

By Senator Argenziano

3-805-05

1 A bill to be entitled
 2 An act relating to state financial matters;
 3 amending s. 121.4501, F.S.; redefining the
 4 terms "eligible employee" and "participant" for
 5 purposes of the Public Employee Optional
 6 Retirement Program; prescribing certain
 7 conditions on participation in the program;
 8 deleting references to the program's advisory
 9 committees; prescribing procedures for, and
 10 certain presumptions relating to, designation
 11 of beneficiaries; providing for participation
 12 by terminated DROP participants; amending s.
 13 121.591, F.S.; providing for cancellation of
 14 certain payment instruments under the program
 15 when not presented for payment; providing for
 16 payment upon subsequent application and for
 17 forfeiture when not claimed within a certain
 18 period; providing for designation of
 19 beneficiaries for death benefits; amending s.
 20 215.47, F.S.; authorizing investments in
 21 asset-backed securities; providing an effective
 22 date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Paragraphs (f) and (h) of subsection (2),
 27 paragraph (e) of subsection (4), paragraph (c) of subsection
 28 (8), and subsection (12) of section 121.4501, Florida
 29 Statutes, are amended, and subsections (20) and (21) are added
 30 to that section, to read:
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1 121.4501 Public Employee Optional Retirement
2 Program.--
3 (2) DEFINITIONS.--As used in this part, the term:
4 (f) "Eligible employee" means an officer or employee,
5 as defined in s. 121.021(11), who:
6 1. Is a member of, or is eligible for membership in,
7 the Florida Retirement System, including any renewed member of
8 the Florida Retirement System;
9 2. Participates in, or is eligible to participate in,
10 the Senior Management Service Optional Annuity Program as
11 established under s. 121.055(6) or the State Community College
12 Optional Retirement Program as established under s.
13 121.051(2)(c); or
14 3. Is eligible to participate in, but does not
15 participate in, the State University System Optional
16 Retirement Program established under s. 121.35.
17
18 The term does not include any member participating in the
19 Deferred Retirement Option Program established under s.
20 121.091(13) or any employee participating in an optional
21 retirement program established under ~~s. 121.051(2)(c)~~ or s.
22 121.35.
23 (h) "Participant" means an eligible employee who
24 elects to participate in the Public Employee Optional
25 Retirement Program and enrolls in such optional program as
26 provided in subsection (4) or a terminated Deferred Retirement
27 Option Program participant as described in subsection (21).
28 (4) PARTICIPATION; ENROLLMENT.--
29 (e) After the period during which an eligible employee
30 had the choice to elect the defined benefit program or the
31 Public Employee Optional Retirement Program, or the month

1 following the receipt of the eligible employee's plan election
2 ~~selection effective date~~, if sooner, the employee shall have
3 one opportunity, at the employee's discretion, to choose to
4 move from the defined benefit program to the Public Employee
5 Optional Retirement Program or from the Public Employee
6 Optional Retirement Program to the defined benefit program.
7 Eligible employees may elect to move between Florida
8 Retirement System programs only if they are earning service
9 credit in an employer-employee relationship consistent with
10 the requirements under s. 121.021(17)(b), excluding leaves of
11 absence without pay. Effective July 1, 2005, such elections
12 shall be effective on the first day of the month following the
13 receipt of the election by the third-party administrator and
14 are not subject to the requirements regarding an
15 employer-employee relationship or receipt of contributions for
16 the eligible employee in the effective month, except that the
17 employee must meet the conditions of the previous sentence
18 when the election is received by the third-party
19 administrator. This paragraph shall be contingent upon
20 approval from the Internal Revenue Service for including the
21 choice described herein within the programs offered by the
22 Florida Retirement System.

23 1. If the employee chooses to move to the Public
24 Employee Optional Retirement Program, the applicable
25 provisions of this section shall govern the transfer.

