

1 distribution from their account until after
2 being terminated for 3 calendar months;
3 providing an exception; providing for
4 designation of beneficiaries for death
5 benefits; amending s. 215.47, F.S.; authorizing
6 investments in asset-backed securities;
7 providing an effective date.
8

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

10
11 Section 1. Subsection (39) of section 121.021, Florida
12 Statutes, is amended to read:

13 121.021 Definitions.--The following words and phrases
14 as used in this chapter have the respective meanings set forth
15 unless a different meaning is plainly required by the context:

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

29 (b) "Termination" for a member electing to participate
30 under the Deferred Retirement Option Program occurs when the
31 Deferred Retirement Option Program participant ceases all

1 | employment relationships with employers under this system in
2 | accordance with s. 121.091(13), but in the event the Deferred
3 | Retirement Option Program participant should be employed by
4 | any such employer within the next calendar month, termination
5 | will be deemed not to have occurred, except as provided in s.
6 | 121.091(13)(b)4.c. A leave of absence shall constitute a
7 | continuation of the employment relationship.

8 | Section 2. Subsection (9) of section 121.091, Florida
9 | Statutes, is amended to read:

10 | 121.091 Benefits payable under the system.--Benefits
11 | may not be paid under this section unless the member has
12 | terminated employment as provided in s. 121.021(39)(a) or
13 | begun participation in the Deferred Retirement Option Program
14 | as provided in subsection (13), and a proper application has
15 | been filed in the manner prescribed by the department. The
16 | department may cancel an application for retirement benefits
17 | when the member or beneficiary fails to timely provide the
18 | information and documents required by this chapter and the
19 | department's rules. The department shall adopt rules
20 | establishing procedures for application for retirement
21 | benefits and for the cancellation of such application when the
22 | required information or documents are not received.

23 | (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

24 | (a) Any person who is retired under this chapter,
25 | except under the disability retirement provisions of
26 | subsection (4), may be employed by an employer that does not
27 | participate in a state-administered retirement system and may
28 | receive compensation from that employment without limiting or
29 | restricting in any way the retirement benefits payable to that
30 | person.
31 |

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

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

1 retirement trust fund, and retirement benefits shall remain
2 suspended until such repayment has been made. Benefits
3 suspended beyond the reemployment limitation shall apply
4 toward repayment of benefits received in violation of the
5 reemployment limitation.

6 3. A district school board may reemploy a retired
7 member as a substitute or hourly teacher, education
8 paraprofessional, transportation assistant, bus driver, or
9 food service worker on a noncontractual basis after he or she
10 has been retired for 1 calendar month, in accordance with s.
11 121.021(39). A district school board may reemploy a retired
12 member as instructional personnel, as defined in s.
13 1012.01(2)(a), on an annual contractual basis after he or she
14 has been retired for 1 calendar month, in accordance with s.
15 121.021(39). Any other retired member who is reemployed within
16 1 calendar month after retirement shall void his or her
17 application for retirement benefits. District school boards
18 reemploying such teachers, education paraprofessionals,
19 transportation assistants, bus drivers, or food service
20 workers are subject to the retirement contribution required by
21 subparagraph 7.

22 4. A community college board of trustees may reemploy
23 a retired member as an adjunct instructor, that is, an
24 instructor who is noncontractual and part-time, or as a
25 participant in a phased retirement program within the Florida
26 Community College System, after he or she has been retired for
27 1 calendar month, in accordance with s. 121.021(39). Any
28 retired member who is reemployed within 1 calendar month after
29 retirement shall void his or her application for retirement
30 benefits. Boards of trustees reemploying such instructors are
31 subject to the retirement contribution required in

1 | subparagraph 7. A retired member may be reemployed as an
2 | adjunct instructor for no more than 780 hours during the first
3 | 12 months of retirement. Any retired member reemployed for
4 | more than 780 hours during the first 12 months of retirement
5 | shall give timely notice in writing to the employer and to the
6 | division of the date he or she will exceed the limitation.
7 | The division shall suspend his or her retirement benefits for
8 | the remainder of the first 12 months of retirement. Any
9 | person employed in violation of this subparagraph and any
10 | employing agency which knowingly employs or appoints such
11 | person without notifying the Division of Retirement to suspend
12 | retirement 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 a retired member while reemployed in
19 | excess of 780 hours during the first 12 months of retirement
20 | shall be repaid to the Retirement System Trust Fund, and
21 | retirement benefits shall remain suspended until repayment is
22 | made. Benefits suspended beyond the end of the retired
23 | member's first 12 months of retirement shall apply toward
24 | repayment of benefits received in violation of the 780-hour
25 | reemployment limitation.

