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A bill to be entitled  
 An act relating to state financial matters; amending s.  
 121.021, F.S.; redefining the term "termination"; amending  
 s. 121.091, F.S.; providing reemployment requirements for  
 the Public Employee Optional Retirement Program; amending  
 s. 121.4501, F.S.; redefining the terms "eligible  
 employee" and "participant" for purposes of the Public  
 Employee Optional Retirement Program; prescribing certain  
 conditions on participation in the program; deleting  
 references to the program's advisory committees;  
 prescribing procedures for, and certain presumptions  
 relating to, designation of beneficiaries; providing for  
 participation by terminated DROP participants; amending s.  
 121.591, F.S.; providing for cancellation of certain  
 payment instruments under the program when not presented  
 for payment; providing for payment upon subsequent  
 application and for forfeiture when not claimed within a  
 certain period; providing for designation of beneficiaries  
 for death benefits; amending s. 215.47, F.S.; authorizing  
 investments in asset-backed securities; providing an  
 effective date.

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

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

121.021 Definitions.--The following words and phrases as  
 used in this chapter have the respective meanings set forth

29 unless a different meaning is plainly required by the context:

30 (39)(a) "Termination" occurs, except as provided in  
31 paragraph (b), when a member ceases all employment relationships  
32 with employers under this system, as defined in subsection (10),  
33 but in the event a member should be employed by any such  
34 employer within the next calendar month, termination shall be  
35 deemed not to have occurred. A leave of absence shall constitute  
36 a continuation of the employment relationship, except that a  
37 leave of absence without pay due to disability may constitute  
38 termination for a member, if such member makes application for  
39 and is approved for disability retirement in accordance with s.  
40 121.091(4). The department or State Board of Administration may  
41 require other evidence of termination as it deems necessary.

42 (b) "Termination" for a member electing to participate  
43 under the Deferred Retirement Option Program occurs when the  
44 Deferred Retirement Option Program participant ceases all  
45 employment relationships with employers under this system in  
46 accordance with s. 121.091(13), but in the event the Deferred  
47 Retirement Option Program participant should be employed by any  
48 such employer within the next calendar month, termination will  
49 be deemed not to have occurred, except as provided in s.  
50 121.091(13)(b)4.c. A leave of absence shall constitute a  
51 continuation of the employment relationship.

52 Section 2. Paragraph (c) is added to subsection (9) of  
53 section 121.091, Florida Statutes, to read:

54 121.091 Benefits payable under the system.--Benefits may  
55 not be paid under this section unless the member has terminated  
56 employment as provided in s. 121.021(39)(a) or begun

57 participation in the Deferred Retirement Option Program as  
 58 provided in subsection (13), and a proper application has been  
 59 filed in the manner prescribed by the department. The department  
 60 may cancel an application for retirement benefits when the  
 61 member or beneficiary fails to timely provide the information  
 62 and documents required by this chapter and the department's  
 63 rules. The department shall adopt rules establishing procedures  
 64 for application for retirement benefits and for the cancellation  
 65 of such application when the required information or documents  
 66 are not received.

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

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

72 1. Such retirees may not be reemployed with an employer  
 73 participating in the Florida Retirement System as provided in  
 74 paragraph (b) until such retiree has been retired for 3 calendar  
 75 months, unless the retiree has reached the normal retirement  
 76 requirements of the defined benefit plan as provided in s.  
 77 121.021(29).

78 2. Such retiree employed in violation of this subsection  
 79 and any employing agency that knowingly employs or appoints such  
 80 retiree shall be jointly and severally liable for reimbursement  
 81 of any benefits paid to the retirement trust fund from which the  
 82 benefits were paid, including the Florida Retirement System  
 83 Trust Fund and the Public Employee Optional Retirement Program  
 84 Trust Fund, as appropriate. To avoid liability, such employing

85 agency shall have a written statement from the retiree that he  
 86 or she is not retired from a state-administered retirement  
 87 system.