26 2. If the employee chooses to move to the defined
27 benefit program, the employee must transfer from his or her
28 Public Employee Optional Retirement Program account and from
29 other employee moneys as necessary, a sum representing the
30 present value of that employee's accumulated benefit
31 obligation immediately following the time of such movement,

1 | determined assuming that attained service equals the sum of
2 | service in the defined benefit program and service in the
3 | Public Employee Optional Retirement Program. Benefit
4 | commencement occurs on the first date the employee would
5 | become eligible for unreduced benefits, using the discount
6 | rate and other relevant actuarial assumptions that were used
7 | to value the Florida Retirement System defined benefit plan
8 | liabilities in the most recent actuarial valuation. For any
9 | employee who, at the time of the second election, already
10 | maintains an accrued benefit amount in the defined benefit
11 | plan, the then-present value of such accrued benefit shall be
12 | deemed part of the required transfer amount described in this
13 | subparagraph. The division shall ensure that the transfer sum
14 | is prepared using a formula and methodology certified by an
15 | enrolled actuary.

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

26 | 4. Employees' ability to transfer from the Florida
27 | Retirement System defined benefit program to the Public
28 | Employee Optional Retirement Program pursuant to paragraphs
29 | (a) through (d), and the ability for current employees to have
30 | an option to later transfer back into the defined benefit
31 | program under subparagraph 2., shall be deemed a significant

1 | system amendment. Pursuant to s. 121.031(4), any such
2 | resulting unfunded liability arising from actual original
3 | transfers from the defined benefit program to the optional
4 | program shall be amortized within 30 plan years as a separate
5 | unfunded actuarial base independent of the reserve
6 | stabilization mechanism defined in s. 121.031(3)(f). For the
7 | first 25 years, no direct amortization payment shall be
8 | calculated for this base. During this 25-year period, such
9 | separate base shall be used to offset the impact of employees
10 | exercising their second program election under this paragraph.
11 | It is the legislative intent that the actuarial funded status
12 | of the Florida Retirement System defined benefit plan is
13 | neither beneficially nor adversely impacted by such second
14 | program elections in any significant manner, after due
15 | recognition of the separate unfunded actuarial base. Following
16 | this initial 25-year period, any remaining balance of the
17 | original separate base shall be amortized over the remaining 5
18 | years of the required 30-year amortization period.

19 | (8) ADMINISTRATION OF PROGRAM.--

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

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

28 | b. The administrator's demonstrated experience in
29 | providing daily valued recordkeeping to defined contribution
30 | plans.

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1 c. The administrator's ability and willingness to
2 coordinate its activities with the Florida Retirement System
3 employers, the board, and the division, and to supply to such
4 employers, the board, and the division the information and
5 data they require, including, but not limited to, monthly
6 management reports, quarterly participant reports, and ad hoc
7 reports requested by the department or board.

8 d. The cost-effectiveness and levels of the
9 administrative services provided.

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

17 f. Any other factor deemed necessary by the Trustees
18 of the State Board of Administration.

19 ~~g. The recommendations of the Public Employee Optional~~
20 ~~Retirement Program Advisory Committee established in~~
21 ~~subsection (12).~~

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

27 a. Demonstrated experience in providing educational
28 services to public or private sector retirement systems.

29 b. Ability and willingness to coordinate its
30 activities with the Florida Retirement System employers, the
31 board, and the division, and to supply to such employers, the

1 board, and the division the information and data they require,
2 including, but not limited to, reports on educational
3 contacts.

4 c. The cost-effectiveness and levels of the
5 educational services provided.

6 d. Ability to provide educational services via
7 different media, including, but not limited to, the Internet,
8 personal contact, seminars, brochures, and newsletters.

9 e. Any other factor deemed necessary by the Trustees
10 of the State Board of Administration.

11 ~~f. The recommendations of the Public Employee Optional
12 Retirement Program Advisory Committee established in
13 subsection (12).~~

14 3. The establishment of the criteria shall be solely
15 within the discretion of the board.

16 (12) ADVISORY COUNCIL COMMITTEES TO PROVIDE ADVICE AND
17 ASSISTANCE.--The Investment Advisory Council shall assist the
18 board in implementing and administering the Public Employee
19 Optional Retirement Program. The Investment Advisory Council,
20 created pursuant to s. 215.444, shall review the board's
21 initial recommendations regarding the criteria to be used in
22 selecting and evaluating approved providers and investment
23 products. The council may provide comments on the
24 recommendations to the board within 45 days after receiving
25 the initial recommendations. The board shall make the final
26 determination as to whether any investment provider or
27 product, any contractor, or any and all contract provisions
28 shall be approved for the program.