26 | 5. The State University System may reemploy a retired
27 | member as an adjunct faculty member or as a participant in a
28 | phased retirement program within the State University System
29 | after the retired member has been retired for 1 calendar
30 | month, in accordance with s. 121.021(39). Any retired member
31 | who is reemployed within 1 calendar month after retirement

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

30 6. The Board of Trustees of the Florida School for the
31 Deaf and the Blind may reemploy a retired member as a

1 substitute teacher, substitute residential instructor, or
2 substitute nurse on a noncontractual basis after he or she has
3 been retired for 1 calendar month, in accordance with s.
4 121.021(39). Any retired member who is reemployed within 1
5 calendar month after retirement shall void his or her
6 application for retirement benefits. The Board of Trustees of
7 the Florida School for the Deaf and the Blind reemploying such
8 teachers, residential instructors, or nurses is subject to the
9 retirement contribution required by subparagraph 7.
10 Reemployment of a retired member as a substitute teacher,
11 substitute residential instructor, or substitute nurse is
12 limited to 780 hours during the first 12 months of his or her
13 retirement. Any retired member reemployed for more than 780
14 hours during the first 12 months of retirement shall give
15 timely notice in writing to the employer and to the division
16 of the date he or she will exceed the limitation. The division
17 shall suspend his or her retirement benefits for the remainder
18 of the first 12 months of retirement. Any person employed in
19 violation of this subparagraph and any employing agency which
20 knowingly employs or appoints such person without notifying
21 the Division of Retirement to suspend retirement benefits
22 shall be jointly and severally liable for reimbursement to the
23 retirement trust fund of any benefits paid during the
24 reemployment limitation period. To avoid liability, such
25 employing agency shall have a written statement from the
26 retiree that he or she is not retired from a
27 state-administered retirement system. Any retirement benefits
28 received by a retired member while reemployed in excess of 780
29 hours during the first 12 months of retirement shall be repaid
30 to the Retirement System Trust Fund, and his or her retirement
31 benefits shall remain suspended until payment is made.

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

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

19 8. Any person who has previously retired and who is
20 holding an elective public office or an appointment to an
21 elective public office eligible for the Elected Officers'
22 Class on or after July 1, 1990, shall be enrolled in the
23 Florida Retirement System as provided in s. 121.053(1)(b) or,
24 if holding an elective public office that does not qualify for
25 the Elected Officers' Class on or after July 1, 1991, shall be
26 enrolled in the Florida Retirement System as provided in s.
27 121.122, and shall continue to receive retirement benefits as
28 well as compensation for the elected officer's service for as
29 long as he or she remains in elective office. However, any
30 retired member who served in an elective office prior to July
31 1, 1990, suspended his or her retirement benefit, and had his

1 or her Florida Retirement System membership reinstated shall,
2 upon retirement from such office, have his or her retirement
3 benefit recalculated to include the additional service and
4 compensation earned.

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

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

24 11. An employing agency may reemploy a retired member
25 as a firefighter or paramedic after the retired member has
26 been retired for 1 calendar month, in accordance with s.
27 121.021(39). Any retired member who is reemployed within 1
28 calendar month after retirement shall void his or her
29 application for retirement benefits. The employing agency
30 reemploying such firefighter or paramedic is subject to the
31 retired contribution required in subparagraph 8. Reemployment

1 of a retired firefighter or paramedic is limited to no more
2 than 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 System 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 retirement benefits
21 shall remain suspended until repayment is made. Benefits
22 suspended beyond the end of the retired member's first 12
23 months of retirement shall apply toward repayment of benefits
24 received in violation of the 780-hour reemployment limitation.

25 (c) The provisions of this subsection apply to
26 retirees, as defined in s. 121.4501(2)(j), of the Public
27 Employee Optional Retirement Program created in part II,
28 subject to the following conditions:

29 1. Such retirees may not be reemployed with an
30 employer participating in the Florida Retirement System as
31 provided in paragraph (b) until such person has been retired

1 for 3 calendar months, unless the participant has reached the
2 normal retirement requirements of the defined benefit plan as
3 provided in s. 121.021(29).

