

By the Committees on Ways and Means; Governmental Oversight
and Productivity; and Senator Argenziano

576-2114-05

1 A bill to be entitled
2 An act relating to state financial matters;
3 amending s. 121.021, F.S.; clarifying that the
4 State Board of Administration may require that
5 a member of the Florida Retirement System
6 provide evidence of termination; amending s.
7 121.091, F.S.; providing that a member of the
8 Public Employee Optional Retirement Program may
9 not return to employment with an employer under
10 the Florida Retirement System until after being
11 terminated for 3 calendar months; providing an
12 exception for those members who have reached
13 the normal retirement requirements of the
14 defined benefit plan; amending s. 121.35, F.S.;
15 changing the requirements of the Department of
16 Management Services' designation of a fifth
17 company to provide services under the state
18 university optional retirement program;
19 amending s. 121.4501, F.S.; redefining the
20 terms "eligible employee" and "participant" for
21 purposes of the Public Employee Optional
22 Retirement Program; prescribing certain
23 conditions on participation in the program;
24 deleting references to the program's advisory
25 committees; prescribing procedures for, and
26 certain presumptions relating to, designation
27 of beneficiaries; providing for participation
28 by terminated DROP participants; amending s.
29 121.591, F.S.; providing for cancellation of
30 certain payment instruments under the program
31 when not presented for payment; providing for

1 payment upon subsequent application and for
2 forfeiture when not claimed within a certain
3 period; providing that members of the Public
4 Employee Optional Retirement Program may not
5 receive a distribution from their account until
6 after being terminated for 3 calendar months;
7 providing an exception; providing for
8 designation of beneficiaries for death
9 benefits; amending s. 215.47, F.S.; authorizing
10 investments in asset-backed securities;
11 providing an effective date.

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

14
15 Section 1. Subsection (39) of section 121.021, Florida
16 Statutes, is amended to read:

17 121.021 Definitions.--The following words and phrases
18 as used in this chapter have the respective meanings set forth
19 unless a different meaning is plainly required by the context:

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

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

3 (b) "Termination" for a member electing to participate
4 under the Deferred Retirement Option Program occurs when the
5 Deferred Retirement Option Program participant ceases all
6 employment relationships with employers under this system in
7 accordance with s. 121.091(13), but in the event the Deferred
8 Retirement Option Program participant should be employed by
9 any such employer within the next calendar month, termination
10 will be deemed not to have occurred, except as provided in s.
11 121.091(13)(b)4.c. A leave of absence shall constitute a
12 continuation of the employment relationship.

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

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

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

29 (a) Any person who is retired under this chapter,
30 except under the disability retirement provisions of
31 subsection (4), may be employed by an employer that does not

1 participate in a state-administered retirement system and may
2 receive compensation from that employment without limiting or
3 restricting in any way the retirement benefits payable to that
4 person.

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

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

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

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

26 4. A community college board of trustees may reemploy
27 a retired member as an adjunct instructor, that is, an
28 instructor who is noncontractual and part-time, or as a
29 participant in a phased retirement program within the Florida
30 Community College System, after he or she has been retired for
31 1 calendar month, in accordance with s. 121.021(39). Any

1 | retired member who is reemployed within 1 calendar month after
2 | retirement shall void his or her application for retirement
3 | benefits. Boards of trustees reemploying such instructors are
4 | subject to the retirement contribution required in
5 | subparagraph 7. A retired member may be reemployed as an
6 | adjunct instructor for no more than 780 hours during the first
7 | 12 months of retirement. Any retired member reemployed for
8 | more than 780 hours during the first 12 months of retirement
9 | shall give timely notice in writing to the employer and to the
10 | division of the date he or she will exceed the limitation.
11 | The division shall suspend his or her retirement benefits for
12 | the remainder of the first 12 months of retirement. Any
13 | person employed in violation of this subparagraph and any
14 | employing agency which knowingly employs or appoints such
15 | person without notifying the Division of Retirement to suspend
16 | retirement 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 | 5. The State University System may reemploy a retired
31 | member as an adjunct faculty member or as a participant in a