88 Section 3. Paragraphs (f) and (h) of subsection (2),  
 89 paragraph (e) of subsection (4), paragraph (c) of subsection  
 90 (8), and subsection (12) of section 121.4501, Florida Statutes,  
 91 are amended, and subsections (20) and (21) are added to that  
 92 section, to read:

93 121.4501 Public Employee Optional Retirement Program.--

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

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

97 1. Is a member of, or is eligible for membership in, the  
 98 Florida Retirement System, including any renewed member of the  
 99 Florida Retirement System;

100 2. Participates in, or is eligible to participate in, the  
 101 Senior Management Service Optional Annuity Program as  
 102 established under s. 121.055(6) or the State Community College  
 103 Optional Retirement Program as established under s.  
 104 121.051(2)(c); or

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

108  
 109 The term does not include any member participating in the  
 110 Deferred Retirement Option Program established under s.  
 111 121.091(13) or any employee participating in an optional  
 112 retirement program established under ~~s. 121.051(2)(c)~~ or s.

113 121.35.

114 (h) "Participant" means an eligible employee who elects to  
 115 participate in the Public Employee Optional Retirement Program  
 116 and enrolls in such optional program as provided in subsection  
 117 (4) or a terminated Deferred Retirement Option Program  
 118 participant as described in subsection (21).

119 (4) PARTICIPATION; ENROLLMENT.--

120 (e) After the period during which an eligible employee had  
 121 the choice to elect the defined benefit program or the Public  
 122 Employee Optional Retirement Program, or the month following the  
 123 receipt of the eligible employee's plan election selection  
 124 effective date, if sooner, the employee shall have one  
 125 opportunity, at the employee's discretion, to choose to move  
 126 from the defined benefit program to the Public Employee Optional  
 127 Retirement Program or from the Public Employee Optional  
 128 Retirement Program to the defined benefit program. Eligible  
 129 employees may elect to move between Florida Retirement System  
 130 programs only if they are earning service credit in an employer-  
 131 employee relationship consistent with the requirements under s.  
 132 121.021(17)(b), excluding leaves of absence without pay.  
 133 Effective July 1, 2005, such elections shall be effective on the  
 134 first day of the month following the receipt of the election by  
 135 the third-party administrator and are not subject to the  
 136 requirements regarding an employer-employee relationship or  
 137 receipt of contributions for the eligible employee in the  
 138 effective month, except that the employee must meet the  
 139 conditions of the previous sentence when the election is  
 140 received by the third-party administrator. This paragraph shall

141 be contingent upon approval from the Internal Revenue Service  
142 for including the choice described herein within the programs  
143 offered by the Florida Retirement System.

144 1. If the employee chooses to move to the Public Employee  
145 Optional Retirement Program, the applicable provisions of this  
146 section shall govern the transfer.

147 2. If the employee chooses to move to the defined benefit  
148 program, the employee must transfer from his or her Public  
149 Employee Optional Retirement Program account and from other  
150 employee moneys as necessary, a sum representing the present  
151 value of that employee's accumulated benefit obligation  
152 immediately following the time of such movement, determined  
153 assuming that attained service equals the sum of service in the  
154 defined benefit program and service in the Public Employee  
155 Optional Retirement Program. Benefit commencement occurs on the  
156 first date the employee would become eligible for unreduced  
157 benefits, using the discount rate and other relevant actuarial  
158 assumptions that were used to value the Florida Retirement  
159 System defined benefit plan liabilities in the most recent  
160 actuarial valuation. For any employee who, at the time of the  
161 second election, already maintains an accrued benefit amount in  
162 the defined benefit plan, the then-present value of such accrued  
163 benefit shall be deemed part of the required transfer amount  
164 described in this subparagraph. The division shall ensure that  
165 the transfer sum is prepared using a formula and methodology  
166 certified by an enrolled actuary.

167 3. Notwithstanding subparagraph 2., an employee who  
168 chooses to move to the defined benefit program and who became

169 eligible to participate in the Public Employee Optional  
 170 Retirement Program by reason of employment in a regularly  
 171 established position with a state employer after June 1, 2002; a  
 172 district school board employer after September 1, 2002; or a  
 173 local employer after December 1, 2002, must transfer from his or  
 174 her Public Employee Optional Retirement Program account and,  
 175 from other employee moneys as necessary, a sum representing that  
 176 employee's actuarial accrued liability.

