a member of
19 the Regular Class, Senior Management Service Class, or the
20 Elected Officers' Class, and age 55 for a member of the
21 Special Risk Class, or age 52 if a Special Risk member has
22 completed 25 years of creditable service in accordance with s.
23 121.021(29)(b)3.

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

1 normal retirement date specified above or the date on which
2 the member would have attained 30 years of creditable service
3 had he or she survived and continued his or her employment,
4 whichever provides a higher benefit.

5 (4) DISABILITY RETIREMENT BENEFIT.--

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

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

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

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

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

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

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

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

27 2. It must be documented that:

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 3. Intentional, self-inflicted injury.

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 4. A decreased retirement benefit payable during the
19 joint lifetime of the member and his or her joint annuitant
20 and which, after the death of either, shall continue during
21 the lifetime of the survivor in an amount equal to $66 \frac{2}{3}$
22 percent of the amount that was payable during the joint
23 lifetime of the member and his or her joint annuitant, subject
24 to the provisions of subsection (12).

25

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

31

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

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

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

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

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

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

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

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

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

31

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

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

12 (7) DEATH BENEFITS.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

5 (8) DESIGNATION OF BENEFICIARIES.--

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

31

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

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

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

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

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

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

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

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

1 121.021(39). A district school board may reemploy a retired
2 member as instructional personnel, as defined in s.
3 1012.01(2)(a), on an annual contractual basis after he or she
4 has been retired for 1 calendar month, in accordance with s.
5 121.021(39). Any other retired member who is reemployed within
6 1 calendar month after retirement shall void his or her
7 application for retirement benefits. District school boards
8 reemploying such teachers, education paraprofessionals,
9 transportation assistants, bus drivers, or food service
10 workers are subject to the retirement contribution required by
11 subparagraph 7.

12 4. A community college board of trustees may reemploy
13 a retired member as an adjunct instructor, that is, an
14 instructor who is noncontractual and part-time, or as a
15 participant in a phased retirement program within the Florida
16 Community College System, after he or she has been retired for
17 1 calendar month, in accordance with s. 121.021(39). Any
18 retired member who is reemployed within 1 calendar month after
19 retirement shall void his or her application for retirement
20 benefits. Boards of trustees reemploying such instructors are
21 subject to the retirement contribution required in
22 subparagraph 7. A retired member may be reemployed as an
23 adjunct instructor for no more than 780 hours during the first
24 12 months of retirement. Any retired member reemployed for
25 more than 780 hours during the first 12 months of retirement
26 shall give timely notice in writing to the employer and to the
27 division of the date he or she will exceed the limitation.
28 The division shall suspend his or her retirement benefits for
29 the remainder of the first 12 months of retirement. Any
30 person employed in violation of this subparagraph and any
31 employing agency which knowingly employs or appoints such

1 person without notifying the Division of Retirement to suspend
2 retirement benefits shall be jointly and severally liable for
3 reimbursement to the retirement trust fund of any benefits
4 paid during the reemployment limitation period. To avoid
5 liability, such employing agency shall have a written
6 statement from the retiree that he or she is not retired from
7 a state-administered retirement system. Any retirement
8 benefits received by a retired member while reemployed in
9 excess of 780 hours during the first 12 months of retirement
10 shall be repaid to the Retirement System Trust Fund, and
11 retirement benefits shall remain suspended until repayment is
12 made. Benefits suspended beyond the end of the retired
13 member's first 12 months of retirement shall apply toward
14 repayment of benefits received in violation of the 780-hour
15 reemployment limitation.

16 5. The State University System may reemploy a retired
17 member as an adjunct faculty member or as a participant in a
18 phased retirement program within the State University System
19 after the retired member has been retired for 1 calendar
20 month, in accordance with s. 121.021(39). Any retired member
21 who is reemployed within 1 calendar month after retirement
22 shall void his or her application for retirement benefits.
23 The State University System is subject to the retired
24 contribution required in subparagraph 7., as appropriate. A
25 retired member may be reemployed as an adjunct faculty member
26 or a participant in a phased retirement program for no more
27 than 780 hours during the first 12 months of his or her
28 retirement. Any retired member reemployed for more than 780
29 hours during the first 12 months of retirement shall give
30 timely notice in writing to the employer and to the division
31 of the date he or she will exceed the limitation. The

1 division shall suspend his or her retirement benefits for the
2 remainder of the first 12 months of retirement. Any person
3 employed in violation of this subparagraph and any employing
4 agency which knowingly employs or appoints such person without
5 notifying the Division of Retirement to suspend retirement
6 benefits shall be jointly and severally liable for
7 reimbursement to the retirement trust fund of any benefits
8 paid during the reemployment limitation period. To avoid
9 liability, such employing agency shall have a written
10 statement from the retiree that he or she is not retired from
11 a state-administered retirement system. Any retirement
12 benefits received by a retired member while reemployed in
13 excess of 780 hours during the first 12 months of retirement
14 shall be repaid to the Retirement System Trust Fund, and
15 retirement benefits shall remain suspended until repayment is
16 made. Benefits suspended beyond the end of the retired
17 member's first 12 months of retirement shall apply toward
18 repayment of benefits received in violation of the 780-hour
19 reemployment limitation.

20 6. The Board of Trustees of the Florida School for the
21 Deaf and the Blind may reemploy a retired member as a
22 substitute teacher, substitute residential instructor, or
23 substitute nurse on a noncontractual basis after he or she has
24 been retired for 1 calendar month, in accordance with s.
25 121.021(39). Any retired member who is reemployed within 1
26 calendar month after retirement shall void his or her
27 application for retirement benefits. The Board of Trustees of
28 the Florida School for the Deaf and the Blind reemploying such
29 teachers, residential instructors, or nurses is subject to the
30 retirement contribution required by subparagraph 7.
31 Reemployment of a retired member as a substitute teacher,

1 substitute residential instructor, or substitute nurse is
2 limited to 780 hours during the first 12 months of his or her
3 retirement. Any retired member reemployed for more than 780
4 hours during the first 12 months of retirement shall give
5 timely notice in writing to the employer and to the division
6 of the date he or she will exceed the limitation. The division
7 shall suspend his or her retirement benefits for the remainder
8 of the first 12 months of retirement. Any person employed in
9 violation of this subparagraph and any employing agency which
10 knowingly employs or appoints such person without notifying
11 the Division of Retirement to suspend retirement benefits
12 shall be jointly and severally liable for reimbursement to the
13 retirement trust fund of any benefits paid during the
14 reemployment limitation period. To avoid liability, such
15 employing agency shall have a written statement from the
16 retiree that he or she is not retired from a
17 state-administered retirement system. Any retirement benefits
18 received by a retired member while reemployed in excess of 780
19 hours during the first 12 months of retirement shall be repaid
20 to the Retirement System Trust Fund, and his or her retirement
21 benefits shall remain suspended until payment is made.

22 Benefits suspended beyond the end of the retired member's
23 first 12 months of retirement shall apply toward repayment of
24 benefits received in violation of the 780-hour reemployment
25 limitation.

26 7. The employment by an employer of any retiree or
27 DROP participant of any state-administered retirement system
28 shall have no effect on the average final compensation or
29 years of creditable service of the retiree or DROP
30 participant. Prior to July 1, 1991, upon employment of any
31 person, other than an elected officer as provided in s.

1 121.053, who has been retired under any state-administered
2 retirement program, the employer shall pay retirement
3 contributions in an amount equal to the unfunded actuarial
4 liability portion of the employer contribution which would be
5 required for regular members of the Florida Retirement System.
6 Effective July 1, 1991, contributions shall be made as
7 provided in s. 121.122 for retirees with renewed membership or
8 subsection (13) with respect to DROP participants.

9 8. Any person who has previously retired and who is
10 holding an elective public office or an appointment to an
11 elective public office eligible for the Elected Officers'
12 Class on or after July 1, 1990, shall be enrolled in the
13 Florida Retirement System as provided in s. 121.053(1)(b) or,
14 if holding an elective public office that does not qualify for
15 the Elected Officers' Class on or after July 1, 1991, shall be
16 enrolled in the Florida Retirement System as provided in s.
17 121.122, and shall continue to receive retirement benefits as
18 well as compensation for the elected officer's service for as
19 long as he or she remains in elective office. However, any
20 retired member who served in an elective office prior to July
21 1, 1990, suspended his or her retirement benefit, and had his
22 or her Florida Retirement System membership reinstated shall,
23 upon retirement from such office, have his or her retirement
24 benefit recalculated to include the additional service and
25 compensation earned.

26 9. Any person who is holding an elective public office
27 which is covered by the Florida Retirement System and who is
28 concurrently employed in nonelected covered employment may
29 elect to retire while continuing employment in the elective
30 public office, provided that he or she shall be required to
31 terminate his or her nonelected covered employment. Any

1 person who exercises this election shall receive his or her
2 retirement benefits in addition to the compensation of the
3 elective office without regard to the time limitations
4 otherwise provided in this subsection. No person who seeks to
5 exercise the provisions of this subparagraph, as the same
6 existed prior to May 3, 1984, shall be deemed to be retired
7 under those provisions, unless such person is eligible to
8 retire under the provisions of this subparagraph, as amended
9 by chapter 84-11, Laws of Florida.

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

14 11. An employing agency may reemploy a retired member
15 as a firefighter or paramedic after the retired member has
16 been retired for 1 calendar month, in accordance with s.
17 121.021(39). Any retired member who is reemployed within 1
18 calendar month after retirement shall void his or her
19 application for retirement benefits. The employing agency
20 reemploying such firefighter or paramedic is subject to the
21 retired contribution required in subparagraph 8. Reemployment
22 of a retired firefighter or paramedic is limited to no more
23 than 780 hours during the first 12 months of his or her
24 retirement. Any retired member reemployed for more than 780
25 hours during the first 12 months of retirement shall give
26 timely notice in writing to the employer and to the division
27 of the date he or she will exceed the limitation. The division
28 shall suspend his or her retirement benefits for the remainder
29 of the first 12 months of retirement. Any person employed in
30 violation of this subparagraph and any employing agency which
31 knowingly employs or appoints such person without notifying

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

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

22 (11) A member who becomes eligible to retire and has
23 accumulated the maximum benefit of 100 percent of average
24 final compensation may continue in active service, and, if
25 upon the member's retirement the member elects to receive a
26 retirement compensation pursuant to subsection (2), subsection
27 (6), or subsection (7), the actuarial equivalent percentage
28 factor applicable to the age of such member at the time the
29 member reached the maximum benefit and to the age, at that
30 time, of the member's spouse shall determine the amount of
31 benefits to be paid.

1 (12) SPECIAL PROVISIONS FOR PAYMENT OF CERTAIN
2 SURVIVOR BENEFITS.--Notwithstanding any provision of this
3 chapter to the contrary, for members with an effective date of
4 retirement, or date of death if prior to retirement, on or
5 after January 1, 1996, the named joint annuitant, as defined
6 in s. 121.021(28)(b), who is eligible to receive benefits
7 under subparagraph (6)(a)3. or subparagraph (6)(a)4., shall
8 receive the maximum monthly retirement benefit that would have
9 been payable to the member under subparagraph (6)(a)1.;
10 however, payment of such benefit shall cease the month the
11 joint annuitant attains age 25 unless such joint annuitant is
12 disabled and incapable of self-support, in which case,
13 benefits shall cease when the joint annuitant is no longer
14 disabled. The administrator may require proof of disability
15 or continued disability in the same manner as is provided for
16 a member seeking or receiving a disability retirement benefit
17 under subsection (4).

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 benefits. Participation in the DROP does not guarantee

1 employment for the specified period of DROP. Participation in
2 the DROP by an eligible member beyond the initial 60-month
3 period as authorized in this subsection shall be on an annual
4 contractual basis for all participants.

5 (a) Eligibility of member to participate in the
6 DROP.--All active Florida Retirement System members in a
7 regularly established position, and all active members of
8 either the Teachers' Retirement System established in chapter
9 238 or the State and County Officers' and Employees'
10 Retirement System established in chapter 122 which systems are
11 consolidated within the Florida Retirement System under s.
12 121.011, are eligible to elect participation in the DROP
13 provided that:

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

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

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

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

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

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

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

22 b. Such participant and new employer shall notify the
23 division on forms required by the division as to the identity
24 of the new employer.

25 c. The new employer shall acknowledge, in writing, the
26 participant's DROP termination date, which may be extended but
27 not beyond the original 60-month or, with respect to members
28 who are instructional personnel employed by the Florida School
29 for the Deaf and the Blind and who have received authorization
30 by the Board of Trustees of the Florida School for the Deaf
31 and the Blind to participate in the DROP beyond 60 months, or

1 who are instructional personnel as defined in s.
2 1012.01(2)(a)-(d) in grades K-12 and who have received
3 authorization by the district school superintendent to
4 participate in the DROP beyond 60 months, the 96-month period
5 provided in subparagraph (b)1., shall acknowledge liability
6 for any additional retirement contributions and interest
7 required if the participant fails to timely terminate
8 employment, and shall be subject to the adjustment required in
9 sub-subparagraph (c)5.d.

10 6. Effective July 1, 2001, for instructional personnel
11 as defined in s. 1012.01(2), election to participate in the
12 DROP shall be made at any time following the date on which the
13 member first reaches normal retirement date. The member shall
14 advise his or her employer and the division in writing of the
15 date on which the Deferred Retirement Option Program shall
16 begin. When establishing eligibility of the member to
17 participate in the DROP for the 60-month or, with respect to
18 members who are instructional personnel employed by the
19 Florida School for the Deaf and the Blind and who have
20 received authorization by the Board of Trustees of the Florida
21 School for the Deaf and the Blind to participate in the DROP
22 beyond 60 months, or who are instructional personnel as
23 defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have
24 received authorization by the district school superintendent
25 to participate in the DROP beyond 60 months, the 96-month
26 maximum participation period, as provided in subparagraph
27 (b)1., the member may elect to include or exclude any optional
28 service credit purchased by the member from the total service
29 used to establish the normal retirement date. A member with
30 dual normal retirement dates shall be eligible to elect to
31 participate in either class.

1 (b) Participation in the DROP.--
2 1. An eligible member may elect to participate in the
3 DROP for a period not to exceed a maximum of 60 calendar
4 months or, with respect to members who are instructional
5 personnel employed by the Florida School for the Deaf and the
6 Blind and who have received authorization by the Board of
7 Trustees of the Florida School for the Deaf and the Blind to
8 participate in the DROP beyond 60 months, or who are
9 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
10 grades K-12 and who have received authorization by the
11 district school superintendent to participate in the DROP
12 beyond 60 calendar months, 96 calendar months immediately
13 following the date on which the member first reaches his or
14 her normal retirement date or the date to which he or she is
15 eligible to defer his or her election to participate as
16 provided in subparagraph (a)2. However, a member who has
17 reached normal retirement date prior to the effective date of
18 the DROP shall be eligible to participate in the DROP for a
19 period of time not to exceed 60 calendar months or, with
20 respect to members who are instructional personnel employed by
21 the Florida School for the Deaf and the Blind and who have
22 received authorization by the Board of Trustees of the Florida
23 School for the Deaf and the Blind to participate in the DROP
24 beyond 60 months, or who are instructional personnel as
25 defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have
26 received authorization by the district school superintendent
27 to participate in the DROP beyond 60 calendar months, 96
28 calendar months immediately following the effective date of
29 the DROP, except a member of the Special Risk Class who has
30 reached normal retirement date prior to the effective date of
31 the DROP and whose total accrued value exceeds 75 percent of

1 average final compensation as of his or her effective date of
2 retirement shall be eligible to participate in the DROP for no
3 more than 36 calendar months immediately following the
4 effective date of the DROP.

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

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

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

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

17 d. Any other information required by the division.

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

26 4. Elected officers shall be eligible to participate
27 in the DROP subject to the following:

28 a. An elected officer who reaches normal retirement
29 date during a term of office may defer the election to
30 participate in the DROP until the next succeeding term in that
31 office. Such elected officer who exercises this option may

1 participate in the DROP for up to 60 calendar months or a
2 period of no longer than such succeeding term of office,
3 whichever is less.

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

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

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

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

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

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

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

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

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

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

28 b. The terminated DROP participant or, if deceased,
29 such participant's named beneficiary, shall elect on forms
30 provided by the division to receive payment of the DROP
31 benefits in accordance with one of the options listed below.

1 For a participant or beneficiary who fails to elect a method
2 of payment within 60 days of termination of the DROP, the
3 division will pay a lump sum as provided in
4 sub-sub-subparagraph (I).

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

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

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

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

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

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

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

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

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

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

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

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

28 1. Premiums for life and health-related insurance
29 policies from approved companies.

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

4 3. Repayment of overpayments from the Florida
5 Retirement System Trust Fund, the State Employees' Health
6 Insurance Trust Fund, or the State Employees' Life Insurance
7 Trust Fund, upon notification of the payee.

8 4. Payments to an alternate payee for alimony, child
9 support, or division of marital assets pursuant to a qualified
10 domestic relations order under s. 222.21 or an income
11 deduction order under s. 61.1301.

12 5. Payments to the Internal Revenue Service for
13 federal income tax levies, upon notification of the division
14 by the Internal Revenue Service.

15 (c) A payee shall notify the division of any change in
16 his or her address. The division may suspend benefit payments
17 to a payee if correspondence sent to the payee's mailing
18 address is returned due to an incorrect address. Benefit
19 payments shall be resumed upon notification to the division of
20 the payee's new address.