4 2. Such retiree employed in violation of this
5 subsection and any employing agency that knowingly employs or
6 appoints such person shall be jointly and severally liable for
7 reimbursement of any benefits paid to the retirement trust
8 fund from which the benefits were paid, including the
9 Retirement System Trust Fund and the Public Employee Optional
10 Retirement Program Trust Fund, as appropriate. To avoid
11 liability, such employing agency must have a written statement
12 from the retiree that he or she is not retired from a
13 state-administered retirement system.

14 Section 3. Paragraphs (f) and (h) of subsection (2),
15 paragraph (e) of subsection (4), paragraph (c) of subsection
16 (8), and subsection (12) of section 121.4501, Florida
17 Statutes, are amended, and subsections (20) and (21) are added
18 to that section, to read:

19 121.4501 Public Employee Optional Retirement
20 Program.--

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

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

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

27 2. Participates in, or is eligible to participate in,
28 the Senior Management Service Optional Annuity Program as
29 established under s. 121.055(6) or the State Community College
30 Optional Retirement Program as established under s.
31 121.051(2)(c); or

1 3. Is eligible to participate in, but does not
2 participate in, the State University System Optional
3 Retirement Program established under s. 121.35.

4
5 The term does not include any member participating in the
6 Deferred Retirement Option Program established under s.
7 121.091(13) or any employee participating in an optional
8 retirement program established under ~~s. 121.051(2)(c)~~ or s.
9 121.35.

10 (h) "Participant" means an eligible employee who
11 elects to participate in the Public Employee Optional
12 Retirement Program and enrolls in such optional program as
13 provided in subsection (4) or a terminated Deferred Retirement
14 Option Program participant as described in subsection (21).

15 (4) PARTICIPATION; ENROLLMENT.--

16 (e) After the period during which an eligible employee
17 had the choice to elect the defined benefit program or the
18 Public Employee Optional Retirement Program, or the month
19 following the receipt of the eligible employee's plan election
20 ~~selection effective date~~, if sooner, the employee shall have
21 one opportunity, at the employee's discretion, to choose to
22 move from the defined benefit program to the Public Employee
23 Optional Retirement Program or from the Public Employee
24 Optional Retirement Program to the defined benefit program.
25 Eligible employees may elect to move between Florida
26 Retirement System programs only if they are earning service
27 credit in an employer-employee relationship consistent with
28 the requirements under s. 121.021(17)(b), excluding leaves of
29 absence without pay. Effective July 1, 2005, such elections
30 shall be effective on the first day of the month following the
31 receipt of the election by the third-party administrator and

1 are not subject to the requirements regarding an
2 employer-employee relationship or receipt of contributions for
3 the eligible employee in the effective month, except that the
4 employee must meet the conditions of the previous sentence
5 when the election is received by the third-party
6 administrator. This paragraph shall be contingent upon
7 approval from the Internal Revenue Service for including the
8 choice described herein within the programs offered by the
9 Florida Retirement System.

10 1. If the employee chooses to move to the Public
11 Employee Optional Retirement Program, the applicable
12 provisions of this section shall govern the transfer.

13 2. If the employee chooses to move to the defined
14 benefit program, the employee must transfer from his or her
15 Public Employee Optional Retirement Program account and from
16 other employee moneys as necessary, a sum representing the
17 present value of that employee's accumulated benefit
18 obligation immediately following the time of such movement,
19 determined assuming that attained service equals the sum of
20 service in the defined benefit program and service in the
21 Public Employee Optional Retirement Program. Benefit
22 commencement occurs on the first date the employee would
23 become eligible for unreduced benefits, using the discount
24 rate and other relevant actuarial assumptions that were used
25 to value the Florida Retirement System defined benefit plan
26 liabilities in the most recent actuarial valuation. For any
27 employee who, at the time of the second election, already
28 maintains an accrued benefit amount in the defined benefit
29 plan, the then-present value of such accrued benefit shall be
30 deemed part of the required transfer amount described in this
31 subparagraph. The division shall ensure that the transfer sum

1 is prepared using a formula and methodology certified by an
2 enrolled actuary.