1 | phased retirement program within the State University System
2 | after the retired member has been retired for 1 calendar
3 | month, in accordance with s. 121.021(39). Any retired member
4 | who is reemployed within 1 calendar month after retirement
5 | shall void his or her application for retirement benefits.
6 | The State University System is subject to the retired
7 | contribution required in subparagraph 7., as appropriate. A
8 | retired member may be reemployed as an adjunct faculty member
9 | or a participant in a phased retirement program for no more
10 | than 780 hours during the first 12 months of his or her
11 | retirement. Any retired member reemployed for more than 780
12 | hours during the first 12 months of retirement shall give
13 | timely notice in writing to the employer and to the division
14 | of the date he or she will exceed the limitation. The
15 | division shall suspend his or her retirement benefits for the
16 | remainder of the first 12 months of retirement. Any person
17 | employed in violation of this subparagraph and any employing
18 | agency which knowingly employs or appoints such person without
19 | notifying the Division of Retirement to suspend retirement
20 | benefits shall be jointly and severally liable for
21 | reimbursement to the retirement trust fund of any benefits
22 | paid during the reemployment limitation period. To avoid
23 | liability, such employing agency shall have a written
24 | statement from the retiree that he or she is not retired from
25 | a state-administered retirement system. Any retirement
26 | benefits received by a retired member while reemployed in
27 | excess of 780 hours during the first 12 months of retirement
28 | shall be repaid to the Retirement System Trust Fund, and
29 | retirement benefits shall remain suspended until repayment is
30 | made. Benefits suspended beyond the end of the retired
31 | member's first 12 months of retirement shall apply toward

1 repayment of benefits received in violation of the 780-hour
2 reemployment limitation.

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

1 received by a retired member while reemployed in excess of 780
2 hours during the first 12 months of retirement shall be repaid
3 to the Retirement System Trust Fund, and his or her retirement
4 benefits shall remain suspended until payment is made.

5 Benefits suspended beyond the end of the retired member's
6 first 12 months of retirement shall apply toward repayment of
7 benefits received in violation of the 780-hour reemployment
8 limitation.

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

23 8. Any person who has previously retired and who is
24 holding an elective public office or an appointment to an
25 elective public office eligible for the Elected Officers'
26 Class on or after July 1, 1990, shall be enrolled in the
27 Florida Retirement System as provided in s. 121.053(1)(b) or,
28 if holding an elective public office that does not qualify for
29 the Elected Officers' Class on or after July 1, 1991, shall be
30 enrolled in the Florida Retirement System as provided in s.
31 121.122, and shall continue to receive retirement benefits as

1 well as compensation for the elected officer's service for as
2 long as he or she remains in elective office. However, any
3 retired member who served in an elective office prior to July
4 1, 1990, suspended his or her retirement benefit, and had his
5 or her Florida Retirement System membership reinstated shall,
6 upon retirement from such office, have his or her retirement
7 benefit recalculated to include the additional service and
8 compensation earned.

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

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

28 11. An employing agency may reemploy a retired member
29 as a firefighter or paramedic after the retired member has
30 been retired for 1 calendar month, in accordance with s.
31 121.021(39). Any retired member who is reemployed within 1

1 | calendar month after retirement shall void his or her
2 | application for retirement benefits. The employing agency
3 | reemploying such firefighter or paramedic is subject to the
4 | retired contribution required in subparagraph 8. Reemployment
5 | of a retired firefighter or paramedic is limited to 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 division
11 | shall suspend his or her retirement benefits for the remainder
12 | of the first 12 months of retirement. Any person employed in
13 | violation of this subparagraph and any employing agency which
14 | knowingly employs or appoints such person without notifying
15 | the Division of Retirement to suspend retirement benefits
16 | shall be jointly and severally liable for reimbursement to the
17 | Retirement System Trust Fund of any benefits paid during the
18 | reemployment limitation period. To avoid liability, such
19 | employing agency shall have a written statement from the
20 | retiree that he or she is not retired from a
21 | state-administered retirement system. Any retirement benefits
22 | received by a retired member while reemployed in excess of 780
23 | hours during the first 12 months of retirement shall be repaid
24 | to the Retirement System Trust Fund, and retirement benefits
25 | shall remain suspended until repayment is made. Benefits
26 | suspended beyond the end of the retired member's first 12
27 | months of retirement shall apply toward repayment of benefits
28 | received in violation of the 780-hour reemployment limitation.

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

3 1. Such retirees may not be reemployed with an
4 employer participating in the Florida Retirement System as
5 provided in paragraph (b) until such person has been retired
6 for 3 calendar months, unless the participant has reached the
7 normal retirement requirements of the defined benefit plan as
8 provided in s. 121.021(29).