21 (d) A payee whose retirement benefits are reduced by
22 the application of maximum benefit limits under s. 415(b) of
23 the Internal Revenue Code, as specified in s. 121.30(5), shall
24 have the portion of his or her calculated benefit in the
25 Florida Retirement System defined benefit plan which exceeds
26 such federal limitation paid through the Florida Retirement
27 System Preservation of Benefits Plan, as provided in s.
28 121.1001.

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

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1 (f) The division shall adopt rules establishing
2 procedures for determining that the persons to whom benefits
3 are being paid are still living. The division shall suspend
4 the benefits being paid to any payee when it is unable to
5 contact such payee and to confirm that he or she is still
6 living.

7 Section 25. Subsection (1) of section 121.095, Florida
8 Statutes, is amended to read:

9 121.095 Florida Retirement System Preservation of
10 Benefits Plan Trust Fund.--

11 (1) The Florida Retirement System Preservation of
12 Benefits Plan Trust Fund is created in the State Treasury to
13 be administered by the State Board of Administration ~~within~~
14 ~~the Division of Retirement.~~

15 (a) Funds to be credited to the trust fund shall
16 consist of Florida Retirement System monthly retirement
17 contributions required to meet the requirements for payment of
18 restored benefits under the Florida Retirement System
19 Preservation of Benefits Plan, as specified in s. 121.1001.

20 (b) The trust fund shall be maintained and utilized
21 solely for the purpose of providing benefits under the
22 Preservation of Benefits Plan, as specified in s. 121.1001.

23 (c) The trust fund shall be separate and apart from
24 the Florida Retirement System Trust Fund. The trust fund
25 moneys and assets shall not be commingled with nor ever
26 receive a transfer of moneys and assets from the remainder of
27 the Florida Retirement System, including, but not limited to,
28 the Florida Retirement System Trust Fund, or any other
29 qualified retirement plan administered by the Division of
30 Retirement.

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1 (d) The trust fund shall be funded on a month-to-month
2 basis. Trust fund assets shall not be accumulated to pay
3 future benefits.

4 Section 26. Paragraph (b) of subsection (7) of section
5 121.101, Florida Statutes, is amended to read:

6 121.101 Cost-of-living adjustment of benefits.--

7 (7) The purpose of this subsection is to establish a
8 supplemental cost-of-living adjustment for certain retirees
9 and beneficiaries who receive monthly retirement benefits
10 under the provisions of this chapter and the existing systems
11 consolidated therein, s. 112.05 for certain state officers and
12 employees, and s. 238.171 for certain elderly incapacitated
13 teachers.

14 (b) Application for the supplemental cost-of-living
15 adjustment provided by this subsection shall include
16 certification by the retiree or annuitant that he or she is
17 not receiving, and is not eligible to receive, social security
18 benefits and shall include written authorization for the
19 division ~~department~~ to have access to information from the
20 Social Security Administration concerning his or her
21 entitlement to, or eligibility for, social security benefits.
22 Such supplemental cost-of-living adjustment shall not be paid
23 unless and until the application requirements of this
24 paragraph are met.

25 Section 27. Paragraph (e) of subsection (2) of section
26 121.111, Florida Statutes, is amended to read:

27 121.111 Credit for military service.--

28 (2) Any member whose initial date of employment is
29 before January 1, 1987, who has military service as defined in
30 s. 121.021(20)(b), and who does not claim such service under
31

1 subsection (1) may receive creditable service for such
2 military service if:

3 (e) Any member claiming credit under this subsection
4 must certify on the form prescribed by the division ~~department~~
5 that credit for such service has not and will not be claimed
6 for retirement purposes under any other federal, state, or
7 local retirement or pension system where "length of service"
8 is a factor in determining the amount of compensation
9 received, except where credit for such service has been
10 granted in a pension system providing retired pay for
11 nonregular service as provided in paragraph (d). If the member
12 dies prior to retirement, the member's beneficiary must make
13 the required certification before credit may be claimed. If
14 such certification is not made by the member or the member's
15 beneficiary, credit for wartime military service shall not be
16 allowed.

17 Section 28. Section 121.133, Florida Statutes, is
18 amended to read:

19 121.133 Cancellation of uncashed
20 warrants.--Notwithstanding the provisions of s. 17.26 or s.
21 717.123 to the contrary, if any state warrant issued by the
22 Chief Financial Officer for the payment of retirement benefits
23 from the Florida Retirement System Trust Fund, or any other
24 pension trust fund administered by the division ~~department~~, is
25 not presented for payment within 1 year after the last day of
26 the month in which it was originally issued, the Chief
27 Financial Officer shall cancel the benefit warrant and credit
28 the amount of the warrant to the Florida Retirement System
29 Trust Fund or other pension trust fund administered by the
30 division ~~department~~, as appropriate. The division ~~department~~
31

1 may provide for issuance of a replacement warrant when deemed
2 appropriate.

3 Section 29. Section 121.135, Florida Statutes, is
4 amended to read:

5 121.135 Annual report to Legislature concerning the
6 Florida Retirement System ~~state-administered retirement~~
7 ~~systems.~~--The board ~~department~~ shall make to each regular
8 session of the Legislature a written report on the operation
9 and condition of the Florida Retirement System ~~the~~
10 ~~state-administered retirement systems.~~

11 Section 30. Section 121.136, Florida Statutes, is
12 amended to read:

13 121.136 Annual benefit statement to
14 members.--Beginning January 1, 1993, and each January
15 thereafter, the board ~~department~~ shall provide each active
16 member of the Florida Retirement System with 5 or more years
17 of creditable service an annual statement of benefits. Such
18 statement should provide the member with basic data about the
19 member's retirement account. Minimally, it shall include the
20 member's retirement plan, the amount of funds on deposit in
21 the retirement account, and an estimate of retirement
22 benefits.

23 Section 31. Section 121.1905, Florida Statutes, is
24 amended to read:

25 121.1905 Division of Retirement; mission creation.--

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

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

1 Section 32. Section 121.192, Florida Statutes, is
2 amended to read:

3 121.192 State retirement actuary.--The division
4 ~~department~~ may employ an actuary. Such actuary shall, together
5 with such other duties as the administrator assigns ~~secretary~~
6 ~~may assign~~, be responsible for:

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

9 (2) Making periodic valuations of the retirement
10 systems.

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

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

15 Section 33. Section 121.193, Florida Statutes, is
16 amended to read:

17 121.193 External compliance audits.--

18 (1) The division ~~department~~ shall conduct audits of
19 the payroll and personnel records of participating agencies.
20 These audits shall be made to determine the accuracy of
21 reports submitted to the division ~~department~~ and to assess the
22 degree of compliance with applicable statutes, rules, and
23 coverage agreements. Audits shall be scheduled on a regular
24 basis, as the result of concerns known to exist at an agency,
25 or as a followup to ensure agency action was taken to correct
26 deficiencies found in an earlier audit.

27 (2) Upon request, participating agencies shall furnish
28 the division ~~department~~ with information and documents that
29 the division ~~department~~ requires to conduct the audit. The
30 division ~~department~~ may prescribe by rule the documents that
31 may be requested.

1 (3) The division ~~department~~ shall review the agency's
2 operations concerning retirement and social security coverage.
3 Preliminary findings shall be discussed with agency personnel
4 at the close of the audit. An audit report of findings and
5 recommendations shall be submitted to division ~~department~~
6 management and an audit summary letter shall be submitted to
7 the agency noting any concerns and necessary corrective
8 action.

9 Section 34. Subsection (1) of section 121.22, Florida
10 Statutes, is amended to read:

11 121.22 State Retirement Commission; creation;
12 membership; compensation.--

13 (1) There is created within the Division of Retirement
14 ~~Department of Management Services~~ a State Retirement
15 Commission composed of three members: One member who is
16 retired under a state-supported retirement system administered
17 by the division ~~department~~; one member who is an active member
18 of a state-supported retirement system that is administered by
19 the division ~~department~~; and one member who is neither a
20 retiree, beneficiary, or member of a state-supported
21 retirement system administered by the division ~~department~~.
22 Each member shall have a different occupational background
23 from the other members.

24 Section 35. Subsection (1) of section 121.23, Florida
25 Statutes, is amended to read:

26 121.23 Disability retirement and special risk
27 membership applications; Retirement Commission; powers and
28 duties; judicial review.--The provisions of this section apply
29 to all proceedings in which the administrator has made a
30 written final decision on the merits respecting applications
31 for disability retirement, reexamination of retired members

1 receiving disability benefits, applications for special risk
2 membership, and reexamination of special risk members in the
3 Florida Retirement System. The jurisdiction of the State
4 Retirement Commission under this section shall be limited to
5 written final decisions of the administrator on the merits.

6 (1) In accordance with the rules of procedure adopted
7 by the division ~~Department of Management Services~~, the
8 administrator shall:

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

12 (b) Give affected members, or their counsel, an
13 opportunity to present to the division written evidence in
14 opposition to the proposed action or refusal to act or a
15 written statement challenging the grounds upon which the
16 administrator has chosen to justify his or her action or
17 inaction.

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

20 Section 36. Subsections (2), (3), and (4) of section
21 121.24, Florida Statutes, are amended to read:

22 121.24 Conduct of commission business; legal and other
23 assistance; compensation.--

24 (2) Legal counsel for the commission may be provided
25 by the Department of Legal Affairs or by the division
26 ~~Department of Management Services~~, with the concurrence of the
27 commission, and shall be paid by the division ~~Department of~~
28 ~~Management Services~~ from the appropriate funds.

29 (3) The division ~~Department of Management Services~~
30 shall provide timely and appropriate training for newly
31 appointed members of the commission. Such training shall be

1 designed to acquaint new members of the commission with the
2 duties and responsibilities of the commission.

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

7 Section 37. Subsection (9) of section 121.30, Florida
8 Statutes, is amended to read:

9 121.30 Statements of purpose and intent and other
10 provisions required for qualification under the Internal
11 Revenue Code of the United States.--Any other provisions in
12 this chapter to the contrary notwithstanding, it is
13 specifically provided that:

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

17 Section 38. Paragraph (c) of subsection (2),
18 paragraphs (c) and (e) of subsection (3), paragraphs (a), (b),
19 and (c) of subsection (4), and subsection (6) of section
20 121.35, Florida Statutes, are amended to read:

21 121.35 Optional retirement program for the State
22 University System.--

23 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
24 PROGRAM.--

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

28 (3) ELECTION OF OPTIONAL PROGRAM.--

29 (c) Any employee who becomes eligible to participate
30 in the optional retirement program on or after January 1,
31 1993, shall be a compulsory participant of the program unless

1 such employee elects membership in the Florida Retirement
2 System. Such election shall be made in writing and filed with
3 the personnel officer of the employer. Any eligible employee
4 who fails to make such election within the prescribed time
5 period shall be deemed to have elected to participate in the
6 optional retirement program.

7 1. Any employee whose optional retirement program
8 eligibility results from initial employment shall be enrolled
9 in the program at the commencement of employment. If, within
10 90 days after commencement of employment, the employee elects
11 membership in the Florida Retirement System, such membership
12 shall be effective retroactive to the date of commencement of
13 employment.

14 2. Any employee whose optional retirement program
15 eligibility results from a change in status due to the
16 subsequent designation of the employee's position as one of
17 those specified in paragraph (2)(a) or due to the employee's
18 appointment, promotion, transfer, or reclassification to a
19 position specified in paragraph (2)(a) shall be enrolled in
20 the optional retirement program upon such change in status and
21 shall be notified by the employer of such action. If, within
22 90 days after the date of such notification, the employee
23 elects to retain membership in the Florida Retirement System,
24 such continuation of membership shall be retroactive to the
25 date of the change in status.

26 3. Notwithstanding the provisions of this paragraph,
27 effective July 1, 1997, any employee who is eligible to
28 participate in the Optional Retirement Program and who fails
29 to execute a contract with one of the approved companies and
30 to notify the board ~~department~~ in writing as provided in
31 subsection (4) within 90 days after the date of eligibility

1 shall be deemed to have elected membership in the Florida
2 Retirement System, except as provided in s. 121.051(1)(a).
3 This provision shall also apply to any employee who terminates
4 employment in an eligible position before executing the
5 required annuity contract and notifying the board ~~department~~.
6 Such membership shall be retroactive to the date of
7 eligibility, and all appropriate contributions shall be
8 transferred to the Florida Retirement System Trust Fund and
9 the Health Insurance Subsidy Trust Fund.

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

24 (4) CONTRIBUTIONS.--

25 (a) Through June 30, 2001, each employer shall
26 contribute on behalf of each participant in the optional
27 retirement program an amount equal to the normal cost portion
28 of the employer retirement contribution which would be
29 required if the participant were a regular member of the
30 Florida Retirement System defined benefit program, plus the
31 portion of the contribution rate required in s. 112.363(8)

1 that would otherwise be assigned to the Retiree Health
2 Insurance Subsidy Trust Fund. Effective July 1, 2001, each
3 employer shall contribute on behalf of each participant in the
4 optional program an amount equal to 10.43 percent of the
5 participant's gross monthly compensation. The board, pursuant
6 to s. 215.44(4),~~department~~ shall deduct an amount ~~approved by~~
7 ~~the Legislature~~ to provide for the administration of this
8 program. The payment of the contributions to the optional
9 program which is required by this paragraph for each
10 participant shall be made by the employer to the board
11 ~~department~~, which shall forward the contributions to the
12 designated company or companies contracting for payment of
13 benefits for the participant under the program. However, such
14 contributions paid on behalf of an employee described in
15 paragraph (3)(c) shall not be forwarded to a company and shall
16 not begin to accrue interest until the employee has executed
17 an annuity contract and notified the board ~~department~~.

18 (b) Each employer shall contribute on behalf of each
19 participant in the optional retirement program an amount equal
20 to the unfunded actuarial accrued liability portion of the
21 employer contribution which would be required for members of
22 the Florida Retirement System. This contribution shall be paid
23 to the board ~~department~~ for transfer to the Florida Retirement
24 System Trust Fund.

25 (c) An Optional Retirement Program Trust Fund shall be
26 established in the State Treasury and administered by the
27 board ~~department~~ to make payments to the provider companies on
28 behalf of the optional retirement program participants, and to
29 transfer the unfunded liability portion of the state optional
30 retirement program contributions to the Florida Retirement
31 System Trust Fund.

1 (6) ADMINISTRATION OF PROGRAM.--
2 (a) The optional retirement program authorized by this
3 section shall be administered by the board ~~department~~. The
4 board ~~department~~ shall adopt rules establishing the
5 responsibilities of the State Board of Education and
6 institutions in the State University System in administering
7 the optional retirement program. The State Board of Education
8 shall, no more than 90 days after July 1, 1983, submit to the
9 board ~~department~~ its recommendations for the contracts to be
10 offered by the companies chosen by the board ~~department~~. The
11 recommendations of the State Board of Education shall include
12 the following:
13 1. The nature and extent of the rights and benefits in
14 relation to the required contributions; and
15 2. The suitability of the rights and benefits to the
16 needs of the participants and the interests of the
17 institutions in the recruitment and retention of eligible
18 employees.
19 (b) After receiving and considering the
20 recommendations of the State Board of Education, the board
21 ~~department~~ shall designate no more than four companies from
22 which contracts may be purchased under the program and shall
23 approve the form and content of the optional retirement
24 program contracts. Upon application by a qualified Florida
25 domestic company, the board ~~department~~ shall give reasonable
26 notice to all other such companies that it intends to
27 designate one of such companies as a fifth company from which
28 contracts may be purchased pursuant to this section and that
29 they may apply for such designation prior to the deadline
30 established by said notice. At least 60 days after giving such
31 notice and upon receipt of the recommendation of the State

1 Board of Education, the board ~~department~~ shall so designate
2 one of such companies as the fifth company from which such
3 contracts may be purchased.

4 (c) ~~Effective July 1, 1997, the State Board of~~
5 ~~Administration shall review and make recommendations to the~~
6 ~~department on the acceptability of all investment products~~
7 ~~proposed by provider companies of the optional retirement~~
8 ~~program before they are offered through annuity contracts to~~
9 ~~the participants and may advise the department of any changes~~
10 ~~necessary to ensure that the optional retirement program~~
11 ~~offers an acceptable mix of investment products. The board~~
12 ~~department shall determine which make the final determination~~
13 ~~as to whether an investment products product will be included~~
14 ~~in approved for the program.~~

15 (d) The provisions of each contract applicable to a
16 participant in the optional retirement program shall be
17 contained in a written program description which shall include
18 a report of pertinent financial and actuarial information on
19 the solvency and actuarial soundness of the program and the
20 benefits applicable to the participant. Such description shall
21 be furnished by the companies to each participant in the
22 program and to the board ~~department~~ upon commencement of
23 participation in the program and annually thereafter.

24 (e) The board ~~department~~ shall ensure that each
25 participant in the optional retirement program is provided an
26 accounting of the total contribution and the annual
27 contribution made by and on behalf of such participant.

28 Section 39. Paragraph (b) of subsection (3), paragraph
29 (a) of subsection (12), and paragraphs (a) and (b) of
30 subsection (14) of section 121.40, Florida Statutes, are
31 amended to read:

1 121.40 Cooperative extension personnel at the
2 Institute of Food and Agricultural Sciences; supplemental
3 retirement benefits.--

4 (3) DEFINITIONS.--The definitions provided in s.
5 121.021 shall not apply to this section except when
6 specifically cited. For the purposes of this section, the
7 following words or phrases have the respective meanings set
8 forth:

9 (b) "Division Department" means the Division of
10 Retirement of the State Board of Administration ~~Department of~~
11 ~~Management Services~~.