3 3. Notwithstanding subparagraph 2., an employee who
4 chooses to move to the defined benefit program and who became
5 eligible to participate in the Public Employee Optional
6 Retirement Program by reason of employment in a regularly
7 established position with a state employer after June 1, 2002;
8 a district school board employer after September 1, 2002; or a
9 local employer after December 1, 2002, must transfer from his
10 or her Public Employee Optional Retirement Program account
11 and, from other employee moneys as necessary, a sum
12 representing that employee's actuarial accrued liability.

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

1 | program elections in any significant manner, after due
2 | recognition of the separate unfunded actuarial base. Following
3 | this initial 25-year period, any remaining balance of the
4 | original separate base shall be amortized over the remaining 5
5 | years of the required 30-year amortization period.

6 | (8) ADMINISTRATION OF PROGRAM.--

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

12 | a. The administrator's demonstrated experience in
13 | providing administrative services to public or private sector
14 | retirement systems.

15 | b. The administrator's demonstrated experience in
16 | providing daily valued recordkeeping to defined contribution
17 | plans.

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

25 | d. The cost-effectiveness and levels of the
26 | administrative services provided.

27 | e. The administrator's ability to interact with the
28 | participants, the employers, the board, the division, and the
29 | providers; the means by which participants may access account
30 | information, direct investment of contributions, make changes
31 | to their accounts, transfer moneys between available

1 investment vehicles, and transfer moneys between investment
2 products; and any fees that apply to such activities.

3 f. Any other factor deemed necessary by the Trustees
4 of the State Board of Administration.

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

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

13 a. Demonstrated experience in providing educational
14 services to public or private sector retirement systems.

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

21 c. The cost-effectiveness and levels of the
22 educational services provided.

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

26 e. Any other factor deemed necessary by the Trustees
27 of the State Board of Administration.

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

1 3. The establishment of the criteria shall be solely
2 within the discretion of the board.

3 (12) ADVISORY COUNCIL ~~COMMITTEES~~ TO PROVIDE ADVICE AND
4 ASSISTANCE.--The Investment Advisory Council shall assist the
5 board in implementing and administering the Public Employee
6 Optional Retirement Program. The Investment Advisory Council,
7 created pursuant to s. 215.444, shall review the board's
8 initial recommendations regarding the criteria to be used in
9 selecting and evaluating approved providers and investment
10 products. The council may provide comments on the
11 recommendations to the board within 45 days after receiving
12 the initial recommendations. The board shall make the final
13 determination as to whether any investment provider or
14 product, any contractor, or any and all contract provisions
15 shall be approved for the program.

16 (20) DESIGNATION OF BENEFICIARIES.--

17 (a) Each participant may, on a form provided for that
18 purpose, signed and filed with the third-party administrator,
19 designate a choice of one or more persons, named sequentially
20 or jointly, as his or her beneficiary who shall receive the
21 benefits, if any, which may be payable pursuant to this
22 chapter in the event of the participant's death. If no
23 beneficiary is named in this manner, or if no beneficiary
24 designated by the participant survives the participant, the
25 beneficiary shall be the spouse of the deceased, if living. If
26 the participant's spouse is not alive at his or her death, the
27 beneficiary shall be the living children of the participant.
28 If no children survive, the beneficiary shall be the
29 participant's father or mother, if living; otherwise, the
30 beneficiary shall be the participant's estate. The beneficiary
31 most recently designated by a participant on a form or letter

1 filed with the third-party administrator shall be the
2 beneficiary entitled to any benefits payable at the time of
3 the participant's death. Notwithstanding any other provision
4 in this subsection to the contrary, for a participant who dies
5 prior to his or her effective date of retirement, the spouse
6 at the time of death shall be the participant's beneficiary
7 unless such participant designates a different beneficiary as
8 provided in this subsection subsequent to the participant's
9 most recent marriage.

10 (b) If a participant designates a primary beneficiary
11 other than the participant's spouse, the participant's spouse
12 must sign the beneficiary designation form to acknowledge the
13 designation. This requirement does not apply to the
14 designation of one or more contingent beneficiaries to receive
15 benefits remaining upon the death of the primary beneficiary
16 or beneficiaries.