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

19 Section 3. Paragraph (b) of subsection (6) of section
20 121.35, Florida Statutes, is amended to read:

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

23 (6) ADMINISTRATION OF PROGRAM.--

24 (b) After receiving and considering the
25 recommendations of the State Board of Education, the
26 department shall designate no more than five ~~four~~ companies
27 from which contracts may be purchased under the program and
28 shall approve the form and content of the optional retirement
29 program contracts. Any domestic company that has been
30 designated as of July 1, 2005, shall be included in the five
31 companies until expiration of its existing contract with the

1 department. The domestic company may assign its contract with
2 the department to an affiliated qualified company that is
3 wholly owned by the domestic company's parent company and has
4 assumed 100 percent of the responsibility for the contracts
5 purchased from the domestic company. Upon application by a
6 ~~qualified Florida domestic company, the department shall give~~
7 ~~reasonable notice to all other such companies that it intends~~
8 ~~to designate one of such companies as a fifth company from~~
9 ~~which contracts may be purchased pursuant to this section and~~
10 ~~that they may apply for such designation prior to the deadline~~
11 ~~established by said notice. At least 60 days after giving such~~
12 ~~notice and upon receipt of the recommendation of the State~~
13 ~~Board of Education, the department shall so designate one of~~
14 ~~such companies as the fifth company from which such contracts~~
15 ~~may be purchased.~~

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

21 121.4501 Public Employee Optional Retirement
22 Program.--

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

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

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

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

1 Optional Retirement Program as established under s.
2 121.051(2)(c); or

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

6
7 The term does not include any member participating in the
8 Deferred Retirement Option Program established under s.
9 121.091(13) or any employee participating in an optional
10 retirement program established under ~~s. 121.051(2)(c)~~ or s.
11 121.35.

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

17 (4) PARTICIPATION; ENROLLMENT.--

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

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

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

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

1 deemed part of the required transfer amount described in this
2 subparagraph. The division shall ensure that the transfer sum
3 is prepared using a formula and methodology certified by an
4 enrolled actuary.

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

15 4. Employees' ability to transfer from the Florida
16 Retirement System defined benefit program to the Public
17 Employee Optional Retirement Program pursuant to paragraphs
18 (a) through (d), and the ability for current employees to have
19 an option to later transfer back into the defined benefit
20 program under subparagraph 2., shall be deemed a significant
21 system amendment. Pursuant to s. 121.031(4), any such
22 resulting unfunded liability arising from actual original
23 transfers from the defined benefit program to the optional
24 program shall be amortized within 30 plan years as a separate
25 unfunded actuarial base independent of the reserve
26 stabilization mechanism defined in s. 121.031(3)(f). For the
27 first 25 years, no direct amortization payment shall be
28 calculated for this base. During this 25-year period, such
29 separate base shall be used to offset the impact of employees
30 exercising their second program election under this paragraph.
31 It is the legislative intent that the actuarial funded status

1 of the Florida Retirement System defined benefit plan is
2 neither beneficially nor adversely impacted by such second
3 program elections in any significant manner, after due
4 recognition of the separate unfunded actuarial base. Following
5 this initial 25-year period, any remaining balance of the
6 original separate base shall be amortized over the remaining 5
7 years of the required 30-year amortization period.

8 (8) ADMINISTRATION OF PROGRAM.--

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

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

17 b. The administrator's demonstrated experience in
18 providing daily valued recordkeeping to defined contribution
19 plans.

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

27 d. The cost-effectiveness and levels of the
28 administrative services provided.

29 e. The administrator's ability to interact with the
30 participants, the employers, the board, the division, and the
31 providers; the means by which participants may access account

1 information, direct investment of contributions, make changes
2 to their accounts, transfer moneys between available
3 investment vehicles, and transfer moneys between investment
4 products; and any fees that apply to such activities.

5 f. Any other factor deemed necessary by the Trustees
6 of the State Board of Administration.

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

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

15 a. Demonstrated experience in providing educational
16 services to public or private sector retirement systems.

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

23 c. The cost-effectiveness and levels of the
24 educational services provided.

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

28 e. Any other factor deemed necessary by the Trustees
29 of the State Board of Administration.

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

4 3. The establishment of the criteria shall be solely
5 within the discretion of the board.

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

19 (20) DESIGNATION OF BENEFICIARIES.--

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

1 participant's father or mother, if living; otherwise, the
2 beneficiary shall be the participant's estate. The beneficiary
3 most recently designated by a participant on a form or letter
4 filed with the third-party administrator shall be the
5 beneficiary entitled to any benefits payable at the time of
6 the participant's death. Notwithstanding any other provision
7 in this subsection to the contrary, for a participant who dies
8 prior to his or her effective date of retirement, the spouse
9 at the time of death shall be the participant's beneficiary
10 unless such participant designates a different beneficiary as
11 provided in this subsection subsequent to the participant's
12 most recent marriage.