12 (12) CONTRIBUTIONS.--

13 (a) For the purposes of funding the supplemental
14 benefits provided by this section, the institute is authorized
15 and required to pay, commencing July 1, 1985, the necessary
16 monthly contributions from its appropriated budget. These
17 amounts shall be paid into the Institute of Food and
18 Agricultural Sciences Supplemental Retirement Trust Fund,
19 which is hereby created in the State Treasury to be
20 administered by the State Board of Administration.

21 (14) ADMINISTRATION OF SYSTEM.--

22 (a) The division department shall make such rules as
23 are necessary for the effective and efficient administration
24 of this system. The executive director of the State Board of
25 Administration ~~secretary of the department~~ shall be the
26 administrator of the system. The funds to pay the expenses for
27 such administration are ~~shall be~~ appropriated from the
28 interest earned on investments made for the trust fund.

29 (b) The division department is authorized to require
30 oaths, by affidavit or otherwise, and acknowledgments from
31

1 persons in connection with the administration of its duties
2 and responsibilities under this section.

3 Section 40. Subsection (3) of section 121.45, Florida
4 Statutes, is amended to read:

5 121.45 Interstate compacts relating to pension
6 portability.--

7 (3) ESTABLISHMENT OF COMPACTS.--

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

12 (b) If any such state is interested in pursuing the
13 matter, the division ~~department~~ shall confer with the other
14 state and the consulting actuaries of both states, and shall
15 present its findings to the committees having jurisdiction
16 over retirement matters in the Legislature, and to
17 representatives of affected certified bargaining units, in
18 order to determine the feasibility of developing a portability
19 compact, what groups should be covered, and the goals and
20 priorities which should guide such development.

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

27 (d) Once a proposal has been developed, the division
28 ~~department~~ shall contract with its consulting actuaries to
29 conduct an actuarial study of the proposal to determine the
30 cost to the Florida Retirement System Trust Fund and the State
31 of Florida.

1 (e) After the actuarial study has been completed, the
2 division ~~department~~ shall present its findings and the
3 actuarial study to the Legislature for consideration. If
4 either house of the Legislature elects to enter into such a
5 compact, it shall be introduced in the form of a proposed
6 committee bill to the full Legislature during the same or next
7 regular session.

8 Section 41. Subsection (2), paragraph (a) of
9 subsection (5), paragraphs (a), (b), (c), and (e) of
10 subsection (8), paragraph (c) of subsection (9), paragraphs
11 (a), (c), and (f) of subsection (10), subsection (11), and
12 subsection (19) of section 121.4501, Florida Statutes, are
13 amended to read:

14 121.4501 Public Employee Optional Retirement
15 Program.--

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

17 (a) "Approved provider" or "provider" means a private
18 sector company that is selected and approved by the ~~state~~
19 board to offer one or more investment products or services to
20 the Public Employee Optional Retirement Program. The term
21 includes a bundled provider that offers participants a range
22 of individually allocated or unallocated investment products
23 and may offer a range of administrative and customer services,
24 which may include accounting and administration of individual
25 participant benefits and contributions; individual participant
26 recordkeeping; asset purchase, control, and safekeeping;
27 direct execution of the participant's instructions as to asset
28 and contribution allocation; calculation of daily net asset
29 values; direct access to participant account information;
30 periodic reporting to participants, at least quarterly, on
31 account balances and transactions; guidance, advice, and

1 allocation services directly relating to its own investment
2 options or products, but only if the bundled provider complies
3 with the standard of care of s. 404(a)(1)(A-B) of the Employee
4 Retirement Income Security Act of 1974 (ERISA) and if
5 providing such guidance, advice, or allocation services does
6 not constitute a prohibited transaction under s. 4975(c)(1) of
7 the Internal Revenue Code or s. 406 of ERISA, notwithstanding
8 that such prohibited transaction provisions do not apply to
9 the optional retirement program; a broad array of distribution
10 options; asset allocation; and retirement counseling and
11 education. Private sector companies include investment
12 management companies, insurance companies, depositories, and
13 mutual fund companies.

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

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

18 ~~(d) "Department" means the Department of Management~~
19 ~~Services.~~

20 (d)(e) "Division" means the Division of Retirement of
21 the State Board of Administration ~~within the Department of~~
22 ~~Management Services.~~

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

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

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

1 Optional Retirement Program as established under s.
2 121.051(2)(c); or
3 3. Is eligible to participate in, but does not
4 participate in, the State University System Optional
5 Retirement Program established under s. 121.35.
6
7 The term does not include any member participating in the
8 Deferred Retirement Option Program established under s.
9 121.091(13) or any employee participating in an optional
10 retirement program established under s. 121.051(2)(c) or s.
11 121.35.
12 (f)~~(g)~~ "Employer" means an employer, as defined in s.
13 121.021(10), of an eligible employee.
14 (g)~~(h)~~ "Participant" means an eligible employee who
15 elects to participate in the Public Employee Optional
16 Retirement Program and enrolls in such optional program as
17 provided in subsection (4).
18 (h)~~(i)~~ "Public Employee Optional Retirement Program,"
19 "optional program," or "optional retirement program" means the
20 alternative defined contribution retirement program
21 established under this section.
22 (i)~~(j)~~ "State board" or "board" means the State Board
23 of Administration.
24 (j)~~(k)~~ "Trustees" means Trustees of the State Board of
25 Administration.
26 (k)~~(l)~~ "Vested" or "vesting" means the guarantee that
27 a participant is eligible to receive a retirement benefit upon
28 completion of the required years of service under the Public
29 Employee Optional Retirement Program.
30 (5) CONTRIBUTIONS.--
31

1 (a) Each employer shall contribute on behalf of each
2 participant in the Public Employee Optional Retirement
3 Program, as provided in part III of this chapter. The state
4 board, acting as plan fiduciary, shall ensure that all plan
5 assets are held in a trust, pursuant to s. 401 of the Internal
6 Revenue Code. The fiduciary shall ensure that said
7 contributions are allocated as follows:

8 1. The portion earmarked for participant accounts
9 shall be used to purchase interests in the appropriate
10 investment vehicles for the accounts of each participant as
11 specified by the participant, or in accordance with paragraph
12 (4)(d).

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

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

17 (8) ADMINISTRATION OF PROGRAM.--

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

1 The division ~~department~~ shall adopt rules necessary to
2 implement the optional program in coordination with the
3 defined benefit retirement program and the disability benefits
4 available under the optional program.

5 (b)1. The state board shall select and contract with
6 one third-party administrator to provide administrative
7 services if those services cannot be competitively ~~and~~
8 ~~contractually~~ provided by the division ~~of Retirement within~~
9 ~~the Department of Management Services~~. With the approval of
10 the state board, the third-party administrator may subcontract
11 with other organizations or individuals to provide components
12 of the administrative services. As a cost of administration,
13 the board may compensate any such contractor for its services,
14 in accordance with the terms of the contract, as is deemed
15 necessary or proper by the board. The third-party
16 administrator may not be an approved provider or be affiliated
17 with an approved provider.

18 2. These administrative services may include, but are
19 not limited to, enrollment of eligible employees, collection
20 of employer contributions, disbursement of such contributions
21 to approved providers in accordance with the allocation
22 directions of participants; services relating to consolidated
23 billing; individual and collective recordkeeping and
24 accounting; asset purchase, control, and safekeeping; and
25 direct disbursement of funds to and from the third-party
26 administrator, the division, the board, employers,
27 participants, approved providers, and beneficiaries. This
28 section does not prevent or prohibit a bundled provider from
29 providing any administrative or customer service, including
30 accounting and administration of individual participant
31 benefits and contributions; individual participant

1 recordkeeping; asset purchase, control, and safekeeping;
2 direct execution of the participant's instructions as to asset
3 and contribution allocation; calculation of daily net asset
4 values; direct access to participant account information; or
5 periodic reporting to participants, at least quarterly, on
6 account balances and transactions, if these services are
7 authorized by the board as part of the contract.

8 3. The state board shall select and contract with one
9 or more organizations to provide educational services. With
10 approval of the board, the organizations may subcontract with
11 other organizations or individuals to provide components of
12 the educational services. As a cost of administration, the
13 board may compensate any such contractor for its services in
14 accordance with the terms of the contract, as is deemed
15 necessary or proper by the board. The education organization
16 may not be an approved provider or be affiliated with an
17 approved provider.

18 4. Educational services shall be designed by the board
19 ~~and department~~ to assist employers, eligible employees,
20 participants, and beneficiaries in order to maintain
21 compliance with United States Department of Labor regulations
22 under s. 404(c) of the Employee Retirement Income Security Act
23 of 1974 and to assist employees in their choice of defined
24 benefit or defined contribution retirement alternatives.
25 Educational services include, but are not limited to,
26 disseminating educational materials; providing retirement
27 planning education; explaining the differences between the
28 defined benefit retirement plan and the defined contribution
29 retirement plan; and offering financial planning guidance on
30 matters such as investment diversification, investment risks,
31 investment costs, and asset allocation. An approved provider

1 may also provide educational information, including retirement
2 planning and investment allocation information concerning its
3 products and services.

4 (c)1. In evaluating and selecting a third-party
5 administrator, the board shall establish criteria under which
6 it shall consider the relative capabilities and qualifications
7 of each proposed administrator. In developing such criteria,
8 the board shall consider:

9 a. The administrator's demonstrated experience in
10 providing administrative services to public or private sector
11 retirement systems.

12 b. The administrator's demonstrated experience in
13 providing daily valued recordkeeping to defined contribution
14 plans.

15 c. The administrator's ability and willingness to
16 coordinate its activities with the Florida Retirement System
17 employers, the board, and the division, and to supply to such
18 employers, the board, and the division the information and
19 data they require, including, but not limited to, monthly
20 management reports, quarterly participant reports, and ad hoc
21 reports requested by the ~~department or~~ board.

22 d. The cost-effectiveness and levels of the
23 administrative services provided.

24 e. The administrator's ability to interact with the
25 participants, the employers, the board, the division, and the
26 providers; the means by which participants may access account
27 information, direct investment of contributions, make changes
28 to their accounts, transfer moneys between available
29 investment vehicles, and transfer moneys between investment
30 products; and any fees that apply to such activities.

31

1 f. Any other factor deemed necessary by the Trustees
2 of the State Board of Administration.

3 g. The recommendations of the Public Employee Optional
4 Retirement Program Advisory Committee established in
5 subsection (12).

6 2. In evaluating and selecting an educational
7 provider, the board shall establish criteria under which it
8 shall consider the relative capabilities and qualifications of
9 each proposed educational provider. In developing such
10 criteria, the board shall consider:

11 a. Demonstrated experience in providing educational
12 services to public or private sector retirement systems.

13 b. Ability and willingness to coordinate its
14 activities with the Florida Retirement System employers, the
15 board, and the division, and to supply to such employers, the
16 board, and the division the information and data they require,
17 including, but not limited to, reports on educational
18 contacts.

19 c. The cost-effectiveness and levels of the
20 educational services provided.

21 d. Ability to provide educational services via
22 different media, including, but not limited to, the Internet,
23 personal contact, seminars, brochures, and newsletters.

24 e. Any other factor deemed necessary by the Trustees
25 of the State Board of Administration.

26 f. The recommendations of the Public Employee Optional
27 Retirement Program Advisory Committee established in
28 subsection (12).

29 3. The establishment of the criteria shall be solely
30 within the discretion of the board.

31

1 (e) ~~1~~. The board may contract with any consultant for
2 professional services, including legal, consulting,
3 accounting, and actuarial services, deemed necessary to
4 implement and administer the optional program by the Trustees
5 of the State Board of Administration. The board may enter into
6 a contract with one or more vendors to provide low-cost
7 investment advice to participants, supplemental to education
8 provided by the third-party administrator. All fees under any
9 such contract shall be paid by those participants who choose
10 to use the services of the vendor.

11 ~~2. The department may contract with consultants for~~
12 ~~professional services, including legal, consulting,~~
13 ~~accounting, and actuarial services, deemed necessary to~~
14 ~~implement and administer the optional program in coordination~~
15 ~~with the defined benefit program of the Florida Retirement~~
16 ~~System. The department, in coordination with the board, may~~
17 ~~enter into a contract with the third-party administrator in~~
18 ~~order to coordinate services common to the various programs~~
19 ~~within the Florida Retirement System.~~

20 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE
21 REVIEW.--

22 (c) In evaluating and selecting approved providers and
23 products, the board shall establish criteria under which it
24 shall consider the relative capabilities and qualifications of
25 each proposed provider company and product. In developing such
26 criteria, the board shall consider the following to the extent
27 such factors may be applied in connection with investment
28 products, services, or providers:

29 1. Experience in the United States providing
30 retirement products and related financial services under
31 defined contribution retirement plans.

1 2. Financial strength and stability which shall be
2 evidenced by the highest ratings assigned by nationally
3 recognized rating services when comparing proposed providers
4 that are so rated.

5 3. Intrastate and interstate portability of the
6 product offered, including early withdrawal options.

7 4. Compliance with the Internal Revenue Code.

8 5. The cost-effectiveness of the product provided and
9 the levels of service supporting the product relative to its
10 benefits and its characteristics, including, without
11 limitation, the level of risk borne by the provider.

12 6. The provider company's ability and willingness to
13 coordinate its activities with Florida Retirement System
14 employers, the division ~~department~~, and the board, and to
15 supply to such employers, the division ~~department~~, and the
16 board the information and data they require.

17 7. The methods available to participants to interact
18 with the provider company; the means by which participants may
19 access account information, direct investment of
20 contributions, make changes to their accounts, transfer moneys
21 between available investment vehicles, and transfer moneys
22 between provider companies; and any fees that apply to such
23 activities.

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

30 9. An evaluation of specific investment products,
31 taking into account each product's experience in meeting its

1 investment return objectives net of all related fees,
2 expenses, and charges, including, but not limited to,
3 investment management fees, loads, distribution and marketing
4 fees, custody fees, recordkeeping fees, education fees,
5 annuity expenses, and consulting fees.

6 10. Organizational factors, including, but not limited
7 to, financial solvency, organizational depth, and experience
8 in providing institutional and retail investment services.

9 (10) EDUCATION COMPONENT.--

10 (a) The board, ~~in coordination with the department,~~
11 shall provide for an education component for system members in
12 a manner consistent with the provisions of this section. The
13 education component must be available to eligible employees at
14 least 90 days prior to the beginning date of the election
15 period for the employees of the respective types of employers.

16 (c) The board, ~~in coordination with the department,~~
17 shall provide for an initial and ongoing transfer education
18 component to provide system members with information necessary
19 to make informed plan choice decisions. The transfer education
20 component must include, but is not limited to, information on:

21 1. The amount of money available to a member to
22 transfer to the defined contribution program.

23 2. The features of and differences between the defined
24 benefit program and the defined contribution program, both
25 generally and specifically, as those differences may affect
26 the member.

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

30 4. The rate of return from investments in the defined
31 contribution program and the period of time over which such

1 rate of return must be achieved to equal or exceed the
2 expected monthly benefit payable to the member under the
3 defined benefit program.

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

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

10 7. The program choices available to employees of the
11 State University System and the comparative benefits of each
12 available program, if applicable.

13 8. Payout options available in each of the retirement
14 programs.

15 (f) The board ~~and the department~~ shall also establish
16 a communication component to provide program information to
17 participating employers and the employers' personnel and
18 payroll officers and to explain their respective
19 responsibilities in conjunction with the retirement programs.

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

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

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

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

31 (d) Itemize account contributions for the quarter.

1 (e) Indicate any account changes due to adjustment of
2 contribution levels, reallocation of contributions, balance
3 transfers, or withdrawals.

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

6 (g) Indicate the amount of the account in which the
7 participant is fully vested and the amount of the account in
8 which the participant is not vested.

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

11
12 The third-party administrator shall provide quarterly and
13 annual summary reports to the board and any other reports
14 requested by ~~the department or~~ the board. In any solicitation
15 or offer of coverage under an optional retirement program, a
16 provider company shall be governed by the contract readability
17 provisions of s. 627.4145, notwithstanding s. 627.4145(6)(c).
18 In addition, all descriptive materials must be prepared under
19 the assumption that the participant is an unsophisticated
20 investor. Provider companies must maintain an internal system
21 of quality assurance, have proven functional systems that are
22 date-calculation compliant, and be subject to a due-diligence
23 inquiry that proves their capacity and fitness to undertake
24 service responsibilities.

25 (19) PARTICIPANT RECORDS.--All personal identifying
26 information regarding a participant in the Public Employee
27 Optional Retirement Program contained in Florida Retirement
28 System records held by the State Board of Administration ~~or~~
29 ~~the Department of Management Services,~~ or its ~~their~~ agents,
30 employees, or contractors is exempt from the provisions of s.
31 119.07(1) and s. 24(a), Art. I of the State Constitution. The

1 department ~~or board~~ may use such exempt information as
2 necessary in any legal or administrative proceeding. This
3 subsection is subject to the Open Government Sunset Review Act
4 of 1995 in accordance with s. 119.15, and shall stand repealed
5 October 2, 2007, unless reviewed and saved from repeal through
6 reenactment by the Legislature.