17 (c) Notwithstanding the participant's designation of
18 benefits to be paid through a trust to a beneficiary that is a
19 natural person, and notwithstanding the provisions of the
20 trust, benefits shall be paid directly to the beneficiary if
21 such person is no longer a minor or incapacitated as defined
22 in s. 744.102(11) and (12).

23 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT
24 OPTION PROGRAM PARTICIPANTS.--Notwithstanding any provision of
25 law to the contrary, participants in the Deferred Retirement
26 Option Program offered under part I may, after conclusion of
27 their participation in the program, elect to roll over or
28 authorize a direct trustee-to-trustee transfer to an account
29 under the Public Employee Optional Retirement Program of their
30 Deferred Retirement Option Program proceeds distributed as
31 provided under s. 121.091(13)(c)5. The transaction must

1 constitute an "eligible rollover distribution" within the
2 meaning of s. 402(c)(4) of the Internal Revenue Code.

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

6 (b) The affected participant shall direct the
7 investment of his or her investment account; however, unless
8 he or she becomes a renewed member of the Florida Retirement
9 System under s. 121.122 and elects to participate in the
10 Public Employee Optional Retirement Program, employer
11 contributions may not be made to the participant's account as
12 provided under paragraph (5)(a).

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

17 Section 4. Section 121.591, Florida Statutes, is
18 amended to read:

19 121.591 Benefits payable under the Public Employee
20 Optional Retirement Program of the Florida Retirement
21 System.--Benefits may not be paid under this section unless
22 the member has terminated employment as provided in s.
23 121.021(39)(a) or is deceased and a proper application has
24 been filed in the manner prescribed by the state board or the
25 department. The state board or department, as appropriate, may
26 cancel an application for retirement benefits when the member
27 or beneficiary fails to timely provide the information and
28 documents required by this chapter and the rules of the state
29 board and department. In accordance with their respective
30 responsibilities as provided herein, the State Board of
31 Administration and the Department of Management Services shall

1 | adopt rules establishing procedures for application for
2 | retirement benefits and for the cancellation of such
3 | application when the required information or documents are not
4 | received. The State Board of Administration and the Department
5 | of Management Services, as appropriate, are authorized to cash
6 | out a de minimis account of a participant who has been
7 | terminated from Florida Retirement System covered employment
8 | for a minimum of 6 calendar months. A de minimis account is an
9 | account containing employer contributions and accumulated
10 | earnings of not more than \$5,000 made under the provisions of
11 | this chapter. Such cash-out must either be a complete lump-sum
12 | liquidation of the account balance, subject to the provisions
13 | of the Internal Revenue Code, or a lump-sum direct rollover
14 | distribution paid directly to the custodian of an eligible
15 | retirement plan, as defined by the Internal Revenue Code, on
16 | behalf of the participant. If any financial instrument issued
17 | for the payment of retirement benefits under this section is
18 | not presented for payment within 180 days after the last day
19 | of the month in which it was originally issued, the
20 | third-party administrator or other duly authorized agent of
21 | the State Board of Administration shall cancel the instrument
22 | and credit the amount of the instrument to the suspense
23 | account of the Public Employee Optional Retirement Program
24 | Trust Fund authorized under s. 121.4501(6). Any such amounts
25 | transferred to the suspense account are payable upon a proper
26 | application, not to include earnings thereon, as provided in
27 | this section, within 5 years after the last day of the month
28 | in which the instrument was originally issued, after which
29 | time such amounts and any earnings thereon shall be forfeited.
30 | Any such forfeited amounts are assets of the Public Employee
31 |

1 Optional Retirement Program Trust Fund and are not subject to
2 the provisions of chapter 717.

3 (1) NORMAL BENEFITS.--Under the Public Employee
4 Optional Retirement Program:

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

9 1. To the extent vested, benefits shall be payable
10 only to a participant.

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

15 3. To receive benefits under this subsection, the
16 participant must be terminated from all employment with all
17 Florida Retirement System employers, as provided in s.
18 121.021(39).

19 4. Benefit payments may not be made until the
20 participant has been terminated for 3 calendar months, except
21 that the board may authorize by rule for the distribution of
22 up to 10 percent of the participant's account after being
23 terminated for 1 calendar month if a participant has reached
24 the normal retirement requirements of the defined benefit
25 plan, as provided in s. 121.021(29).