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

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

26 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT
27 OPTION PROGRAM PARTICIPANTS.--Notwithstanding any provision of
28 law to the contrary, participants in the Deferred Retirement
29 Option Program offered under part I may, after conclusion of
30 their participation in the program, elect to roll over or
31 authorize a direct trustee-to-trustee transfer to an account

1 under the Public Employee Optional Retirement Program of their
2 Deferred Retirement Option Program proceeds distributed as
3 provided under s. 121.091(13)(c)5. The transaction must
4 constitute an "eligible rollover distribution" within the
5 meaning of s. 402(c)(4) of the Internal Revenue Code.

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

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

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

20 Section 5. Section 121.591, Florida Statutes, is
21 amended to read:

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

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

1 time such amounts and any earnings thereon shall be forfeited.
2 Any such forfeited amounts are assets of the Public Employee
3 Optional Retirement Program Trust Fund and are not subject to
4 the provisions of chapter 717.

5 (1) NORMAL BENEFITS.--Under the Public Employee
6 Optional Retirement Program:

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

11 1. To the extent vested, benefits shall be payable
12 only to a participant.

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

17 3. To receive benefits under this subsection, the
18 participant must be terminated from all employment with all
19 Florida Retirement System employers, as provided in s.
20 121.021(39).

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

28 (b) If a participant elects to receive his or her
29 benefits upon termination of employment, the participant must
30 submit a written application or an equivalent form to the
31 third-party administrator indicating his or her preferred

1 distribution date and selecting an authorized method of
2 distribution as provided in paragraph (c). The participant may
3 defer receipt of benefits until he or she chooses to make such
4 application, subject to federal requirements.

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

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

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

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

- 26 1. All moneys accumulated in the participant's Public
27 Employee Optional Retirement Program accounts, including
28 vested and nonvested accumulations as described in s.
29 121.4501(6), shall be transferred from such individual
30 accounts to the Division of Retirement for deposit in the
31 disability account of the Florida Retirement System Trust

1 Fund. Such moneys shall be separately accounted for. Earnings
2 shall be credited on an annual basis for amounts held in the
3 disability accounts of the Florida Retirement System Trust
4 Fund based on actual earnings of the Florida Retirement System
5 Trust Fund.

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

16 (b) Disability retirement; entitlement.--

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

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

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

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

5 c. If the participant has elected to transfer to his
6 or her participant accounts a sum representing the present
7 value of his or her retirement credit under the defined
8 benefit program as provided under s. 121.4501(3)(c), the
9 period of service under the defined benefit program

10 represented in the present value amounts transferred will be
11 considered creditable service for purposes of vesting for
12 disability benefits, except as provided in subparagraph d.

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

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

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

28 (e) Proof of disability.--The division, before
29 approving payment of any disability retirement benefit, shall
30 require proof that the participant is totally and permanently
31 disabled in the same manner as provided for members of the

1 defined benefit program of the Florida Retirement System under
2 s. 121.091(4)(c).

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

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

21 (h) Reapplication.--A participant whose initial
22 application for disability retirement has been denied may
23 reapply for disability benefits in the same manner, and under
24 the same conditions, as provided for members of the defined
25 benefit program of the Florida Retirement System under s.
26 121.091(4)(g).

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

1 (j) Option to cancel.--Any participant whose
2 application for disability benefits is approved may cancel his
3 or her application for disability benefits, provided that the
4 cancellation request is received by the division before a
5 disability retirement warrant has been deposited, cashed, or
6 received by direct deposit. Upon such cancellation:

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

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

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

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

18 (k) Recovery from disability.--

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

29 2. Upon recovery from disability, any recipient of
30 disability retirement benefits under this subsection shall be
31 a compulsory member of the Public Employee Optional Retirement

1 Program of the Florida Retirement System. The net difference
2 between the recipient's original account balance transferred
3 to the Florida Retirement System Trust Fund, including
4 earnings, under paragraph (a) and total disability benefits
5 paid to such recipient, if any, shall be determined as
6 provided in sub-subparagraph a.

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

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

20 c. If the recipient returns to covered employment,
21 transferred amounts shall be deposited in individual accounts
22 under the Public Employee Optional Retirement Program, as
23 directed by the participant. Vested and nonvested amounts
24 shall be separately accounted for as provided in s.
25 121.4501(6).

26 d. If the recipient fails to return to covered
27 employment upon recovery from disability:

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

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 6. 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 7. This act shall take effect July 1, 2005.

15 |

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

18 |

19 | The Committee Substitute for Committee Substitute provides
20 | that unclaimed retirement benefits from the Public Employee
21 | Optional Retirement Program are forfeited after 10 years. In
22 | addition, the Committee Substitute changes certain
23 | requirements for designation as a provider under the state
24 | university system optional retirement program and allows an
25 | existing provider to assign its contracts to affiliated
26 | companies.

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