7 Section 42. Section 121.4503, Florida Statutes, is
8 amended to read:

9 121.4503 Florida Retirement System Contributions
10 Clearing Trust Fund.--

11 (1) The Florida Retirement System Contributions
12 Clearing Trust Fund is created in the State Treasury as a
13 clearing fund for disbursing employer contributions to the
14 component plans of the Florida Retirement System and shall be
15 administered by the State Board of Administration ~~Department~~
16 ~~of Management Services~~. Funds shall be credited to the trust
17 fund as provided in this chapter and shall be held in trust
18 for the contributing employers until such time as the assets
19 are transferred by the board ~~department~~ to the Florida
20 Retirement System Trust Fund, the Public Employee Optional
21 Retirement Program Trust Fund, or other trust funds as
22 authorized by law, to be used for the purposes of this
23 chapter. The trust fund is exempt from the service charges
24 imposed by s. 215.20.

25 (2) The Florida Retirement System Contributions
26 Clearing Trust Fund is a clearing trust fund of the State
27 Board of Administration ~~Department of Management Services~~
28 pursuant to s. 19(f), Art. III of the State Constitution, and
29 is not subject to termination.

30 (3) The State Board of Administration ~~Department of~~
31 ~~Management Services~~ may adopt rules governing the receipt and

1 disbursement of amounts received by the Florida Retirement
2 System Contributions Clearing Trust Fund from employers
3 contributing to the component plans of the Florida Retirement
4 System.

5 Section 43. Section 121.591, Florida Statutes, is
6 amended to read:

7 121.591 Benefits payable under the Public Employee
8 Optional Retirement Program of the Florida Retirement
9 System.--Benefits may not be paid under this section unless
10 the member has terminated employment as provided in s.
11 121.021(39)(a) or is deceased and a proper application has
12 been filed in the manner prescribed by the state board or the
13 division ~~department~~. The state board or division ~~department~~,
14 as appropriate, may cancel an application for retirement
15 benefits when the member or beneficiary fails to timely
16 provide the information and documents required by this chapter
17 and the rules of the state board and division ~~department~~. In
18 accordance with their respective responsibilities as provided
19 herein, the State Board of Administration and the division
20 ~~Department of Management Services~~ shall adopt rules
21 establishing procedures for application for retirement
22 benefits and for the cancellation of such application when the
23 required information or documents are not received.

24 (1) NORMAL BENEFITS.--Under the Public Employee
25 Optional Retirement Program:

26 (a) Benefits in the form of vested accumulations as
27 described in s. 121.4501(6) shall be payable under this
28 subsection in accordance with the following terms and
29 conditions:

30 1. To the extent vested, benefits shall be payable
31 only to a participant.

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

5 3. To receive benefits under this subsection, the
6 participant must be terminated from all employment with all
7 Florida Retirement System employers, as provided in s.
8 121.021(39).

9 (b) If a participant elects to receive his or her
10 benefits upon termination of employment, the participant must
11 submit a written application to the third-party administrator
12 indicating his or her preferred distribution date and
13 selecting an authorized method of distribution as provided in
14 paragraph (c). The participant may defer receipt of benefits
15 until he or she chooses to make such application, subject to
16 federal requirements.

17 (c) Upon receipt by the third-party administrator of a
18 properly executed application for distribution of benefits,
19 the total accumulated benefit shall be payable to the
20 participant, as:

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

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

27 3. Periodic distributions, as authorized by the state
28 board.

29 (2) DISABILITY RETIREMENT BENEFITS.--Benefits provided
30 under this subsection are payable in lieu of the benefits
31 which would otherwise be payable under the provisions of

1 subsection (1). Such benefits shall be funded entirely from
2 employer contributions made under s. 121.571, transferred
3 participant funds accumulated pursuant to paragraph (a), and
4 interest and earnings thereon. Pursuant thereto:

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

7 1. All moneys accumulated in the participant's Public
8 Employee Optional Retirement Program accounts, including
9 vested and nonvested accumulations as described in s.
10 121.4501(6), shall be transferred from such individual
11 accounts to the Division of Retirement for deposit in the
12 disability account of the Florida Retirement System Trust
13 Fund. Such moneys shall be separately accounted for. Earnings
14 shall be credited on an annual basis for amounts held in the
15 disability accounts of the Florida Retirement System Trust
16 Fund based on actual earnings of the Florida Retirement System
17 Trust Fund.

18 2. If the participant has retained retirement credit
19 he or she had earned under the defined benefit program of the
20 Florida Retirement System as provided in s. 121.4501(3)(b), a
21 sum representing the actuarial present value of such credit
22 within the Florida Retirement System Trust Fund shall be
23 reassigned by the Division of Retirement from the defined
24 benefit program to the disability program as implemented under
25 this subsection and shall be deposited in the disability
26 account of the Florida Retirement System Trust Fund. Such
27 moneys shall be separately accounted for.

28 (b) Disability retirement; entitlement.--

29 1. A participant of the Public Employee Optional
30 Retirement Program who becomes totally and permanently
31 disabled, as defined in s. 121.091(4)(b), after completing 8

1 years of creditable service, or a participant who becomes
2 totally and permanently disabled in the line of duty
3 regardless of his or her length of service, shall be entitled
4 to a monthly disability benefit as provided herein.

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

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

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

17 c. If the participant has elected to transfer to his
18 or her participant accounts a sum representing the present
19 value of his or her retirement credit under the defined
20 benefit program as provided under s. 121.4501(3)(c), the
21 period of service under the defined benefit program
22 represented in the present value amounts transferred will be
23 considered creditable service for purposes of vesting for
24 disability benefits, except as provided in subparagraph d.

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

30 (c) Disability retirement effective date.--The
31 effective retirement date for a participant who applies and is

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

3 (d) Total and permanent disability.--A participant
4 shall be considered totally and permanently disabled if, in
5 the opinion of the division, he or she is prevented, by reason
6 of a medically determinable physical or mental impairment,
7 from rendering useful and efficient service as an officer or
8 employee.

9 (e) Proof of disability.--The division, before
10 approving payment of any disability retirement benefit, shall
11 require proof that the participant is totally and permanently
12 disabled in the same manner as provided for members of the
13 defined benefit program of the Florida Retirement System under
14 s. 121.091(4)(c).

15 (f) Disability retirement benefit.--Upon the
16 disability retirement of a participant under this subsection,
17 the participant shall receive a monthly benefit that shall
18 begin to accrue on the first day of the month of disability
19 retirement, as approved by the division, and shall be payable
20 on the last day of that month and each month thereafter during
21 his or her lifetime and continued disability. All disability
22 benefits payable to such member shall be paid out of the
23 disability account of the Florida Retirement System Trust Fund
24 established under this subsection.

25 (g) Computation of disability retirement benefit.--The
26 amount of each monthly payment shall be calculated in the same
27 manner as provided for members of the defined benefit program
28 of the Florida Retirement System under s. 121.091(4)(f). For
29 such purpose, creditable service under both the defined
30 benefit program and the Public Employee Optional Retirement

31

1 Program of the Florida Retirement System shall be applicable
2 as provided under paragraph (b).

3 (h) Reapplication.--A participant whose initial
4 application for disability retirement has been denied may
5 reapply for disability benefits in the same manner, and under
6 the same conditions, as provided for members of the defined
7 benefit program of the Florida Retirement System under s.
8 121.091(4)(g).

9 (i) Membership.--Upon approval of an application for
10 disability benefits under this subsection, the applicant shall
11 be transferred to the defined benefit program of the Florida
12 Retirement System, effective upon his or her disability
13 retirement effective date.

14 (j) Option to cancel.--Any participant whose
15 application for disability benefits is approved may cancel his
16 or her application for disability benefits, provided that the
17 cancellation request is received by the division before a
18 disability retirement warrant has been deposited, cashed, or
19 received by direct deposit. Upon such cancellation:

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

22 2. The participant shall be retroactively reinstated
23 in the Public Employee Optional Retirement Program without
24 hiatus;

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

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

31 (k) Recovery from disability.--

1 1. The division may require periodic reexaminations at
2 the expense of the disability program account of the Florida
3 Retirement System Trust Fund. Except as otherwise provided in
4 subparagraph 2., the requirements, procedures, and
5 restrictions relating to the conduct and review of such
6 reexaminations, discontinuation or termination of benefits,
7 reentry into employment, disability retirement after reentry
8 into covered employment, and all other matters relating to
9 recovery from disability shall be the same as are set forth
10 under s. 121.091(4)(h).

11 2. Upon recovery from disability, any recipient of
12 disability retirement benefits under this subsection shall be
13 a compulsory member of the Public Employee Optional Retirement
14 Program of the Florida Retirement System. The net difference
15 between the recipient's original account balance transferred
16 to the Florida Retirement System Trust Fund, including
17 earnings, under paragraph (a) and total disability benefits
18 paid to such recipient, if any, shall be determined as
19 provided in sub-subparagraph a.

20 a. An amount equal to the total benefits paid shall be
21 subtracted from that portion of the transferred account
22 balance consisting of vested accumulations as described under
23 s. 121.4501(6), if any, and an amount equal to the remainder
24 of benefit amounts paid, if any, shall then be subtracted from
25 any remaining portion consisting of nonvested accumulations as
26 described under s. 121.4501(6).

27 b. Amounts subtracted under sub-subparagraph a. shall
28 be retained within the disability account of the Florida
29 Retirement System Trust Fund. Any remaining account balance
30 shall be transferred to the third-party administrator for
31

1 disposition as provided under sub-subparagraph c. or
2 sub-subparagraph d., as appropriate.

3 c. If the recipient returns to covered employment,
4 transferred amounts shall be deposited in individual accounts
5 under the Public Employee Optional Retirement Program, as
6 directed by the participant. Vested and nonvested amounts
7 shall be separately accounted for as provided in s.
8 121.4501(6).

9 d. If the recipient fails to return to covered
10 employment upon recovery from disability:

11 (I) Any remaining vested amount shall be deposited in
12 individual accounts under the Public Employee Optional
13 Retirement Program, as directed by the participant, and shall
14 be payable as provided in subsection (1).

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

18 3. If present value was reassigned from the defined
19 benefit program to the disability program of the Florida
20 Retirement System as provided under subparagraph (a)2., the
21 full present value amount shall be returned to the defined
22 benefit account within the Florida Retirement System Trust
23 Fund and the affected individual's associated retirement
24 credit under the defined benefit program shall be reinstated
25 in full. Any benefit based upon such credit shall be
26 calculated as provided in s. 121.091(4)(h)1.

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

31

1 (m) Disability retirement of justice or judge by order
2 of Supreme Court.--

3 1. If a participant is a justice of the Supreme Court,
4 judge of a district court of appeal, circuit judge, or judge
5 of a county court who has served for 6 years or more as an
6 elected constitutional judicial officer, including service as
7 a judicial officer in any court abolished pursuant to Art. V
8 of the State Constitution, and who is retired for disability
9 by order of the Supreme Court upon recommendation of the
10 Judicial Qualifications Commission pursuant to the provisions
11 of Art. V of the State Constitution, the participant's Option
12 1 monthly disability benefit amount as provided in s.

13 121.091(6)(a)1. shall be two-thirds of his or her monthly
14 compensation as of the participant's disability retirement
15 date. Such a participant may alternatively elect to receive
16 an actuarially adjusted disability retirement benefit under
17 any other option as provided in s. 121.091(6)(a), or to
18 receive the normal benefit payable under the Public Employee
19 Optional Retirement Program as set forth in subsection (1).

20 2. If any justice or judge who is a participant of the
21 Public Employee Optional Retirement Program of the Florida
22 Retirement System is retired for disability by order of the
23 Supreme Court upon recommendation of the Judicial
24 Qualifications Commission pursuant to the provisions of Art. V
25 of the State Constitution and elects to receive a monthly
26 disability benefit under the provisions of this paragraph:

27 a. Any present value amount that was transferred to
28 his or her program account and all employer contributions made
29 to such account on his or her behalf, plus interest and
30 earnings thereon, shall be transferred to and deposited in the
31

1 disability account of the Florida Retirement System Trust
2 Fund; and

3 b. The monthly benefits payable under this paragraph
4 for any affected justice or judge retired from the Florida
5 Retirement System pursuant to Art. V of the State Constitution
6 shall be paid from the disability account of the Florida
7 Retirement System Trust Fund.

8 (n) Death of retiree or beneficiary.--Upon the death
9 of a disabled retiree or beneficiary thereof who is receiving
10 monthly benefits under this subsection, the monthly benefits
11 shall be paid through the last day of the month of death and
12 shall terminate, or be adjusted, if applicable, as of that
13 date in accordance with the optional form of benefit selected
14 at the time of retirement. The deceased disabled retiree's
15 beneficiary shall also receive the amount of the participant's
16 remaining account balance, if any, in the Florida Retirement
17 System Trust Fund. The Division of Retirement ~~Department of~~
18 ~~Management Services~~ may adopt rules necessary to administer
19 this paragraph.

20 (3) DEATH BENEFITS.--Under the Public Employee
21 Optional Retirement Program:

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

24 1. To the extent vested, benefits shall be payable
25 only to a participant's beneficiary or beneficiaries as
26 designated by the participant. If a participant designates a
27 primary beneficiary other than the participant's spouse, the
28 participant's spouse shall be notified of the designation.
29 This requirement shall not apply to the designation of one or
30 more contingent beneficiaries to receive any benefits

31

1 remaining upon the death of the primary beneficiary or
2 beneficiaries.

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

7 3. To receive benefits under this subsection, the
8 participant must be deceased.

9 (b) In the event of a participant's death, all vested
10 accumulations as described in s. 121.4501(6), less withholding
11 taxes remitted to the Internal Revenue Service, shall be
12 distributed, as provided in paragraph (c), to the
13 participant's designated beneficiary or beneficiaries, or to
14 the participant's estate, as if the participant retired on the
15 date of death. No other death benefits shall be available for
16 survivors of participants under the Public Employee Optional
17 Retirement Program, except for such benefits, or coverage for
18 such benefits, as are otherwise provided by law or are
19 separately afforded by the employer, at the employer's
20 discretion.

21 (c) Upon receipt by the third-party administrator of a
22 properly executed application for distribution of benefits,
23 the total accumulated benefit shall be payable by the
24 third-party administrator to the participant's surviving
25 beneficiary or beneficiaries, as:

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

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

1 custodian of 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; or

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

13
14 This paragraph does not abrogate other applicable provisions
15 of state or federal law providing for payment of death
16 benefits.

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

24 Section 44. Section 121.5911, Florida Statutes, is
25 amended to read:

26 121.5911 Disability retirement program; qualified
27 status; rulemaking authority.--It is the intent of the
28 Legislature that the disability retirement program for
29 participants of the Public Employee Optional Retirement
30 Program as created in this act must meet all applicable
31 requirements of federal law for a qualified plan. The

1 Department of Management Services or the Division of
2 Retirement shall seek a private letter ruling from the
3 Internal Revenue Service on the disability retirement program
4 for participants of the Public Employee Optional Retirement
5 Program. Consistent with the private letter ruling, the
6 division ~~Department of Management Services~~ shall adopt any
7 necessary rules required to maintain the qualified status of
8 the disability retirement program and the Florida Retirement
9 System defined benefit plan.

10 Section 45. Subsection (1) of section 121.72, Florida
11 Statutes, is amended to read:

12 121.72 Allocations to optional retirement program
13 participant accounts; percentage amounts.--

14 (1) The allocations established in subsection (4)
15 shall fund retirement benefits under the optional retirement
16 program and shall be transferred monthly by the State Board of
17 Administration ~~Division of Retirement~~ from the Florida
18 Retirement System Contributions Clearing Trust Fund to the
19 third-party administrator for deposit in each participating
20 employee's individual account based on the membership class of
21 the participant.

22 Section 46. Subsection (1) of section 121.73, Florida
23 Statutes, is amended to read:

24 121.73 Allocations for optional retirement program
25 participant disability coverage; percentage amounts.--

26 (1) The allocations established in subsection (3)
27 shall be used to provide disability coverage for participants
28 in the optional retirement program and shall be transferred
29 monthly by the State Board of Administration ~~Division of~~
30 ~~Retirement~~ from the Florida Retirement System Contributions
31

1 Clearing Trust Fund to the disability account of the Florida
2 Retirement System Trust Fund.

3 Section 47. Section 121.74, Florida Statutes, is
4 amended to read:

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

24 Section 48. Subsections (1) and (6) of section 122.02,
25 Florida Statutes, are amended to read:

26 122.02 Definitions.--The following words and phrases
27 as used in this chapter shall have the following meaning
28 unless a different meaning is plainly required by the context:

29 (1) "State and county officers and employees" shall
30 include all full-time officers or employees who receive
31 compensation for services rendered from state or county funds,

1 or from funds of drainage districts or mosquito control
2 districts of a county or counties, or from funds of the State
3 Board of Administration or from funds of closed bank
4 receivership accounts or from funds of any state institution
5 or who receive compensation for employment or service from any
6 agency, branch, department, institution or board of the state,
7 or any county of the state, for service rendered the state or
8 county from funds from any source provided for their
9 employment or service regardless of whether the same is paid
10 by state or county warrant or not; provided that such
11 compensation in whatever form paid shall be specified in terms
12 of fixed monthly salaries by the employing state or county
13 agency or state or county official and shall not include
14 amounts allowed for professional employees for special or
15 particular service or for subsistence or travel expenses;
16 provided further the division ~~department~~ shall prescribe
17 appropriate procedure for contribution deduction out of such
18 compensation in accordance with the provisions of this
19 chapter, provided further that such officers and employees
20 defined herein shall not include those officers and employees
21 excepted from the provisions by s. 122.18 of this law.