29 (20) DESIGNATION OF BENEFICIARIES.--

30 (a) Each participant may, on a form provided for that
31 purpose, signed and filed with the third-party administrator,

1 designate a choice of one or more persons, named sequentially
2 or jointly, as his or her beneficiary who shall receive the
3 benefits, if any, which may be payable pursuant to this
4 chapter in the event of the participant's death. If no
5 beneficiary is named in this manner, or if no beneficiary
6 designated by the participant survives the participant, the
7 beneficiary shall be the spouse of the deceased, if living. If
8 the participant's spouse is not alive at his or her death, the
9 beneficiary shall be the living children of the participant.
10 If no children survive, the beneficiary shall be the
11 participant's father or mother, if living; otherwise, the
12 beneficiary shall be the participant's estate. The beneficiary
13 most recently designated by a participant on a form or letter
14 filed with the third-party administrator shall be the
15 beneficiary entitled to any benefits payable at the time of
16 the participant's death. Notwithstanding any other provision
17 in this subsection to the contrary, for a participant who dies
18 prior to his or her effective date of retirement, the spouse
19 at the time of death shall be the participant's beneficiary
20 unless such participant designates a different beneficiary as
21 provided in this subsection subsequent to the participant's
22 most recent marriage.

23 (b) If a participant designates a primary beneficiary
24 other than the participant's spouse, the participant's spouse
25 must sign the beneficiary designation form to acknowledge the
26 designation. This requirement does not apply to the
27 designation of one or more contingent beneficiaries to receive
28 benefits remaining upon the death of the primary beneficiary
29 or beneficiaries.

30 (c) Notwithstanding the participant's designation of
31 benefits to be paid through a trust to a beneficiary that is a

1 natural person, and notwithstanding the provisions of the
2 trust, benefits shall be paid directly to the beneficiary if
3 such person is no longer a minor or incapacitated as defined
4 in s. 744.102(11) and (12).

5 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT
6 OPTION PROGRAM PARTICIPANTS.--Notwithstanding any provision of
7 law to the contrary, participants in the Deferred Retirement
8 Option Program offered under part I may, after conclusion of
9 their participation in the program, elect to roll over or
10 authorize a direct trustee-to-trustee transfer to an account
11 under the Public Employee Optional Retirement Program of their
12 Deferred Retirement Option Program proceeds distributed as
13 provided under s. 121.091(13)(c)5. The transaction must
14 constitute an "eligible rollover distribution" within the
15 meaning of s. 402(c)(4) of the Internal Revenue Code.

16 (a) The Public Employee Optional Retirement Program
17 may accept such amounts for deposit into participant accounts
18 as provided in paragraph (5)(c).

19 (b) The affected participant shall direct the
20 investment of his or her investment account; however, unless
21 he or she becomes a renewed member of the Florida Retirement
22 System under s. 121.122 and elects to participate in the
23 Public Employee Optional Program, employer contributions may
24 not be made to the participant's account as provided under
25 paragraph (5)(a).

26 (c) The state board or the department is not
27 responsible for locating those persons who may be eligible to
28 participate in the Public Employee Optional Retirement Program
29 under this subsection.

30 Section 2. Section 121.591, Florida Statutes, is
31 amended to read:

1 121.591 Benefits payable under the Public Employee
2 Optional Retirement Program of the Florida Retirement
3 System.--Benefits may not be paid under this section unless
4 the member has terminated employment as provided in s.
5 121.021(39)(a) or is deceased and a proper application has
6 been filed in the manner prescribed by the state board or the
7 department. The state board or department, as appropriate, may
8 cancel an application for retirement benefits when the member
9 or beneficiary fails to timely provide the information and
10 documents required by this chapter and the rules of the state
11 board and department. In accordance with their respective
12 responsibilities as provided herein, the State Board of
13 Administration and the Department of Management Services shall
14 adopt rules establishing procedures for application for
15 retirement benefits and for the cancellation of such
16 application when the required information or documents are not
17 received. The State Board of Administration and the Department
18 of Management Services, as appropriate, are authorized to cash
19 out a de minimis account of a participant who has been
20 terminated from Florida Retirement System covered employment
21 for a minimum of 6 calendar months. A de minimis account is an
22 account containing employer contributions and accumulated
23 earnings of not more than \$5,000 made under the provisions of
24 this chapter. Such cash-out must either be a complete lump-sum
25 liquidation of the account balance, subject to the provisions
26 of the Internal Revenue Code, or a lump-sum direct rollover
27 distribution paid directly to the custodian of an eligible
28 retirement plan, as defined by the Internal Revenue Code, on
29 behalf of the participant. If any financial instrument issued
30 for the payment of retirement benefits under this section is
31 not presented for payment within 180 days after the last day