26 (b) If a participant elects to receive his or her
27 benefits upon termination of employment, the participant must
28 submit a written application or an equivalent form to the
29 third-party administrator indicating his or her preferred
30 distribution date and selecting an authorized method of
31 distribution as provided in paragraph (c). The participant may

1 defer receipt of benefits until he or she chooses to make such
2 application, subject to federal requirements.

3 (c) Upon receipt by the third-party administrator of a
4 properly executed application for distribution of benefits,
5 the total accumulated benefit shall be payable to the
6 participant, as:

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

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

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

- 24 1. All moneys accumulated in the participant's Public
25 Employee Optional Retirement Program accounts, including
26 vested and nonvested accumulations as described in s.
27 121.4501(6), shall be transferred from such individual
28 accounts to the Division of Retirement for deposit in the
29 disability account of the Florida Retirement System Trust
30 Fund. Such moneys shall be separately accounted for. Earnings
31 shall be credited on an annual basis for amounts held in the

1 disability accounts of the Florida Retirement System Trust
2 Fund based on actual earnings of the Florida Retirement System
3 Trust Fund.

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

14 (b) Disability retirement; entitlement.--

15 1. A participant of the Public Employee Optional
16 Retirement Program who becomes totally and permanently
17 disabled, as defined in s. 121.091(4)(b), after completing 8
18 years of creditable service, or a participant who becomes
19 totally and permanently disabled in the line of duty
20 regardless of his or her length of service, shall be entitled
21 to a monthly disability benefit as provided herein.

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

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

30 b. If the participant has elected to retain credit for
31 his or her service under the defined benefit program of the

1 Florida Retirement System as provided under s. 121.4501(3)(b),
2 all such service will be considered creditable service.

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

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

16 (c) Disability retirement effective date.--The
17 effective retirement date for a participant who applies and is
18 approved for disability retirement shall be established as
19 provided under s. 121.091(4)(a)2. and 3.

20 (d) Total and permanent disability.--A participant
21 shall be considered totally and permanently disabled if, in
22 the opinion of the division, he or she is prevented, by reason
23 of a medically determinable physical or mental impairment,
24 from rendering useful and efficient service as an officer or
25 employee.

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

1 (f) Disability retirement benefit.--Upon the
2 disability retirement of a participant under this subsection,
3 the participant shall receive a monthly benefit that shall
4 begin to accrue on the first day of the month of disability
5 retirement, as approved by the division, and shall be payable
6 on the last day of that month and each month thereafter during
7 his or her lifetime and continued disability. All disability
8 benefits payable to such member shall be paid out of the
9 disability account of the Florida Retirement System Trust Fund
10 established under this subsection.

11 (g) Computation of disability retirement benefit.--The
12 amount of each monthly payment shall be calculated in the same
13 manner as provided for members of the defined benefit program
14 of the Florida Retirement System under s. 121.091(4)(f). For
15 such purpose, creditable service under both the defined
16 benefit program and the Public Employee Optional Retirement
17 Program of the Florida Retirement System shall be applicable
18 as provided under paragraph (b).

19 (h) Reapplication.--A participant whose initial
20 application for disability retirement has been denied may
21 reapply for disability benefits in the same manner, and under
22 the same conditions, as provided for members of the defined
23 benefit program of the Florida Retirement System under s.
24 121.091(4)(g).

25 (i) Membership.--Upon approval of an application for
26 disability benefits under this subsection, the applicant shall
27 be transferred to the defined benefit program of the Florida
28 Retirement System, effective upon his or her disability
29 retirement effective date.

30 (j) Option to cancel.--Any participant whose
31 application for disability benefits is approved may cancel his

1 or her application for disability benefits, provided that the
2 cancellation request is received by the division before a
3 disability retirement warrant has been deposited, cashed, or
4 received by direct deposit. Upon such cancellation:

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

7 2. The participant shall be retroactively reinstated
8 in the Public Employee Optional Retirement Program without
9 hiatus;

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

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

16 (k) Recovery from disability.--

17 1. The division may require periodic reexaminations at
18 the expense of the disability program account of the Florida
19 Retirement System Trust Fund. Except as otherwise provided in
20 subparagraph 2., the requirements, procedures, and
21 restrictions relating to the conduct and review of such
22 reexaminations, discontinuation or termination of benefits,
23 reentry into employment, disability retirement after reentry
24 into covered employment, and all other matters relating to
25 recovery from disability shall be the same as are set forth
26 under s. 121.091(4)(h).