22 (6) "Division" means the Division of Retirement of the
23 State Board of Administration ~~"Department" means the~~
24 ~~Department of Management Services.~~

25 Section 49. Paragraph (d) of subsection (6) and
26 subsection (9) of section 122.03, Florida Statutes, are
27 amended to read:

28 122.03 Contributions; participants; prior service
29 credit.--

30 (6) Any officer or employee who held office or was
31 employed by the state or a county of the state continuously

1 from May 1, 1959, and who has not previously received credit
2 for, or is not eligible to claim credit for, prior years of
3 service under subsection (2); or any officer or employee who
4 holds office or is employed by the state or a county of the
5 state on June 1, 1961, and is continuously employed; or any
6 officer or employee who holds office or is employed by the
7 state or county of the state after June 1, 1961, and who is
8 continuously employed for 3 years, during which period of time
9 no back payments may be made:

10 (d) Prior service allowance may be made only for those
11 periods in which state or county records of service and salary
12 are available, or at least three affidavits and such other
13 information as might be required by the division ~~department~~ to
14 meet the provisions of this law.

15 (9) The surviving spouse or other dependent of any
16 member whose employment is terminated by death shall, upon
17 application to the division ~~department~~, be permitted to pay
18 the required contributions for any service performed by the
19 member which could have been claimed by the member at the time
20 of death. Such service shall be added to the creditable
21 service of the member and shall be used in the calculation of
22 any benefits which may be payable to the surviving spouse or
23 other surviving dependent.

24 Section 50. Subsection (2) of section 122.05, Florida
25 Statutes, is amended to read:

26 122.05 Legislator services included.--

27 (2) The division ~~department~~ and state officials
28 administering such ~~said~~ retirement system shall make the
29 contribution deductions required by law from the compensation
30 hereafter received by any of the ~~said~~ participating members of
31

1 the Legislature for service rendered the State Legislature in
2 the same manner as in the case of other state employment.

3 Section 51. Subsection (2) of section 122.06, Florida
4 Statutes, is amended to read:

5 122.06 Legislative employee services included.--

6 (2) The division ~~department~~ and other state officials
7 administering such ~~said~~ retirement system shall make the
8 contribution deductions required by law from the compensation
9 hereafter received by any of the such ~~said~~ participating
10 attaches for service rendered the State Legislature in the
11 same manner as in the case of other state employment.

12 Section 52. Subsection (2) of section 122.07, Florida
13 Statutes, is amended to read:

14 122.07 Seasonal state employment included; time limit
15 and procedure for claiming.--

16 (2) Any state employee as described in subsection (1)
17 in the classification set forth in s. 122.01 may elect to
18 receive credit as a state employee under the State and County
19 Officers and Employees' Retirement System by providing to the
20 division ~~department~~ a statement from the state in which he or
21 she was employed, listing days employed and monthly earnings
22 and such other information as may, in the opinion of the
23 division ~~department~~, be necessary or appropriate in the
24 carrying out of this section. Credit shall be granted upon
25 payment to the division ~~department~~ by such employee of an
26 amount equal to the total retirement contribution that would
27 have been required had the member worked in this state during
28 the period based on the salary drawn by such employee during
29 his or her last full month of employment by the state or any
30 department thereof for each month during said fiscal year for
31 which such employee was not employed by the state or any

1 department thereof, but was employed by some other state, plus
2 interest compounded annually each June 30 from the date of the
3 service in another state to the date of payment at the rate of
4 4 percent until July 1, 1975, and 6.5 percent thereafter. The
5 member shall have until his or her date of retirement to claim
6 and purchase credit for such employment in another state.

7 Section 53. Paragraph (a) of subsection (1), paragraph
8 (b) of subsection (4), and subsections (5) and (9) of section
9 122.08, Florida Statutes, are amended to read:

10 122.08 Requirements for retirement;
11 classifications.--There shall be two retirement
12 classifications for all state and county officers and
13 employees participating herein as hereafter provided in this
14 section:

15 (1)(a) Any state or county officer or employee who has
16 attained normal retirement age, which shall be age 60 for a
17 person who had become a member prior to July 1, 1963, and age
18 62 for a person who had or shall become a member on or after
19 July 1, 1963, and has accumulated at least 10 years' service
20 in the aggregate within the contemplation of this law, and who
21 has made or makes contributions to the State and County
22 Officers and Employees' Retirement Trust Fund for 5 or more
23 years as prescribed in this law, may voluntarily retire from
24 office or employment and be entitled to receive retirement
25 compensation, the amount of which shall be 2 percent for each
26 year of service rendered, based upon the average final
27 compensation, payable in equal monthly installments, upon his
28 or her own requisition. Requisition requirements shall be set
29 by the division ~~department~~.

30 (4)
31

1 (b) A member who elects an option in paragraph (a)
2 shall on a form provided for that purpose designate his or her
3 spouse as beneficiary to receive the benefits which continue
4 to be payable upon the death of the member. After such
5 benefits have commenced under an option in paragraph (a), the
6 retired member may change the designation of his or her spouse
7 as beneficiary only twice. If such a retired member remarries
8 and wishes to make such a change, he or she may do so by
9 filing with the division ~~department~~ a notarized change of
10 spouse designation form and shall notify the former spouse in
11 writing of such change. Upon receipt of a completed change of
12 spouse designation form, the division ~~department~~ shall adjust
13 the member's monthly benefit by the application of actuarial
14 tables and calculations developed to ensure that the benefit
15 paid is the actuarial equivalent of the present value of the
16 member's current benefit. The consent of a retired member's
17 formerly designated spouse as beneficiary to any such change
18 shall not be required.

19 (5) Tables for computing the actuarial equivalent
20 shall be approved by the division ~~department~~.

21 (9) Notwithstanding any other provision in this
22 chapter to the contrary, the following provisions shall apply
23 to any officer or employee who has accumulated at least 10
24 years of service and dies:

25 (a) If the deceased member's surviving spouse has
26 previously received a refund of the member's contributions
27 made to the retirement trust fund, such spouse may pay to the
28 division ~~department~~ an amount equal to the sum of the amount
29 of the deceased member's contributions previously refunded and
30 interest at 3 percent compounded annually on the amount of
31 such refunded contributions from the date of refund until July

1 1, 1975, and thereafter at the rate of 6.5 percent interest
2 compounded annually to the date of payment to the division
3 ~~department~~, and by so doing be entitled to receive the monthly
4 retirement benefit provided in paragraph (c).

5 (b) If the deceased member's surviving spouse has not
6 received a refund of the deceased member's contributions, such
7 spouse shall, upon application to the division ~~department~~,
8 receive the monthly retirement benefit provided in paragraph
9 (c).

10 (c) The monthly benefit payable to the spouse
11 described in paragraph (a) or paragraph (b) shall be the
12 amount which would have been payable to the deceased member's
13 spouse, assuming that the member retired on the date of death
14 and had selected the option in subsection (4) which would
15 afford the surviving spouse the greatest amount of benefits,
16 such benefit to be based on the ages of the spouse and member
17 as of the date of death of the member. Such benefit shall
18 commence on the first day of the month following the payment
19 of the aforesaid amount to the division ~~department~~, if
20 paragraph (a) is applicable, or on the first day of the month
21 following the receipt of the spouse's application by the
22 division ~~department~~, if paragraph (b) is applicable.

23 Section 54. Section 122.09, Florida Statutes, is
24 amended to read:

25 122.09 Disability retirement; medical
26 examinations.--Whenever any officer or employee of the state
27 or county of the state has service credit as such officer or
28 employee for 10 years within the contemplation of this law,
29 the last 5 years of which, except for a single break not to
30 exceed 1 year, must be continuous, unbroken service and who is
31 regularly contributing to the State and County Officers and

1 Employees' Retirement Trust Fund and shall while holding such
2 office or employment become permanently and totally disabled,
3 physically or mentally, or both, from rendering useful and
4 efficient service as such officer or employee, such officer or
5 employee may retire from his or her office or employment, and
6 upon such retirement the officer or employee shall be paid, so
7 long as the permanent and total disability continues, on his
8 or her own monthly requisition, from the State and County
9 Officers and Employees' Retirement Trust Fund hereinafter
10 established, retirement compensation as provided in s. 122.08;
11 provided that no officer or employee retiring under this
12 section shall receive less than 50 percent of his or her
13 average final compensation not to exceed \$75. No officer or
14 employee of the state and county of the state shall be
15 permitted to retire under the provisions of this section until
16 examined by a duly qualified physician or surgeon or board of
17 physicians and surgeons, to be selected by the Governor for
18 that purpose, and found to be disabled in the degree and in
19 the manner specified in this section. Any officer or employee
20 retiring under this section shall be examined periodically by
21 a duly qualified physician or surgeon or board of physicians
22 and surgeons to be selected by the Governor for that purpose
23 and paid from the retirement trust fund herein provided for,
24 at such time as the division ~~Department of Management Services~~
25 shall direct to determine if such total disability has
26 continued and in the event it be disclosed by said examination
27 that said total disability has ceased to exist, then such
28 officer or employee shall forthwith cease to be paid benefits
29 under this section. Reference to s. 122.08 is for the purpose
30 of computing benefits only. Any person heretofore retired
31 under this section shall be eligible to qualify for the

1 minimum benefits provided herein; however, minimum benefits
2 shall not be paid retroactively.

3 Section 55. Subsection (4) of section 122.10, Florida
4 Statutes, is amended to read:

5 122.10 Separation from service; refund of
6 contributions.--

7 (4) Should any officer or employee elect to receive a
8 refund as provided in this section, his or her application for
9 refund shall be submitted in the manner prescribed by the
10 regulations adopted by the division ~~department~~ and shall
11 accompany the payroll certification, submitted to the division
12 ~~department~~, on which he or she was last paid prior to
13 termination. The division ~~department~~ shall pay the entire
14 refund due within 45 days after the first day of the month
15 subsequent to receipt of such application for refund and said
16 payroll certification.

17 Section 56. Subsection (1) of section 122.12, Florida
18 Statutes, is amended to read:

19 122.12 Designation of beneficiary; death of
20 participant; forfeiture of contributions after benefits paid;
21 survivor benefits.--

22 (1) Any officer or employee may file, in writing, a
23 designation of beneficiary and it shall be the duty of the
24 division ~~department~~ to refund 100 percent, without interest,
25 of the contributions made to the retirement trust fund by such
26 deceased officer or employee to such designated beneficiary.
27 The officer or employee shall have the privilege of changing,
28 in writing, the designated beneficiary at any time. Upon
29 failure to designate a beneficiary, the refund shall be made
30 to the persons in the same order as designated in s. 222.15,
31 for wages due deceased employees. If the deceased officer or

1 employee has received any benefits under this law, no refund
2 shall be made unless such officer or employee has elected to
3 accept benefits under s. 122.08(3) or (4).

4 Section 57. Section 122.13, Florida Statutes, is
5 amended to read:

6 122.13 Administration of law; appropriation.--The
7 division ~~department~~ shall make such rules as are necessary for
8 the effective administration of this chapter, and the cost is
9 hereby annually appropriated and shall be paid into the State
10 and County Officers and Employees' Retirement Trust Fund out
11 of the Intangible Tax Fund in the State Treasury in the amount
12 necessary to administer efficiently the state and county
13 retirement law. At the end of each fiscal year, beginning
14 with fiscal year 1959-1960, the administrative cost of the
15 state and county retirement system for the fiscal year just
16 ended shall be refunded to the General Revenue Fund from
17 interest earned on investments made subsequent to June 30,
18 1959.

19 Section 58. Subsection (2) of section 122.15, Florida
20 Statutes, is amended to read:

21 122.15 Benefits exempt from taxes and execution.--

22 (2) This subsection shall have no effect upon this
23 section except that the division ~~department~~ may, upon written
24 request from the retired member, deduct premiums for group
25 hospitalization insurance from the retirement benefit paid
26 such retired member.

27 Section 59. Paragraph (b) of subsection (2) of section
28 122.16, Florida Statutes, is amended to read:

29 122.16 Employment after retirement.--

30 (2)

31

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

25 Section 60. Subsection (3) of section 122.23, Florida
26 Statutes, is amended to read:

27 122.23 Definitions; ss. 122.21-122.321.--In addition
28 to those definitions set forth in s. 122.02 the following
29 words and phrases used in ss. 122.21-122.24, 122.26 to
30 122.321, inclusive, have the respective meanings set forth:
31

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

4 Section 61. Subsections (1) and (5) of section 122.30,
5 Florida Statutes, are amended to read:

6 122.30 Appropriations.--

7 (1) There is hereby annually appropriated from the
8 intangible tax fund of the state to the division ~~department~~ as
9 the state agency designated in chapter 650, a sum not to
10 exceed \$10,000 to defray the expenses of such agency in
11 connection with its continuing duties in relation to the
12 social security coverage provided by this law.

13 (5) In addition to amounts appropriated by other
14 provisions of this chapter or other laws to defray cost of
15 administration of this system, there is hereby appropriated
16 out of the Intangible Tax Fund of the state for use of the
17 division ~~department~~ in its administration of the two divisions
18 of this system, the sum of \$100,000, or so much thereof as may
19 be required for that purpose.

20 Section 62. Paragraphs (b) and (c) of subsection (1)
21 and subsection (11) of section 122.34, Florida Statutes, are
22 amended to read:

23 122.34 Special provisions for certain sheriffs and
24 full-time deputy sheriffs.--

25 (1)

26 (b) Only those members who are full-time criminal law
27 enforcement officers or agents, as certified by the employing
28 authority, who perform duties according to rule, order, or
29 established custom as full-time criminal law enforcement
30 officers or agents shall be certified to the division

31

1 ~~department~~ as high hazard members, and only such members will
2 be approved by the division ~~department~~.

3 (c) The division ~~department~~ shall make such rules as
4 are necessary for the effective administration of the intent
5 of this section.

6 (11) No high hazard member shall be permitted to
7 receive benefits under this section until examined by a duly
8 qualified physician or surgeon, or board of physicians and
9 surgeons, to be selected by the Governor for that purpose, and
10 found to be disabled in the degree and in the manner specified
11 in this section. At such time as the division ~~Department of~~
12 ~~Management Services~~ directs, any high hazard member receiving
13 disability benefits under this section shall submit to a
14 medical examination to determine if such disability has
15 continued, and the cost of such examination shall be paid from
16 the retirement trust fund herein provided for; and in the
17 event it is declared by said examination that said disability
18 has cleared, such member shall be ordered to return to active
19 duty with the same rank and salary that he or she had at the
20 time of disability. Any such member who shall fail to return
21 to duty following such order shall forfeit all rights and
22 claims under this law. Every high hazard member retiring
23 under this provision shall be paid so long as the member's
24 permanent total or partial disability continues, on his or her
25 own requisition.

26 Section 63. Section 122.351, Florida Statutes, is
27 amended to read:

28 122.351 Funding by local agencies.--Commencing on July
29 1, 1969, all county and local agencies covered under the
30 provisions of s. 122.35 shall accumulate and be responsible
31 for the payment of social security and retirement matching

1 costs as required under s. 122.35, from the intangible tax
2 allocation of that county and any other source available to
3 the local governmental units, except that all agencies, other
4 than the school boards, shall be given credit for 50 percent
5 of their 1967-1969 actual employer matching cost, actual cost
6 being that cost in cash actually paid by the employer for
7 matching retirement and social security into the fund by the
8 agency for said biennium. The above credit of 50 percent shall
9 be calculated by the division ~~department~~.

10 Section 64. Subsection (6) of section 175.032, Florida
11 Statutes, is amended to read:

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

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

20 Section 65. Subsection (1) of section 175.121, Florida
21 Statutes, is amended to read:

22 175.121 Department of Revenue and Division of
23 Retirement to keep accounts of deposits; disbursements.--For
24 any municipality or special fire control district having a
25 chapter or local law plan established pursuant to this
26 chapter:

27 (1) The Department of Revenue shall keep a separate
28 account of all moneys collected for each municipality and each
29 special fire control district under the provisions of this
30 chapter. Seven and three-tenths percent of all moneys so
31 collected shall be transferred to the General Revenue Fund as

1 a service charge consistent with s. 215.20. The balance of all
2 moneys so collected shall ~~must~~ be transferred to the Police
3 and Firefighters' Premium Tax Trust Fund and shall be
4 separately accounted for by the division. The moneys budgeted
5 as necessary to pay the expenses of the division for the daily
6 oversight and monitoring of the firefighters' pension plans
7 under this chapter and for the oversight and actuarial reviews
8 conducted under part VII of chapter 112 are annually
9 appropriated from the interest and investment income earned on
10 the moneys collected for each municipality or special fire
11 control district and deposited in the Police and Firefighters'
12 Premium Tax Trust Fund. Interest and investment income
13 remaining thereafter in the trust fund which is unexpended and
14 otherwise unallocated by law shall be transferred ~~revert~~ to
15 the General Revenue Fund on June 30 of each year.

16 Section 66. Section 175.1215, Florida Statutes, is
17 amended to read:

18 175.1215 Police and Firefighters' Premium Tax Trust
19 Fund.--The Police and Firefighters' Premium Tax Trust Fund is
20 created in the State Treasury, to be administered by the
21 Division of Retirement ~~of the Department of Management~~
22 ~~Services~~. Funds credited to the trust fund, as provided in
23 chapter 95-250, Laws of Florida, or similar legislation, shall
24 be expended for the purposes set forth in that legislation.

25 Section 67. Subsection (1) of section 175.341, Florida
26 Statutes, is amended to read:

27 175.341 Duties of Division of Retirement; rulemaking
28 authority; investments by State Board of Administration.--

29 (1) The division shall be responsible for the daily
30 oversight and monitoring for actuarial soundness of the
31 firefighters' pension plans, whether chapter or local law

1 plans, established under this chapter, for receiving and
2 holding the premium tax moneys collected under this chapter,
3 and, upon determining compliance with the provisions of this
4 chapter, for disbursing those moneys to the firefighters'
5 pension plans. The funds necessary to pay expenses for such
6 administration are ~~shall be~~ annually appropriated from the
7 interest and investment income earned on moneys deposited in
8 the trust fund.