1 of the month in which it was originally issued, the
2 third-party administrator or other duly authorized agent of
3 the State Board of Administration shall cancel the instrument
4 and credit the amount of the instrument to the suspense
5 account of the Public Employee Optional Retirement Program
6 Trust Fund authorized under s. 121.4501(6). Any such amounts
7 transferred to the suspense account are payable upon a proper
8 application, not to include earnings thereon, as provided in
9 this section, within 5 years after the last day of the month
10 in which the instrument was originally issued, after which
11 time such amounts and any earnings thereon shall be forfeited.
12 Any such forfeited amounts are assets of the Public Employee
13 Optional Retirement Program Trust Fund and are not subject to
14 the provisions of chapter 717.

15 (1) NORMAL BENEFITS.--Under the Public Employee
16 Optional Retirement Program:

17 (a) Benefits in the form of vested accumulations as
18 described in s. 121.4501(6) shall be payable under this
19 subsection in accordance with the following terms and
20 conditions:

21 1. To the extent vested, benefits shall be payable
22 only to a participant.

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

27 3. To receive benefits under this subsection, the
28 participant must be terminated from all employment with all
29 Florida Retirement System employers, as provided in s.
30 121.021(39).

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1 (b) If a participant elects to receive his or her
2 benefits upon termination of employment, the participant must
3 submit a written application to the third-party administrator
4 indicating his or her preferred distribution date and
5 selecting an authorized method of distribution as provided in
6 paragraph (c). The participant may defer receipt of benefits
7 until he or she chooses to make such application, subject to
8 federal requirements.

9 (c) Upon receipt by the third-party administrator of a
10 properly executed application for distribution of benefits,
11 the total accumulated benefit shall be payable to the
12 participant, as:

- 13 1. A lump-sum distribution to the participant;
- 14 2. A lump-sum direct rollover distribution whereby all
15 accrued benefits, plus interest and investment earnings, are
16 paid from the participant's account directly to the custodian
17 of an eligible retirement plan, as defined in s. 402(c)(8)(B)
18 of the Internal Revenue Code, on behalf of the participant; or
19 3. Periodic distributions, as authorized by the state
20 board.

21 (2) DISABILITY RETIREMENT BENEFITS.--Benefits provided
22 under this subsection are payable in lieu of the benefits
23 which would otherwise be payable under the provisions of
24 subsection (1). Such benefits shall be funded entirely from
25 employer contributions made under s. 121.571, transferred
26 participant funds accumulated pursuant to paragraph (a), and
27 interest and earnings thereon. Pursuant thereto:

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

- 30 1. All moneys accumulated in the participant's Public
31 Employee Optional Retirement Program accounts, including

1 | vested and nonvested accumulations as described in s.
2 | 121.4501(6), shall be transferred from such individual
3 | accounts to the Division of Retirement for deposit in the
4 | disability account of the Florida Retirement System Trust
5 | Fund. Such moneys shall be separately accounted for. Earnings
6 | shall be credited on an annual basis for amounts held in the
7 | disability accounts of the Florida Retirement System Trust
8 | Fund based on actual earnings of the Florida Retirement System
9 | Trust Fund.

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

20 | (b) Disability retirement; entitlement.--

21 | 1. A participant of the Public Employee Optional
22 | Retirement Program who becomes totally and permanently
23 | disabled, as defined in s. 121.091(4)(b), after completing 8
24 | years of creditable service, or a participant who becomes
25 | totally and permanently disabled in the line of duty
26 | regardless of his or her length of service, shall be entitled
27 | to a monthly disability benefit as provided herein.

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

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

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

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

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

23 (c) Disability retirement effective date.--The
24 effective retirement date for a participant who applies and is
25 approved for disability retirement shall be established as
26 provided under s. 121.091(4)(a)2. and 3.

27 (d) Total and permanent disability.--A participant
28 shall be considered totally and permanently disabled if, in
29 the opinion of the division, he or she is prevented, by reason
30 of a medically determinable physical or mental impairment,
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1 from rendering useful and efficient service as an officer or
2 employee.