27 2. Upon recovery from disability, any recipient of
28 disability retirement benefits under this subsection shall be
29 a compulsory member of the Public Employee Optional Retirement
30 Program of the Florida Retirement System. The net difference
31 between the recipient's original account balance transferred

1 | to the Florida Retirement System Trust Fund, including
2 | earnings, under paragraph (a) and total disability benefits
3 | paid to such recipient, if any, shall be determined as
4 | provided in sub-subparagraph a.

5 | a. An amount equal to the total benefits paid shall be
6 | subtracted from that portion of the transferred account
7 | balance consisting of vested accumulations as described under
8 | s. 121.4501(6), if any, and an amount equal to the remainder
9 | of benefit amounts paid, if any, shall then be subtracted from
10 | any remaining portion consisting of nonvested accumulations as
11 | described under s. 121.4501(6).

12 | b. Amounts subtracted under sub-subparagraph a. shall
13 | be retained within the disability account of the Florida
14 | Retirement System Trust Fund. Any remaining account balance
15 | shall be transferred to the third-party administrator for
16 | disposition as provided under sub-subparagraph c. or
17 | sub-subparagraph d., as appropriate.

18 | c. If the recipient returns to covered employment,
19 | transferred amounts shall be deposited in individual accounts
20 | under the Public Employee Optional Retirement Program, as
21 | directed by the participant. Vested and nonvested amounts
22 | shall be separately accounted for as provided in s.
23 | 121.4501(6).

24 | d. If the recipient fails to return to covered
25 | employment upon recovery from disability:

26 | (I) Any remaining vested amount shall be deposited in
27 | individual accounts under the Public Employee Optional
28 | Retirement Program, as directed by the participant, and shall
29 | be payable as provided in subsection (1).

30 |
31 |

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

4 3. If present value was reassigned from the defined
5 benefit program to the disability program of the Florida
6 Retirement System as provided under subparagraph (a)2., the
7 full present value amount shall be returned to the defined
8 benefit account within the Florida Retirement System Trust
9 Fund and the affected individual's associated retirement
10 credit under the defined benefit program shall be reinstated
11 in full. Any benefit based upon such credit shall be
12 calculated as provided in s. 121.091(4)(h)1.

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

17 (m) Disability retirement of justice or judge by order
18 of Supreme Court.--

19 1. If a participant is a justice of the Supreme Court,
20 judge of a district court of appeal, circuit judge, or judge
21 of a county court who has served for 6 years or more as an
22 elected constitutional judicial officer, including service as
23 a judicial officer in any court abolished pursuant to Art. V
24 of the State Constitution, and who is retired for disability
25 by order of the Supreme Court upon recommendation of the
26 Judicial Qualifications Commission pursuant to the provisions
27 of Art. V of the State Constitution, the participant's Option
28 1 monthly disability benefit amount as provided in s.
29 121.091(6)(a)1. shall be two-thirds of his or her monthly
30 compensation as of the participant's disability retirement
31 date. Such a participant may alternatively elect to receive

1 | an actuarially adjusted disability retirement benefit under
2 | any other option as provided in s. 121.091(6)(a), or to
3 | receive the normal benefit payable under the Public Employee
4 | Optional Retirement Program as set forth in subsection (1).

5 | 2. If any justice or judge who is a participant of the
6 | Public Employee Optional Retirement Program of the Florida
7 | Retirement System is retired for disability by order of the
8 | Supreme Court upon recommendation of the Judicial
9 | Qualifications Commission pursuant to the provisions of Art. V
10 | of the State Constitution and elects to receive a monthly
11 | disability benefit under the provisions of this paragraph:

12 | a. Any present value amount that was transferred to
13 | his or her program account and all employer contributions made
14 | to such account on his or her behalf, plus interest and
15 | earnings thereon, shall be transferred to and deposited in the
16 | disability account of the Florida Retirement System Trust
17 | Fund; and

18 | b. The monthly benefits payable under this paragraph
19 | for any affected justice or judge retired from the Florida
20 | Retirement System pursuant to Art. V of the State Constitution
21 | shall be paid from the disability account of the Florida
22 | Retirement System Trust Fund.