9 Section 68. Subsection (7) of section 185.02, Florida
10 Statutes, is amended to read:

11 185.02 Definitions.--For any municipality, chapter
12 plan, local law municipality, or local law plan under this
13 chapter, the following words and phrases as used in this
14 chapter shall have the following meanings, unless a different
15 meaning is plainly required by the context:

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

19 Section 69. Subsection (1) of section 185.10, Florida
20 Statutes, is amended to read:

21 185.10 Department of Revenue and Division of
22 Retirement to keep accounts of deposits; disbursements.--For
23 any municipality having a chapter plan or local law plan under
24 this chapter:

25 (1) The Department of Revenue shall keep a separate
26 account of all moneys collected for each municipality under
27 the provisions of this chapter. Seven and three-tenths percent
28 of all moneys so collected shall be transferred to the General
29 Revenue Fund as a service charge consistent with s. 215.20.
30 The balance of all moneys so collected shall ~~must~~ be
31 transferred to the Police and Firefighters' Premium Tax Trust

1 Fund and shall be separately accounted for by the division.
2 The moneys budgeted as necessary to pay the expenses of the
3 division for the daily oversight and monitoring of the police
4 officers' retirement plans under this chapter and for the
5 oversight and actuarial reviews conducted under part VII of
6 chapter 112 are annually appropriated from the interest and
7 investment income earned on the moneys collected for each
8 municipality or special fire control district and deposited in
9 the Police and Firefighters' Premium Tax Trust Fund. Interest
10 and investment income remaining thereafter in the trust fund
11 which is unexpended and otherwise unallocated by law shall be
12 transferred ~~revert~~ to the General Revenue Fund on June 30 of
13 each year.

14 Section 70. Section 185.105, Florida Statutes, is
15 amended to read:

16 185.105 Police and Firefighters' Premium Tax Trust
17 Fund.--The Police and Firefighters' Premium Tax Trust Fund is
18 created in the State Treasury, to be administered by the
19 Division of Retirement ~~of the Department of Management~~
20 ~~Services~~. Funds credited to the trust fund, as provided in
21 chapter 95-250, Laws of Florida, or similar legislation, shall
22 be expended for the purposes set forth in that legislation.

23 Section 71. Subsection (1) of section 185.23, Florida
24 Statutes, is amended to read:

25 185.23 Duties of Division of Retirement; rulemaking
26 authority; investments by State Board of Administration.--

27 (1) The division shall be responsible for the daily
28 oversight and monitoring for actuarial soundness of the
29 municipal police officers' retirement plans, whether chapter
30 or local law plans, established under this chapter, for
31 receiving and holding the premium tax moneys collected under

1 this chapter, and, upon determining compliance with the
2 provisions of this chapter, for disbursing those moneys to the
3 municipal police officers' retirement plans. The funds to pay
4 the expenses for such administration are ~~shall be annually~~
5 appropriated from the interest and investment income earned on
6 moneys deposited in the trust fund.

7 Section 72. Paragraph (o) of subsection (4) of section
8 215.20, Florida Statutes, is amended to read:

9 215.20 Certain income and certain trust funds to
10 contribute to the General Revenue Fund.--

11 (4) The income of a revenue nature deposited in the
12 following described trust funds, by whatever name designated,
13 is that from which the appropriations authorized by subsection
14 (3) shall be made:

15 (o) Within the Department of Management Services:

- 16 1. The Administrative Trust Fund.
- 17 2. The Architects Incidental Trust Fund.
- 18 3. The Bureau of Aircraft Trust Fund.
- 19 4. The Florida Facilities Pool Working Capital Trust
20 Fund.
- 21 5. The Grants and Donations Trust Fund.
- 22 6. The Motor Vehicle Operating Trust Fund.
- 23 ~~7. The Police and Firefighters' Premium Tax Trust~~
24 ~~Fund.~~
- 25 ~~7.8.~~ The Public Employees Relations Commission Trust
26 Fund.
- 27 ~~8.9.~~ The State Personnel System Trust Fund.
- 28 ~~9.10.~~ The Supervision Trust Fund.
- 29 ~~10.11.~~ The Working Capital Trust Fund.

30
31

1 The enumeration of the foregoing moneys or trust funds shall
2 not prohibit the applicability thereto of s. 215.24 should the
3 Governor determine that for the reasons mentioned in s. 215.24
4 the money or trust funds should be exempt herefrom, as it is
5 the purpose of this law to exempt income from its force and
6 effect when, by the operation of this law, federal matching
7 funds or contributions or private grants to any trust fund
8 would be lost to the state.

9 Section 73. Subsection (3) of section 215.28, Florida
10 Statutes, is amended to read:

11 215.28 United States securities, purchase by state and
12 county officers and employees; deductions from salary.--

13 (3) All deductions so made by any such disbursing
14 authority shall be deposited in a trust account separate and
15 apart from the funds of the state, county, or subordinate
16 agency. Such trust account shall be created in the State
17 Treasury and shall be administered by the State Board of
18 Administration.Such account will be subject to withdrawal
19 only for the purchase of United States securities on behalf of
20 officers and employees, or for refunds to such persons in
21 accordance with the provisions of this law. Whenever the sum
22 of \$18.75 or the purchase price of the security requested to
23 be purchased is accumulated from deductions so made from the
24 salaries or wages of an officer or employee, such disbursing
25 agent shall arrange the purchase of the bond or security
26 applied for and have it registered in the name or names
27 requested in the deduction authorization. Securities so
28 purchased will be delivered in such manner as may be
29 convenient for the issuing agent and the purchaser. Any
30 interest earned on moneys in such account while awaiting the
31 accumulation of the purchase price of the security shall be

1 transferred to the Florida Retirement System Trust Fund as
2 reimbursement for administrative costs incurred by the
3 Division of Retirement of the State Board of Administration
4 ~~Department of Management Services~~ under this section.

5 Section 74. Subsection (7) of section 215.44, Florida
6 Statutes, is amended to read:

7 215.44 Board of Administration; powers and duties in
8 relation to investment of trust funds.--

9 (7) Investment and debt purchasing procedures and
10 contracts of funds held in trust by the State Board of
11 Administration, whether directly or incidentally related to
12 the investment or debt transactions, and purchases of
13 commodities or services related to the administration of
14 pension benefits are exempt from the provisions of chapter
15 287.

16 Section 75. Subsection (3) of section 215.50, Florida
17 Statutes, is amended to read:

18 215.50 Custody of securities purchased; income.--

19 (3) The Chief Financial Officer, as custodian of
20 securities owned by the Florida Retirement System Trust Fund
21 and the Florida Survivor Benefit Trust Fund, shall collect the
22 interest, dividends, prepayments, maturities, proceeds from
23 sales, and other income accruing from such assets. As such
24 income is collected by the Chief Financial Officer, it shall
25 be deposited directly into a commercial bank to the credit of
26 the State Board of Administration. Such bank accounts as may
27 be required for this purpose shall offer satisfactory
28 collateral security as provided by chapter 280. In the event
29 funds so deposited according to the provisions of this section
30 are required for the purpose of paying benefits or other
31 operational needs, the State Board of Administration shall

1 remit to the Florida Retirement System Trust Fund in the State
2 Treasury such amounts as are required ~~may be requested by the~~
3 ~~Department of Management Services.~~

4 Section 76. Section 215.52, Florida Statutes, is
5 amended to read:

6 215.52 Rules and regulations.--The board may adopt
7 ~~shall have the power and authority to make reasonable rules~~
8 ~~and regulations necessary to implement general law conferring~~
9 ~~powers and duties upon it carry out the provisions of ss.~~
10 ~~215.44-215.53.~~

11 Section 77. Subsections (2), (3), (11), and (13) of
12 section 238.01, Florida Statutes, are amended to read:

13 238.01 Definitions.--The following words and phrases
14 as used in this chapter shall have the following meanings
15 unless a different meaning is plainly required by the context:

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

19 (3) "Teacher" means any member of the teaching or
20 professional staff and any certificated employee of any public
21 free school, of any district school system and vocational
22 school, any member of the teaching or professional staff of
23 the Florida School for the Deaf and Blind, child training
24 schools of the Department of Juvenile Justice, the Department
25 of Corrections, and any tax-supported institution of higher
26 learning of the state, and any member and any certified
27 employee of the Department of Education, any certified
28 employee of the retirement system, any full-time employee of
29 any nonprofit professional association or corporation of
30 teachers functioning in Florida on a statewide basis, which
31 seeks to protect and improve public school opportunities for

1 children and advance the professional and welfare status of
2 its members, any person now serving as superintendent, or who
3 was serving as county superintendent of public instruction on
4 July 1, 1939, and any hereafter duly elected or appointed
5 superintendent, who holds a valid Florida teachers'
6 certificate. In all cases of doubt the division ~~Department of~~
7 ~~Management Services~~ shall determine whether any person is a
8 teacher as defined herein.

9 (11) "Regular interest" means interest at such rate as
10 may be set from time to time by the division ~~Department of~~
11 ~~Management Services~~.

12 (13) "Earnable compensation" means the full
13 compensation payable to a teacher working the full working
14 time for his or her position. In respect to plans A, B, C, and
15 D only, in cases where compensation includes maintenance, the
16 division ~~Department of Management Services~~ shall fix the value
17 of that part of the compensation not paid in money; provided
18 that all members shall from July 1, 1955, make contributions
19 to the retirement system on the basis of "earnable
20 compensation" as defined herein and all persons who are
21 members on July 1, 1955, may, upon application, have their
22 "earnable compensation" for the time during which they have
23 been members prior to that date determined on the basis of
24 "earnable compensation" as defined in this law, upon paying to
25 the retirement system, on or before the date of retirement, a
26 sum equal to the additional contribution with accumulated
27 regular interest thereon they would have made if "earnable
28 compensation" had been defined, at the time they became
29 members, as it is now defined. However, earnable compensation
30 for all plan years beginning on or after July 1, 1990, shall
31 not include any amounts in excess of the compensation

1 limitation (originally \$200,000) established by s. 401(a)(17)
2 of the Internal Revenue Code prior to the Omnibus Budget
3 Reconciliation Act of 1993, which limitation shall be adjusted
4 for changes in the cost of living since 1989, in the manner
5 provided by s. 401(a)(17) of the Internal Revenue Code of
6 1991. This limitation, which has been part of the Teachers'
7 Retirement System since plan years beginning on or after July
8 1, 1990, shall be adjusted as required by federal law for
9 qualified government plans.

10 Section 78. Section 238.02, Florida Statutes, is
11 amended to read:

12 238.02 Name and date of establishment.--A retirement
13 system is established and placed under the management of the
14 division ~~Department of Management Services~~ for the purpose of
15 providing retirement allowances and other benefits for
16 teachers of the state. The retirement system shall begin
17 operations on July 1, 1939. It has such powers and privileges
18 of a corporation as may be necessary to carry out effectively
19 the provisions of this chapter and shall be known as the
20 "Teachers' Retirement System of the State," and by such name
21 all of its business shall be transacted, all of its funds
22 invested, and all of its cash and securities and other
23 property held in trust for the purpose for which received.

24 Section 79. Section 238.03, Florida Statutes, is
25 amended to read:

26 238.03 Administration.--

27 (1) The general administration and the responsibility
28 for the proper operation of the retirement system and for
29 making effective the provisions of this chapter are vested in
30 the division ~~Department of Management Services~~. Subject to
31 the limitation of this chapter, the division ~~department~~ shall,

1 from time to time, establish rules and regulations for the
2 administration and transaction of the business of the
3 retirement system and shall perform such other functions as
4 are required for the execution of this chapter.

5 (2) The division ~~department~~ shall keep in convenient
6 form such data as shall be necessary for actuarial valuation
7 of the various funds created by this chapter and for checking
8 the experience of the retirement system.

9 (3) The Department of Legal Affairs, at the option of
10 the State Board of Administration, shall be the legal adviser
11 of the division ~~department~~.

12 (4) The division ~~department~~ shall employ such agents,
13 servants and employees as in its judgment may be necessary to
14 carry out the terms and provisions of this chapter and shall
15 provide for their compensation. Among the employees of the
16 division ~~department~~ shall be an actuary who shall be the
17 technical adviser of the division ~~department~~ on matters
18 regarding the operation of the funds created by the provisions
19 of this chapter and who shall perform such other duties as are
20 required in connection therewith.

21 (5) In the year 1943 and at least once in each 5-year
22 period thereafter, the actuary shall make an actuarial
23 investigation of the mortality, service and salary experience
24 of the members and beneficiaries as defined in this chapter,
25 and shall make a valuation of the various funds created by the
26 chapter, and having regard to such investigation and
27 valuation, the division ~~department~~ shall adopt such mortality
28 and service tables as shall be deemed necessary, and shall
29 certify the rates of contribution payable under the provisions
30 of this chapter.

31

1 (6) The actuary shall make an annual valuation of the
2 assets and liabilities of the funds of the retirement system
3 on the basis of the tables adopted by the division ~~department~~
4 in accordance with the requirements of this section, and shall
5 prepare an annual statement of the amounts to be contributed
6 by the state in accordance with s. 238.09.

7 (7) The division ~~department~~ shall publish annually the
8 valuation, as certified by the actuary, of the assets and
9 liabilities of the various funds created by this chapter, a
10 statement as to the receipts and disbursements of the funds,
11 and a statement as to the accumulated cash and securities of
12 the funds.

13 (8) The division ~~department~~ shall keep a record of all
14 of its proceedings and such record shall be open to inspection
15 by the public.

16 (9) The division ~~department~~ is authorized to
17 photograph and reduce to microfilm as a permanent record, its
18 ledger sheets showing the salary and contributions of members
19 of the retirement system, also the records of deceased members
20 of the system and thereupon to destroy the documents from
21 which such films are photographed.

22 Section 80. Paragraph (b) of subsection (1),
23 paragraphs (a) and (b) of subsection (3), and subsection (4)
24 of section 238.05, Florida Statutes, are amended to read:

25 238.05 Membership.--

26 (1) The membership of the retirement system shall
27 consist of the following:

28 (b) All persons who became or who become teachers on
29 or after July 1, 1939, except as provided in paragraph (a) and
30 subsection (5) hereof, shall become members of the retirement
31 system by virtue of their appointment as teachers. However,

1 employees who are not members of the teaching or professional
2 staff shall only become members of the retirement system by
3 filing a notice with the division ~~department~~ of their election
4 to become members.

5 (3) Except as otherwise provided in s. 238.07(9),
6 membership of any person in the retirement system will cease
7 if he or she is continuously unemployed as a teacher for a
8 period of more than 5 consecutive years, or upon the
9 withdrawal by the member of his or her accumulated
10 contributions as provided in s. 238.07(13), or upon
11 retirement, or upon death; provided that the adjustments
12 prescribed below are to be made for persons who enter the
13 Armed Forces of the United States during a period of war or
14 national emergency and for persons who are granted leaves of
15 absence. Any member of the retirement system who within 1
16 year before the time of entering the Armed Forces of the
17 United States was a teacher, as defined in s. 238.01, or was
18 engaged in other public educational work within the state, and
19 member of the Teachers' Retirement System at the time of
20 induction, or who has been or is granted leave of absence,
21 shall be permitted to elect to continue his or her membership
22 in the Teachers' Retirement System; and membership service
23 shall be allowed for the period covered by service in the
24 Armed Forces of the United States or by leave of absence under
25 the following conditions:

26 (a) A person who has been granted leave of absence
27 shall file with the division ~~department~~ before his or her next
28 contribution is due an application to continue his or her
29 membership during the period covered by the person's leave of
30 absence and, if such application is filed, shall make his or
31 her contribution to the retirement system on the basis of his

1 or her last previous annual salary as a teacher, and shall,
2 prior to retirement, pay in full to the system such
3 contributions with accumulated regular interest. Such
4 contributions with interest may be paid at one time or in
5 monthly, quarterly, semiannual, or annual payments in the
6 person's discretion.

7 (b) A person who enters or who has entered the Armed
8 Forces of the United States may either continue his or her
9 membership according to the plan outlined under paragraph (a)
10 or, in lieu thereof, may file with the division ~~department~~ at
11 any time following the close of his or her military service an
12 application that his or her membership be continued and that
13 membership service be allowed for not more than 5 years of his
14 or her period of service in the Armed Forces of the United
15 States during any period of war or national emergency;
16 provided that any such person shall, prior to retirement, pay
17 in full his or her contributions with accumulated regular
18 interest to the retirement system for the period for which he
19 or she is entitled to membership service on the basis of his
20 or her last previous annual salary as a teacher. Such
21 contributions with interest may be paid to the division
22 ~~department~~ at one time or in monthly, quarterly, semiannual,
23 or annual payments in the person's discretion.

24 (4) The division ~~department~~ may in its discretion deny
25 the right to become members to any class of teachers who are
26 serving on a temporary or any other than a per annum basis,
27 and it may also in its discretion make optional with members
28 in any such class their individual entrance into membership.