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

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

19 (g) Computation of disability retirement benefit.--The
20 amount of each monthly payment shall be calculated in the same
21 manner as provided for members of the defined benefit program
22 of the Florida Retirement System under s. 121.091(4)(f). For
23 such purpose, creditable service under both the defined
24 benefit program and the Public Employee Optional Retirement
25 Program of the Florida Retirement System shall be applicable
26 as provided under paragraph (b).

27 (h) Reapplication.--A participant whose initial
28 application for disability retirement has been denied may
29 reapply for disability benefits in the same manner, and under
30 the same conditions, as provided for members of the defined
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1 benefit program of the Florida Retirement System under s.
2 121.091(4)(g).

3 (i) Membership.--Upon approval of an application for
4 disability benefits under this subsection, the applicant shall
5 be transferred to the defined benefit program of the Florida
6 Retirement System, effective upon his or her disability
7 retirement effective date.

8 (j) Option to cancel.--Any participant whose
9 application for disability benefits is approved may cancel his
10 or her application for disability benefits, provided that the
11 cancellation request is received by the division before a
12 disability retirement warrant has been deposited, cashed, or
13 received by direct deposit. Upon such cancellation:

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

16 2. The participant shall be retroactively reinstated
17 in the Public Employee Optional Retirement Program without
18 hiatus;

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

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

25 (k) Recovery from disability.--

26 1. The division may require periodic reexaminations at
27 the expense of the disability program account of the Florida
28 Retirement System Trust Fund. Except as otherwise provided in
29 subparagraph 2., the requirements, procedures, and
30 restrictions relating to the conduct and review of such
31 reexaminations, discontinuation or termination of benefits,

1 reentry into employment, disability retirement after reentry
2 into covered employment, and all other matters relating to
3 recovery from disability shall be the same as are set forth
4 under s. 121.091(4)(h).

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

14 a. An amount equal to the total benefits paid shall be
15 subtracted from that portion of the transferred account
16 balance consisting of vested accumulations as described under
17 s. 121.4501(6), if any, and an amount equal to the remainder
18 of benefit amounts paid, if any, shall then be subtracted from
19 any remaining portion consisting of nonvested accumulations as
20 described under s. 121.4501(6).

21 b. Amounts subtracted under sub-subparagraph a. shall
22 be retained within the disability account of the Florida
23 Retirement System Trust Fund. Any remaining account balance
24 shall be transferred to the third-party administrator for
25 disposition as provided under sub-subparagraph c. or
26 sub-subparagraph d., as appropriate.

27 c. If the recipient returns to covered employment,
28 transferred amounts shall be deposited in individual accounts
29 under the Public Employee Optional Retirement Program, as
30 directed by the participant. Vested and nonvested amounts
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1 shall be separately accounted for as provided in s.
2 121.4501(6).

3 d. If the recipient fails to return to covered
4 employment upon recovery from disability:

5 (I) Any remaining vested amount shall be deposited in
6 individual accounts under the Public Employee Optional
7 Retirement Program, as directed by the participant, and shall
8 be payable as provided in subsection (1).

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

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

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

25 (m) Disability retirement of justice or judge by order
26 of Supreme Court.--

27 1. If a participant is a justice of the Supreme Court,
28 judge of a district court of appeal, circuit judge, or judge
29 of a county court who has served for 6 years or more as an
30 elected constitutional judicial officer, including service as
31 a judicial officer in any court abolished pursuant to Art. V

1 of the State Constitution, and who is retired for disability
2 by order of the Supreme Court upon recommendation of the
3 Judicial Qualifications Commission pursuant to the provisions
4 of Art. V of the State Constitution, the participant's Option
5 1 monthly disability benefit amount as provided in s.
6 121.091(6)(a)1. shall be two-thirds of his or her monthly
7 compensation as of the participant's disability retirement
8 date. Such a participant may alternatively elect to receive
9 an actuarially adjusted disability retirement benefit under
10 any other option as provided in s. 121.091(6)(a), or to
11 receive the normal benefit payable under the Public Employee
12 Optional Retirement Program as set forth in subsection (1).