23 | (n) Death of retiree or beneficiary.--Upon the death
24 | of a disabled retiree or beneficiary thereof who is receiving
25 | monthly benefits under this subsection, the monthly benefits
26 | shall be paid through the last day of the month of death and
27 | shall terminate, or be adjusted, if applicable, as of that
28 | date in accordance with the optional form of benefit selected
29 | at the time of retirement. The Department of Management
30 | Services may adopt rules necessary to administer this
31 | paragraph.

1 (3) DEATH BENEFITS.--Under the Public Employee
2 Optional Retirement Program:

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

5 1. To the extent vested, benefits shall be payable
6 only to a participant's beneficiary or beneficiaries as
7 designated by the participant as provided in s. 121.4501(20).
8 ~~If a participant designates a primary beneficiary other than~~
9 ~~the participant's spouse, the participant's spouse shall be~~
10 ~~notified of the designation. This requirement shall not apply~~
11 ~~to the designation of one or more contingent beneficiaries to~~
12 ~~receive any benefits remaining upon the death of the primary~~
13 ~~beneficiary or beneficiaries.~~

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

18 3. To receive benefits under this subsection, the
19 participant must be deceased.

20 (b) In the event of a participant's death, all vested
21 accumulations as described in s. 121.4501(6), less withholding
22 taxes remitted to the Internal Revenue Service, shall be
23 distributed, as provided in paragraph (c) or as described in
24 s. 121.4501(20), ~~to the participant's designated beneficiary~~
25 ~~or beneficiaries, or to the participant's estate, as if the~~
26 participant retired on the date of death. No other death
27 benefits shall be available for survivors of participants
28 under the Public Employee Optional Retirement Program, except
29 for such benefits, or coverage for such benefits, as are
30 otherwise provided by law or are separately afforded by the
31 employer, at the employer's discretion.

1 (c) Upon receipt by the third-party administrator of a
2 properly executed application for distribution of benefits,
3 the total accumulated benefit shall be payable by the
4 third-party administrator to the participant's surviving
5 beneficiary or beneficiaries, as:

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

8 2. An eligible rollover distribution on behalf of the
9 surviving spouse of a deceased participant, whereby all
10 accrued benefits, plus interest and investment earnings, are
11 paid from the deceased participant's account directly to the
12 custodian of an eligible retirement plan, as described in s.
13 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
14 surviving spouse; or

15 3. A partial lump-sum payment whereby a portion of the
16 accrued benefit is paid to the deceased participant's
17 surviving spouse or other designated beneficiaries, less
18 withholding taxes remitted to the Internal Revenue Service,
19 and the remaining amount is transferred directly to the
20 custodian of an eligible retirement plan, as described in s.
21 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
22 surviving spouse. The proportions must be specified by the
23 participant or the surviving beneficiary.

24
25 This paragraph does not abrogate other applicable provisions
26 of state or federal law providing for payment of death
27 benefits.

28 (4) LIMITATION ON LEGAL PROCESS.--The benefits payable
29 to any person under the Public Employee Optional Retirement
30 Program, and any contributions accumulated under such program,
31 are not subject to assignment, execution, attachment, or any

1 | legal process, except for qualified domestic relations orders
2 | by a court of competent jurisdiction, income deduction orders
3 | as provided in s. 61.1301, and federal income tax levies.

4 | Section 5. Paragraph (k) is added to subsection (2) of
5 | section 215.47, Florida Statutes, to read:

6 | 215.47 Investments; authorized securities; loan of
7 | securities.--Subject to the limitations and conditions of the
8 | State Constitution or of the trust agreement relating to a
9 | trust fund, moneys available for investments under ss.

10 | 215.44-215.53 may be invested as follows:

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

12 | (k) Asset-backed securities not otherwise authorized
13 | by this section.

14 | Section 6. This act shall take effect July 1, 2005.

15 |
16 | STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 | COMMITTEE SUBSTITUTE FOR
18 | Senate Bill 1446

19 | The Committee Substitute provides additional conditions
20 | affecting the reemployment of retirees who have transferred to
21 | the Investment Plan to effect compliance with the Internal
22 | Revenue Code's prohibitions against in-service pension
23 | distributions.
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