29 Section 81. Subsections (3), (10), (12), (13), (15A),
30 and (16) of section 238.07, Florida Statutes, are amended to
31 read:

1 238.07 Regular benefits; survivor benefits.--
2 (3) Any member who, prior to July 1, 1955, elected to
3 retire under one of plans A, B, C, or D may elect, prior to
4 retirement, to retire under plan E in accordance with the
5 terms hereof. Any person who became a member on or after July
6 1, 1955, shall retire under plan E, except as provided for
7 under s. 238.31. With respect to plans A, B, C, or D, any
8 member shall have the right at any time to change to a plan of
9 retirement requiring a lower rate of contribution. The
10 division ~~Department of Management Services~~ shall also notify
11 the member of the rate of contribution such member must make
12 from and after selecting such plan of retirement. Any member
13 in service may retire upon reaching the age of retirement
14 formerly selected by him or her, upon the member's written
15 application to the division ~~department~~ setting forth at which
16 time, not more than 90 days subsequent to the execution and
17 filing of such application, it is his or her desire to retire
18 notwithstanding that during such period of notification he or
19 she may have separated from service. Upon receipt of such
20 application for retirement, the division ~~department~~ shall
21 retire such member not more than 90 days thereafter. Before
22 such member may retire he or she must file with the division
23 ~~department~~ his or her written selection of one of the optional
24 benefits provided ins. 238.08.
25 (10) Any member in service, who has 10 or more years
26 of creditable service, may upon the application of his or her
27 employer or upon his or her own application, be retired by the
28 division ~~department~~ not less than 30 nor more than 90 days
29 next following the date of filing such application, on a
30 disability retirement allowance; provided that a physician
31 licensed by this state examines and certifies that such member

1 is mentally or physically incapacitated for the further
2 performance of duty, that such incapacity is likely to be
3 permanent, and that such member should be retired, and the
4 division ~~department~~ concurs. In making the determination, the
5 division ~~department~~ may require other evidence of disability
6 as deemed appropriate.

7 (12)(a) Once each year during the first 5 years
8 following the retirement of a member on a disability
9 retirement allowance, and once in every 3-year period
10 thereafter, the division ~~department~~ may require any disability
11 beneficiary who has not yet attained his or her minimum
12 service retirement age to undergo a medical examination by a
13 physician licensed by this state and to submit any other
14 evidence of disability as required by the division ~~department~~.
15 Should a disability beneficiary who has not yet attained his
16 or her minimum service retirement age refuse to submit to any
17 such medical examination, his or her retirement allowance
18 shall be discontinued until his or her withdrawal of such
19 refusal, and should such refusal continue for 1 year, all of
20 the disability beneficiary's rights in and to his or her
21 pension shall be forfeited.

22 (b) If the division ~~department~~ finds that a disability
23 beneficiary is engaged in or is able to engage in a gainful
24 occupation paying more than the difference between his or her
25 disability retirement allowance and his or her average final
26 compensation, the amount of the beneficiary's pension shall be
27 reduced to an amount which, together with his or her annuity
28 and the amount earnable by him or her, shall equal the amount
29 of his or her average final compensation. Should the
30 beneficiary's earning capacity later be changed, the amount of
31 his or her pension may be further modified; provided that the

1 pension so modified shall not exceed the amount of the pension
2 allowable under subsection (11), at the time of retirement,
3 nor an amount which, when added to the amount earnable by the
4 beneficiary, together with his or her annuity, equals the
5 amount of his or her average final compensation. A
6 beneficiary restored to active service at a salary less than
7 the average final compensation upon the basis of which he or
8 she was retired shall not become a member of the retirement
9 system at that time.

10 (c) Should a disability beneficiary under his or her
11 minimum service retirement age be at any time in service at a
12 salary equal to or greater than his or her average final
13 compensation upon the basis of which he or she was retired,
14 the beneficiary's disability retirement allowance shall cease
15 and he or she shall again become a member of the retirement
16 system and shall contribute thereafter at the same rate at
17 which he or she paid prior to disability. Any prior service
18 certificate, on the basis of which his or her allowance was
19 computed at the time of his or her disability retirement,
20 shall be restored to full force and effect; and, in addition,
21 upon his or her subsequent retirement he or she shall be
22 credited with all his or her membership service on the basis
23 of which his or her allowance was computed at the time of his
24 or her disability retirement.

25 (13) Should a member cease to be a teacher except by
26 death or by retirement under the provisions of this chapter,
27 the member shall be paid the amount of his or her accumulated
28 contributions. Should a member die before retirement, the
29 amount of his or her accumulated contributions shall be paid
30 to such person, if any, as he or she shall have nominated by
31 written designation duly executed and filed with the division

1 ~~department~~; otherwise, to his or her executors or
2 administrators.

3 (15A)(a) Any member of the Teachers' Retirement System
4 who has heretofore, or who hereafter, retires with no less
5 than 10 years of creditable service and who has passed his or
6 her 65th birthday, may, upon application to the division
7 ~~department~~, have his or her retirement allowance redetermined
8 and thereupon shall be entitled to a monthly service
9 retirement allowance which shall be equal to \$4 multiplied by
10 the number of years of the member's creditable service which
11 shall be payable monthly during his or her retirement;
12 provided, that the amount of retirement allowance as
13 determined hereunder, shall be reduced by an amount equal to:

14 1. Any social security benefits received by the
15 member, and

16 2. Any social security benefits that the member is
17 eligible to receive by reason of his or her own right or
18 through his or her spouse.

19 (b) No payment shall be made to a member of the
20 Teachers' Retirement System under this act, until the division
21 ~~department~~ has determined the social security status of such
22 member.

23 (c) Eligibility of a member of the Teachers'
24 Retirement System shall be determined under the social
25 security laws and regulations; provided, however, that a
26 member shall be considered eligible if the member or the
27 member's spouse has reached 65 years of age and would draw
28 social security if the member or the member's spouse were not
29 engaged in activity that results in the member or the member's
30 spouse receiving income that would make him or her ineligible
31 to receive social security benefits. A member of the

1 Teachers' Retirement System shall be deemed to be eligible for
2 social security benefits if the member has this eligibility in
3 his or her own right or through his or her spouse.

4 (d) The division ~~department~~ shall review, at least
5 annually, the social security status of all members of the
6 Teachers' Retirement System receiving payment under this act
7 and shall increase or decrease payments to such members as
8 shall be necessary to carry out the intent of this act.

9 (e) No member of the Teachers' Retirement System shall
10 have his or her retirement allowance reduced or any of his or
11 her rights impaired by reason of this act.

12 (f) This subsection shall take effect on January 1,
13 1962.

14 (16)(a) Definitions under survivor benefits are:

15 1. A dependent is a child, widow, widower, or parent
16 of the deceased member who was receiving not less than
17 one-half of his or her support from the deceased member at the
18 time of the death of such member.

19 2. A child is a natural or legally adopted child of a
20 member, who:

21 a. Is under 18 years of age, or

22 b. Is over 18 years of age but not over 22 years of
23 age and is enrolled as a student in an accredited educational
24 institution, or

25 c. Is 18 years of age or older and is physically or
26 mentally incapable of self-support, when such mental and
27 physical incapacity occurred prior to such child obtaining the
28 age of 18 years. Such person shall cease to be regarded as a
29 child upon the termination of such physical or mental
30 disability. The determination as to such physical or mental
31 incapability shall be vested in the division ~~department~~.

1
2 No person shall be considered a child who has married or,
3 except as provided in sub-subparagraph 2.b. or as to a child
4 who is physically or mentally incapable of self-support as
5 hereinbefore set forth, has become 18 years of age.

6 3. A parent is a natural parent of a member and
7 includes a lawful spouse of a natural parent.

8 4. A beneficiary is a person who is entitled to
9 benefits under this subsection by reason of his or her
10 relation to a deceased member during the lifetime of such
11 member.

12 (b) In addition to all other benefits to which a
13 member shall, subject to the conditions set out below, be
14 entitled, the beneficiary of such member shall, upon the death
15 of such member, receive the following benefits:

| 16 | 17 | 18 | 19 | 20 | 21 |
|----|----------------------|--------------------|----------------------|----|----|
| | Minimum period of | Beneficiaries of | Benefits | | |
| | paid service of | deceased member | | | |
| | member in Florida as | | | | |
| | regular full-time | | | | |
| | teacher | | | | |
| 22 | | | | | |
| 23 | 1. One calendar day | Widow or widower | \$190 per month for | | |
| 24 | | who has care of | one child. \$250 per | | |
| 25 | | dependent child or | month if more than | | |
| 26 | | children of | one child, maximum | | |
| 27 | | deceased member. | benefits \$250 per | | |
| 28 | | | month. | | |
| 29 | | | | | |
| 30 | | | | | |
| 31 | | | | | |

| | | | | |
|----|----|------------------|--------------------|----------------------|
| 1 | 2. | One calendar day | One or more | \$190 per month per |
| 2 | | | dependent children | child; maximum |
| 3 | | | if there is no | benefits \$250 per |
| 4 | | | surviving widow or | month if more than |
| 5 | | | widower. | one child. |
| 6 | | | | |
| 7 | 3. | One calendar day | Dependent parents | For each parent, |
| 8 | | | 65 years or older. | \$100 per month for |
| 9 | | | | life. |
| 10 | | | | |
| 11 | 4. | One calendar day | Designated | \$500 lump-sum death |
| 12 | | | beneficiary and, | benefits payable |
| 13 | | | if no designated | only once. |
| 14 | | | beneficiary, then | |
| 15 | | | the executor or | |
| 16 | | | administrator of | |
| 17 | | | deceased member. | |
| 18 | | | | |
| 19 | 5. | One calendar day | Dependent widow or | \$150 per month for |
| 20 | | | widower 50 years | life. |
| 21 | | | of age and less | |
| 22 | | | than 65 years of | |
| 23 | | | age. | |
| 24 | | | | |
| 25 | 6. | Ten years | Widow or widower | \$175 per month for |
| 26 | | | 65 years of age or | life. |
| 27 | | | older. | |
| 28 | | | | |
| 29 | | | | |
| 30 | | | | |
| 31 | | | | |

1 7. Retired member Designated \$500 lump-sum death
2 beneficiary and if benefits payable
3 no designated only once.
4 beneficiary, then
5 the executor or
6 administrator of
7 deceased retired
8 member.

9
10 Beginning on July 1, 1971, the lump-sum death benefit,
11 provided in item 7 above for the retired teacher, shall apply
12 to all present and future retirees of the systems.

13 (c) The payment of survivor benefits shall begin as of
14 the month immediately following the death of the member except
15 where the beneficiary has not reached the age required to
16 receive benefits under paragraph (b), in which event the
17 payment of survivor benefits shall begin as of the month
18 immediately following the month in which the beneficiary
19 reaches the required age. Provided that if death occurs during
20 the first 3 years of employment, the payment of survivor
21 benefits shall be reduced by the amount of monthly benefits
22 the member's survivors are entitled to receive under federal
23 social security as either a survivor of the member or as a
24 covered worker under federal social security.

25 (d) Limitations on rights of beneficiary are:

26 1. The person named as beneficiary in paragraph (b)
27 shall, in no event, be entitled to receive the benefits set
28 out in such paragraph unless the death of the member under
29 whom such beneficiary claims occurs within the period of time
30 after the member has served in Florida as follows:

31

| | | |
|---|-------------------------|-------------------------|
| 1 | Minimum number of years | Period after serving in |
| 2 | of service in Florida | Florida in which |
| 3 | | death of member |
| 4 | | occurs |

| | | |
|---|-----------------|----------|
| 5 | | |
| 6 | 3 to 5..... | 2 years |
| 7 | 6 to 9..... | 5 years |
| 8 | 10 or more..... | 10 years |
| 9 | | |

10 2. Upon the death of a member, the division ~~department~~
11 shall make a determination of the beneficiary or beneficiaries
12 of the deceased member and shall pay survivor benefits to such
13 beneficiary or beneficiaries beginning 1 month immediately
14 following the death of the member except where the beneficiary
15 has not reached the age required to receive benefits under
16 paragraph (b), in which event the payment of survivor benefits
17 shall begin as of the month immediately following the month in
18 which the beneficiary reaches the required age. When required
19 by the division ~~department~~, the beneficiary or beneficiaries
20 shall file an application for survivor benefits upon forms
21 prescribed by the division ~~department~~.

22 3. The beneficiaries of a member to receive survivor
23 benefits are fixed by this subsection, and a member may not
24 buy or otherwise change such benefits. He or she may,
25 however, designate the beneficiary to receive the \$500 death
26 benefits. If a member fails to make this designation, the
27 \$500 death benefits shall be paid to his or her executor or
28 administrator.

29 4. The beneficiary or beneficiaries of a member whose
30 death occurs while he or she is in service or while he or she
31 is receiving a disability allowance under subsection (11),

1 shall receive survivor benefits under this subsection
2 determined by the years of service in Florida of the deceased
3 member as set out in paragraph (b). The requirement that the
4 death of a member must occur within a certain period of time
5 after service in Florida as set out in subparagraph (d)1.
6 shall not apply to a member receiving a disability benefit at
7 the time of his or her death.

8 Section 82. Subsection (2), paragraph (b) of
9 subsection (5), and subsections (6) and (7) of section 238.08,
10 Florida Statutes, are amended to read:

11 238.08 Optional benefits.--A member may elect to
12 receive his or her benefits under the terms of this chapter
13 according to the provisions of any one of the following
14 options:

15 (2) Option two. A member may elect to receive on
16 retirement the actuarial equivalent (at that time) of his or
17 her retirement allowance in a reduced retirement allowance
18 payable throughout life, with the provisions that if the
19 member dies before he or she has received in payment of his or
20 her annuity the amount of his or her accumulated
21 contributions, as they were at the time of his or her
22 retirement, the balance shall be paid to such person, if any,
23 as he or she shall nominate by written designation duly
24 acknowledged and filed with the division ~~department~~;
25 otherwise, to his or her executors or administrators.

26 (5)

27 (b) A member who elects Option three or Option four
28 shall, on a form provided for that purpose, designate his or
29 her spouse as beneficiary to receive the benefits which
30 continue to be payable upon the death of the member. After
31 such benefits have commenced under Option three or Option

1 four, the retired member may change the designation of his or
2 her spouse as beneficiary only twice. If such a retired
3 member remarries and wishes to make such a change, he or she
4 may do so by filing with the division ~~department~~ a notarized
5 change of spouse designation form and shall notify the former
6 spouse in writing of such change. Upon receipt of a completed
7 change of spouse designation form, the division ~~department~~
8 shall adjust the member's monthly benefit by the application
9 of actuarial tables and calculations developed to ensure that
10 the benefit paid is the actuarial equivalent of the present
11 value of the member's current benefit. The consent of a
12 retired member's formerly designated spouse as beneficiary to
13 any such change shall not be required.

14 (6) Notwithstanding any provision in this chapter to
15 the contrary, the following provisions shall apply to any
16 member of the retirement system who has accumulated at least
17 10 years of service and dies prior to retirement:

18 (a) If the deceased member's surviving spouse has
19 previously received a refund of the member's accumulated
20 contributions made to the retirement system, such spouse may
21 pay to the division ~~department~~ an amount equal to the sum of
22 the amount of the deceased member's contributions previously
23 refunded and regular interest compounded annually on the
24 amount of such refunded contributions from the date of refund
25 to the date of payment to the division ~~department~~, and by so
26 doing be entitled to receive the monthly retirement benefit
27 provided in paragraph (c).

28 (b) If the deceased member's surviving spouse has not
29 received a refund of the deceased member's accumulated
30 contributions, such spouse shall, upon application to the
31 division ~~department~~ within 30 days of the death of the member,

1 receive the monthly retirement benefit provided in paragraph
2 (c).

3 (c) The monthly benefit payable to the spouse
4 described in paragraph (a) or paragraph (b) shall be the
5 amount which would have been payable to the deceased member's
6 spouse, assuming that the member retired on the date of his or
7 her death and had selected the option in subsection (3), such
8 benefit to be based on the ages of the spouse and member as of
9 the date of death of the member. The benefit shall commence on
10 the first day of the month following the payment of the
11 aforesaid amount to the division ~~department~~, if paragraph (a)
12 is applicable, or on the first day of the month following the
13 receipt of the spouse's application by the division
14 ~~department~~, if paragraph (b) is applicable.

15 (7) The surviving spouse or other dependent of any
16 member whose employment is terminated by death shall, upon
17 application to the division ~~department~~, be permitted to pay
18 the required contributions for any service performed by the
19 member which could have been claimed by the member at the time
20 of his or her death. Such service shall be added to the
21 creditable service of the member and shall be used in the
22 calculation of any benefits which may be payable to the
23 surviving spouse or other surviving dependent.

24 Section 83. Paragraphs (a), (c), and (d) of subsection
25 (1), paragraphs (b) and (c) of subsection (3), subsection (4),
26 and paragraph (b) of subsection (5) of section 238.09, Florida
27 Statutes, are amended to read:

28 238.09 Method of financing.--All of the assets of the
29 retirement system shall be credited, according to the purposes
30 for which they are held, to one of four funds; namely, the
31 Annuity Savings Trust Fund, the Pension Accumulation Trust

1 Fund, the Expense Trust Fund, and the Survivors' Benefit Trust
2 Fund.

3 (1) The Annuity Savings Trust Fund shall be a fund in
4 which shall be accumulated contributions made from the
5 salaries of members under the provisions of paragraph (c) or
6 paragraph (f). Contribution to, payments from, the Annuity
7 Savings Trust Fund shall be made as follows:

8 (a) With respect to plan A, B, C, or D, upon the basis
9 of such tables as the division ~~Department of Management~~
10 ~~Services~~ shall adopt, and regular interest, the actuary of the
11 retirement system shall determine for each member the
12 proportion of earnable compensation which, when deducted from
13 each payment of his or her prospective earnable annual
14 compensation prior to his or her minimum service retirement
15 age, and accumulated at regular interest until such age, shall
16 be computed to provide at such age:

17 1. An annuity equal to one one-hundred-fortieth of his
18 or her average final compensation multiplied by the number of
19 his or her years of membership in the case of each member
20 electing to retire under the provisions of plan A or B.