13 2. If any justice or judge who is a participant of the
14 Public Employee Optional Retirement Program of the Florida
15 Retirement System is retired for disability by order of the
16 Supreme Court upon recommendation of the Judicial
17 Qualifications Commission pursuant to the provisions of Art. V
18 of the State Constitution and elects to receive a monthly
19 disability benefit under the provisions of this paragraph:

20 a. Any present value amount that was transferred to
21 his or her program account and all employer contributions made
22 to such account on his or her behalf, plus interest and
23 earnings thereon, shall be transferred to and deposited in the
24 disability account of the Florida Retirement System Trust
25 Fund; and

26 b. The monthly benefits payable under this paragraph
27 for any affected justice or judge retired from the Florida
28 Retirement System pursuant to Art. V of the State Constitution
29 shall be paid from the disability account of the Florida
30 Retirement System Trust Fund.

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1 (n) Death of retiree or beneficiary.--Upon the death
2 of a disabled retiree or beneficiary thereof who is receiving
3 monthly benefits under this subsection, the monthly benefits
4 shall be paid through the last day of the month of death and
5 shall terminate, or be adjusted, if applicable, as of that
6 date in accordance with the optional form of benefit selected
7 at the time of retirement. The Department of Management
8 Services may adopt rules necessary to administer this
9 paragraph.

10 (3) DEATH BENEFITS.--Under the Public Employee
11 Optional Retirement Program:

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

14 1. To the extent vested, benefits shall be payable
15 only to a participant's beneficiary or beneficiaries as
16 designated by the participant as provided in s. 121.4501(20).
17 ~~If a participant designates a primary beneficiary other than~~
18 ~~the participant's spouse, the participant's spouse shall be~~
19 ~~notified of the designation. This requirement shall not apply~~
20 ~~to the designation of one or more contingent beneficiaries to~~
21 ~~receive any benefits remaining upon the death of the primary~~
22 ~~beneficiary or beneficiaries.~~

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

27 3. To receive benefits under this subsection, the
28 participant must be deceased.

29 (b) In the event of a participant's death, all vested
30 accumulations as described in s. 121.4501(6), less withholding
31 taxes remitted to the Internal Revenue Service, shall be

1 distributed, as provided in paragraph (c) or as described in
2 s. 121.4501(20), ~~to the participant's designated beneficiary~~
3 ~~or beneficiaries, or to the participant's estate~~, as if the
4 participant retired on the date of death. No other death
5 benefits shall be available for survivors of participants
6 under the Public Employee Optional Retirement Program, except
7 for such benefits, or coverage for such benefits, as are
8 otherwise provided by law or are separately afforded by the
9 employer, at the employer's discretion.

10 (c) Upon receipt by the third-party administrator of a
11 properly executed application for distribution of benefits,
12 the total accumulated benefit shall be payable by the
13 third-party administrator to the participant's surviving
14 beneficiary or beneficiaries, as:

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

17 2. An eligible rollover distribution on behalf of the
18 surviving spouse of a deceased participant, whereby all
19 accrued benefits, plus interest and investment earnings, are
20 paid from the deceased participant's account directly to the
21 custodian of an eligible retirement plan, as described in s.
22 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
23 surviving spouse; or

24 3. A partial lump-sum payment whereby a portion of the
25 accrued benefit is paid to the deceased participant's
26 surviving spouse or other designated beneficiaries, less
27 withholding taxes remitted to the Internal Revenue Service,
28 and the remaining amount is transferred directly to the
29 custodian of an eligible retirement plan, as described in s.
30 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
31

1 surviving spouse. The proportions must be specified by the
2 participant or the surviving beneficiary.

3
4 This paragraph does not abrogate other applicable provisions
5 of state or federal law providing for payment of death
6 benefits.

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

14 Section 3. Paragraph (k) is added to subsection (2) of
15 section 215.47, Florida Statutes, to read:

16 215.47 Investments; authorized securities; loan of
17 securities.--Subject to the limitations and conditions of the
18 State Constitution or of the trust agreement relating to a
19 trust fund, moneys available for investments under ss.

20 215.44-215.53 may be invested as follows:

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

22 (k) Asset-backed securities not otherwise authorized
23 by this section.

24 Section 4. This act shall take effect July 1, 2005.
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SENATE SUMMARY

Requires eligible employees to be earning service credit as a condition of being able to move between Florida Retirement System programs. Deletes references to the Public Employee Optional Retirement Program advisory committees. Prescribes methods for participants in the program and others to designate their beneficiaries. Provides for terminated DROP participants to participate in the program. Requires cancellation of a financial instrument issued for payment of retirement benefits when not presented within 180 days after the end of the month in which issued. Authorizes investments in asset-backed securities.