21 2. An annuity equal to one one-hundred-twentieth of
22 his or her average final compensation multiplied by the number
23 of his or her years of membership service in the case of each
24 member electing to retire under the provisions of plan C.

25 3. An annuity equal to one one-hundredth of his or her
26 average final compensation multiplied by the number of his or
27 her years of membership service in the case of each member
28 electing to retire under the provisions of plan D.

29

30 In the case of any member who has attained his or her minimum
31 service retirement age prior to becoming a member, the

1 proportion of salary applicable to such member, with respect
2 to plan A, B, C, or D, shall be the proportion computed for
3 the age 1 year younger than his or her minimum service
4 retirement age.

5 (c) The division ~~department~~ shall certify to each
6 employer the proportion of the earnable compensation of each
7 member who is compensated by the employer, and the employer
8 shall cause to be deducted from the salary of each member on
9 each and every payroll for each and every payroll period an
10 amount equal to the proportion of the member's earnable
11 compensation so computed. With respect to plan A, B, C, or D,
12 the employer shall not make any deduction for annuity purposes
13 from the compensation of a member who has attained the age of
14 60 years, if such member elects not to contribute.

15 (d) In determining the amount earnable by a member in
16 a payroll period, the division ~~department~~ may consider the
17 rate of compensation payable to such member on the first day
18 of the payroll period as continuing throughout such payroll
19 period, and it may omit deductions from compensation for any
20 period less than a full payroll period if a teacher was not a
21 member on the first day of the payroll period, and to
22 facilitate the making of deductions, it may modify any
23 deduction required of any member by such an amount as shall
24 not exceed one-tenth of 1 percent of the annual salary from
25 which said deduction is to be made.

26 (3) The Pension Accumulation Trust Fund shall be the
27 fund in which shall be accumulated all reserves for the
28 payment of all annuities or benefits in lieu of annuities on
29 retired members and all pensions and other benefits payable
30 from contributions made by the members and by the employers,
31 from which annuities, pensions and benefits in lieu thereof

1 shall be paid. Contributions to, and payments from, the
2 Pension Accumulation Trust Fund, other than as set forth in
3 subsections (2) and (3) herein, shall be made as follows:

4 (b) On the basis of regular interest and of such
5 mortality and other tables as shall be adopted by the division
6 ~~department~~, the actuary engaged by the division ~~department~~ to
7 make each valuation required by this chapter shall, during the
8 period over which the accrued liability contribution is
9 payable, determine, immediately after making such valuation,
10 the uniform and constant percentage of the earnable
11 compensation of the average new entrant, which, if contributed
12 on the basis of his or her compensation throughout his or her
13 entire period of service, would be sufficient to provide for
14 the payment of any pension payable by the state on his or her
15 account. The rate percent so determined shall be known as the
16 normal contribution rate. After the accrued liability
17 contribution has ceased to be payable, the normal contribution
18 rate shall be the rate percent of the earnable compensation of
19 all members, obtained by deducting from the total liabilities
20 of the Pension Accumulation Trust Fund the amount of the funds
21 in hand to the credit of that fund and dividing the remainder
22 by 1 percent of the present value of the prospective future
23 salaries of all members as computed on the basis of the
24 mortality and service tables adopted by the division
25 ~~department~~ and on the basis of regular interest. The normal
26 rate of contribution shall be determined and certified to the
27 division ~~department~~ by the actuary after each valuation and
28 shall continue in force until a new valuation and
29 certification are made.

30 (c) Immediately succeeding the first valuation, the
31 actuary engaged by the division ~~department~~ shall compute the

1 rate percent of the total earnable compensation of all members
2 which is equivalent to 4 percent of the amount of the total
3 liability for pensions on account of all members and
4 beneficiaries and not dischargeable by the present assets of
5 the Pension Accumulation Trust Fund and by the aforesaid
6 normal contribution if made on account of such members during
7 the remainder of their active service. The rate percent,
8 originally so determined, shall be known as the accrued
9 liability contribution rate.

10 (4) The Expense Trust Fund shall be the fund to which
11 shall be credited all moneys contributed for the
12 administrative expenses of the retirement system and from
13 which shall be paid all expenses incurred in connection with
14 the administration and operation of the retirement system.
15 Contribution to the Expense Trust Fund shall be made by
16 transfer from interest earnings on investments in the Annuity
17 Savings Trust Fund. Such transfers shall be approved by the
18 State Board of Administration in accordance with s. 215.44(4)
19 ~~regulated by the Legislature pursuant to budgets filed in~~
20 ~~accordance with the provisions of chapter 216.~~

21 (5)

22 (b) The division ~~department~~ shall annually certify to
23 each employer, at the time it makes the certification to the
24 employer under paragraph (1)(c), the rate of
25 twenty-five-hundredths percent to be applied by the employer
26 to the salary of each member who is compensated by the
27 employer, and the employer shall cause to be deducted from the
28 salary of each member on each and every payroll for each and
29 every payroll period an amount equal to twenty-five-hundredths
30 percent of the member's salary paid by the employer and the
31 employer shall remit monthly such deducted amounts to the

1 ~~division department~~ which shall place the same in the
2 Survivors' Benefit Trust Fund of the Teachers' Retirement
3 System of the state. The amount of contributions by a member
4 to the Survivors' Benefit Trust Fund shall, in no event, be
5 refundable to the member or his or her beneficiaries.

6 Section 84. Section 238.10, Florida Statutes, is
7 amended to read:

8 238.10 Management of funds.--The division ~~Department~~
9 ~~of Management Services~~, annually, shall allow regular interest
10 on the amount for the preceding year to the credit of each of
11 the funds of the retirement system, and to the credit of the
12 individual account therein, if any, with the exception of the
13 expense fund, from the interest and dividends earned from
14 investments.

15 Section 85. Paragraph (b) of subsection (1) and
16 subsections (2) and (3) of section 238.11, Florida Statutes,
17 are amended to read:

18 238.11 Collection of contributions.--

19 (1) The collection of contributions shall be as
20 follows:

21 (b) Each employer shall transmit monthly to the
22 division ~~Department of Management Services~~ a warrant for the
23 total amount of such deductions. Each employer shall also
24 transmit monthly to the division ~~department~~ a warrant for such
25 employer contribution set aside as provided for in paragraph
26 (a) of this subsection. The division ~~department~~, after making
27 records of all such warrants, shall transmit them to the
28 Department of Financial Services for delivery to the Chief
29 Financial Officer, who shall collect them.

30 (2) The collection of the state contribution shall be
31 made as follows:

1 (a) The amounts required to be paid by the state into
2 the Teachers' Retirement System in this chapter shall be
3 provided therefor in the General Appropriations Act. However,
4 in the event a sufficient amount is not included in the
5 General Appropriations Act to meet the full amount needed to
6 pay the retirement compensation provided for in this chapter,
7 the additional amount needed for such retirement compensation
8 is hereby appropriated from the General Revenue Fund as
9 approved by the division ~~Department of Management Services~~.

10 (b) The division ~~Department of Management Services~~
11 shall certify one-fourth of the amount so ascertained for each
12 year to the Chief Financial Officer on or before the last day
13 of July, October, January, and April of each year. The Chief
14 Financial Officer shall, on or before the first day of August,
15 November, February, and May of each year, immediately transfer
16 to the several funds of the retirement system the amounts due.

17 (3) All collection of contributions of a nonprofit
18 professional association or corporation of teachers as
19 referred to in s. 238.01(3) and (5) shall be made by such
20 association or corporation in the following manner:

21 (a) On April 1 of each year, the division ~~Department~~
22 ~~of Management Services~~ shall certify to any such nonprofit
23 professional association or corporation of teachers the
24 amounts which will become due and payable during the ensuing
25 fiscal year to each of the funds of the retirement system to
26 which such contributions are payable as set forth in this law.

27 (b) The division ~~Department of Management Services~~
28 shall certify one-fourth of the amount so ascertained for each
29 year to the nonprofit professional association or corporation
30 of teachers on or before the last day of July, October,
31 January, and April of each year. The nonprofit professional

1 association or corporation of teachers shall, on or before the
2 first day of August, November, February, and May of each year,
3 draw its check payable to the division ~~department~~ for the
4 respective amounts due the several funds of the retirement
5 system. Upon receipt of the check, the division ~~department~~
6 shall immediately transfer to the several funds of the
7 retirement system the amounts due, provided, however, that the
8 amounts due the several funds of the retirement system from
9 any such association or corporation for creditable service
10 accruing to any such member before July 1, 1947, shall be paid
11 prior to the retirement of any such member.

12 Section 86. Section 238.12, Florida Statutes, is
13 amended to read:

14 238.12 Duties of employers.--

15 (1) Each employer shall keep such records and, from
16 time to time, shall furnish such information as the division
17 ~~Department of Management Services~~ may require in the discharge
18 of its duties. Upon the employment of any teacher to whom
19 this chapter may apply, the teacher shall be informed by his
20 or her employer of his or her duties and obligations in
21 connection with the retirement system as a condition of his or
22 her employment. Every teacher accepting employment shall be
23 deemed to consent and agree to any deductions from his or her
24 compensation required in this chapter and to all other
25 provisions of this chapter.

26 (2) During September of each year, or at such other
27 time as the division ~~department~~ shall approve, each employer
28 shall certify to the division ~~department~~ the names of all
29 teachers to whom this chapter applies.

30 (3) Each employer shall, on the first day of each
31 calendar month, or at such less frequent intervals as the

1 division ~~department~~ may approve, notify the division
2 ~~department~~ of the employment of new teachers, removals,
3 withdrawals and changes in salary of members that have
4 occurred during the preceding month, or the period covered
5 since the last notification.

6 Section 87. Section 238.14, Florida Statutes, is
7 amended to read:

8 238.14 Protection against fraud.--Any person who shall
9 knowingly make any false statement, or shall falsify or permit
10 to be falsified any record or records of this retirement
11 system in any attempt to defraud such system as a result of
12 such act, shall be guilty of a misdemeanor of the second
13 degree, punishable as provided in s. 775.082 or s. 775.083.
14 Should any change or error in records result in any member or
15 beneficiary receiving from the retirement system more or less
16 than he or she would have been entitled to receive had the
17 records been correct, then on discovery of any such error the
18 division ~~department~~ shall correct such error, and, as far as
19 practicable, shall adjust the payments in such a manner that
20 the actuarial equivalent of the benefit, to which such member
21 or beneficiary was correctly entitled, shall be paid.

22 Section 88. Section 238.15, Florida Statutes, is
23 amended to read:

24 238.15 Exemption of funds from taxation, execution,
25 and assignment.--The pensions, annuities or any other benefits
26 accrued or accruing to any person under the provisions of this
27 chapter and the accumulated contributions and cash securities
28 in the funds created under this chapter are exempted from any
29 state, county or municipal tax of the state, and shall not be
30 subject to execution or attachment or to any legal process
31 whatsoever, and shall be unassignable, except:

1 (1) That any teacher who has retired shall have the
2 right and power to authorize in writing the division
3 ~~Department of Management Services~~ to deduct from his or her
4 monthly retirement allowance money for the payment of the
5 premiums on group insurance for hospital, medical and surgical
6 benefits, under a plan or plans for such benefits approved in
7 writing by the Chief Financial Officer, and upon receipt of
8 such request the division ~~department~~ shall make the monthly
9 payments as directed; and

10 (2) As may be otherwise specifically provided for in
11 this chapter.

12 Section 89. Paragraph (a) of subsection (3) of section
13 238.171, Florida Statutes, is amended to read:

14 238.171 Monthly allowance; when made.--

15 (3)(a) On July 1, 1974, the Department of Management
16 Services ~~director of the Division of Retirement~~ shall adjust
17 the monthly allowance provided for incapacitated teachers
18 under this section by increasing said allowance by a
19 percentage which shall be equal to the percentage change in
20 the average cost-of-living index, as defined in chapter 121,
21 over the period between April 1, 1967, and March 31, 1973. The
22 percent of increase, as of July 1, 1974, shall be 25.4
23 percent, which is the average cost-of-living increase
24 percentage from April 1, 1967, through March 31, 1973.

25 Section 90. Subsection (2) of section 238.181, Florida
26 Statutes, is amended to read:

27 238.181 Reemployment after retirement; conditions and
28 limitations.--

29 (2)(a) Any person retired under this chapter, except
30 under the disability retirement provisions of s. 238.07, may
31 be reemployed by any private or public employer after

1 retirement and receive retirement benefits and compensation
2 from his or her employer without limitation, except that no
3 person may receive both a salary from reemployment with any
4 agency participating in the Florida Retirement System and
5 retirement benefits under this chapter for a period of 12
6 months immediately subsequent to the date of retirement.

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

30 (c) A district school board may reemploy a retired
31 member as a substitute or hourly teacher on a noncontractual

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

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

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

5 (e) The Board of Trustees of the Florida School for
6 the 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 paragraph (g).
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 his or her first 12 months of retirement shall
21 give timely notice in writing to his or her employer and to
22 the division ~~department~~ of the date he or she will exceed the
23 limitation. The division ~~department~~ shall suspend his or her
24 retirement benefits for the remainder of his or her first 12
25 months of retirement. Any person employed in violation of
26 this paragraph and any employing agency which knowingly
27 employs or appoints such person without notifying the division
28 ~~department~~ to suspend retirement benefits shall be jointly and
29 severally liable for reimbursement to the retirement trust
30 fund of any benefits paid during the reemployment limitation
31 period. To avoid liability, such employing agency shall have

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

11 (f) The State University System may reemploy a retired
12 member as an adjunct faculty member or as a participant in a
13 phased retirement program within the State University System
14 after the retired member has been retired for 1 calendar
15 month, in accordance with s. 121.021(39). Any retired member
16 who is reemployed within 1 calendar month after retirement
17 shall void his or her application for retirement benefits. The
18 State University System is subject to the retired contribution
19 required in paragraph (g), as appropriate. A retired member
20 may be reemployed as an adjunct faculty member or a
21 participant in a phased retirement program for no more than
22 780 hours during the first 12 months of his or her retirement.
23 Any retired member reemployed for more than 780 hours during
24 his or her first 12 months of retirement shall give timely
25 notice in writing to his or her employer and to the division
26 ~~department~~ of the date he or she will exceed the limitation.
27 The division ~~department~~ shall suspend his or her retirement
28 benefits for the remainder of his or her first 12 months of
29 retirement. Any person employed in violation of this
30 paragraph and any employing agency which knowingly employs or
31 appoints such person without notifying the division ~~department~~

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

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

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

31

1 Section 91. Section 238.32, Florida Statutes, is
2 amended to read:

3 238.32 Service credit in disputed cases.--The division
4 ~~Department of Management Services~~ may in its discretion allow
5 or deny a member service credit in disputed or doubtful cases
6 for employment in Florida and out-of-state schools in order to
7 serve the best interests of the state and the member, subject
8 to the membership dates set forth in s. 238.06(4).

9 Section 92. Subsection (4) of section 650.02, Florida
10 Statutes, is amended to read:

11 650.02 Definitions.--For the purpose of this chapter:

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

15 Section 93. Subsection (1) of section 650.06, Florida
16 Statutes, is amended to read:

17 650.06 Social Security Contribution Trust Fund.--

18 (1) There is hereby established in the State Treasury
19 to be administered by the State Board of Administration a
20 special fund to be known as the "Social Security Contribution
21 Trust Fund." Such fund shall consist of and there shall be
22 deposited in such fund:

23 (a) All contributions, interest, and penalties
24 collected under ss. 650.04 and 650.05;

25 (b) All moneys appropriated thereto under this
26 chapter;

27 (c) Any property or securities and earnings thereof
28 acquired through the use of moneys belonging to the fund;

29 (d) Interest earned upon any moneys in the fund; and

30 (e) All sums recovered upon the bond of the custodian
31 or otherwise for losses sustained by the fund and all other

1 moneys received for the fund from any other source. All
2 moneys in the fund shall be mingled and undivided. Subject to
3 the provisions of this chapter, the state agency is vested
4 with full power, authority and jurisdiction over the fund,
5 including all moneys and property or securities belonging
6 thereto, and may perform any and all acts whether or not
7 specifically designated, which are necessary to the
8 administration thereof and are consistent with the provisions
9 of this chapter.

10 Section 94. The Department of Management Services may
11 contract with the State Board of Administration to administer
12 sections 112.05, 121.1815, 238.171, 250.22, and
13 112.351-112.362, Florida Statutes.

14 Section 95. The Division of Retirement of the State
15 Board of Administration is a state agency for the purpose of
16 making payments under the retirement plans and other benefit
17 programs administered by the board and the Division of
18 Retirement. The Department of Financial Services shall issue
19 benefit payments to persons or governmental entities eligible
20 for such payments under the retirement plans and other benefit
21 programs administered by the board and the Division of
22 Retirement. The board is authorized to requisition the
23 appropriate amounts from trust funds in the State Treasury
24 established for this purpose.

25 Section 96. This act shall take effect July 1, 2004.

26

27 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
28 COMMITTEE SUBSTITUTE FOR
29 Senate Bill 286

29

30 This CS differs from the bill as filed in that it makes a
31 technical correction to the title and clarifies the provisions
related to the service charge on the Police and Firefighters'
Premium Tax Trust Funds.