177         4. Employees' ability to transfer from the Florida  
 178 Retirement System defined benefit program to the Public Employee  
 179 Optional Retirement Program pursuant to paragraphs (a) through  
 180 (d), and the ability for current employees to have an option to  
 181 later transfer back into the defined benefit program under  
 182 subparagraph 2., shall be deemed a significant system amendment.  
 183 Pursuant to s. 121.031(4), any such resulting unfunded liability  
 184 arising from actual original transfers from the defined benefit  
 185 program to the optional program shall be amortized within 30  
 186 plan years as a separate unfunded actuarial base independent of  
 187 the reserve stabilization mechanism defined in s. 121.031(3)(f).  
 188 For the first 25 years, no direct amortization payment shall be  
 189 calculated for this base. During this 25-year period, such  
 190 separate base shall be used to offset the impact of employees  
 191 exercising their second program election under this paragraph.  
 192 It is the legislative intent that the actuarial funded status of  
 193 the Florida Retirement System defined benefit plan is neither  
 194 beneficially nor adversely impacted by such second program  
 195 elections in any significant manner, after due recognition of  
 196 the separate unfunded actuarial base. Following this initial 25-

197 year period, any remaining balance of the original separate base  
 198 shall be amortized over the remaining 5 years of the required  
 199 30-year amortization period.

200 (8) ADMINISTRATION OF PROGRAM.--

201 (c)1. In evaluating and selecting a third-party  
 202 administrator, the board shall establish criteria under which it  
 203 shall consider the relative capabilities and qualifications of  
 204 each proposed administrator. In developing such criteria, the  
 205 board shall consider:

206 a. The administrator's demonstrated experience in  
 207 providing administrative services to public or private sector  
 208 retirement systems.

209 b. The administrator's demonstrated experience in  
 210 providing daily valued recordkeeping to defined contribution  
 211 plans.

212 c. The administrator's ability and willingness to  
 213 coordinate its activities with the Florida Retirement System  
 214 employers, the board, and the division, and to supply to such  
 215 employers, the board, and the division the information and data  
 216 they require, including, but not limited to, monthly management  
 217 reports, quarterly participant reports, and ad hoc reports  
 218 requested by the department or board.

219 d. The cost-effectiveness and levels of the administrative  
 220 services provided.

221 e. The administrator's ability to interact with the  
 222 participants, the employers, the board, the division, and the  
 223 providers; the means by which participants may access account  
 224 information, direct investment of contributions, make changes to



225 their accounts, transfer moneys between available investment  
 226 vehicles, and transfer moneys between investment products; and  
 227 any fees that apply to such activities.

228 f. Any other factor deemed necessary by the Trustees of  
 229 the State Board of Administration.

230 ~~g. The recommendations of the Public Employee Optional~~  
 231 ~~Retirement Program Advisory Committee established in subsection~~  
 232 ~~(12).~~

233 2. In evaluating and selecting an educational provider,  
 234 the board shall establish criteria under which it shall consider  
 235 the relative capabilities and qualifications of each proposed  
 236 educational provider. In developing such criteria, the board  
 237 shall consider:

238 a. Demonstrated experience in providing educational  
 239 services to public or private sector retirement systems.

240 b. Ability and willingness to coordinate its activities  
 241 with the Florida Retirement System employers, the board, and the  
 242 division, and to supply to such employers, the board, and the  
 243 division the information and data they require, including, but  
 244 not limited to, reports on educational contacts.

245 c. The cost-effectiveness and levels of the educational  
 246 services provided.

247 d. Ability to provide educational services via different  
 248 media, including, but not limited to, the Internet, personal  
 249 contact, seminars, brochures, and newsletters.

250 e. Any other factor deemed necessary by the Trustees of  
 251 the State Board of Administration.

252 ~~f. The recommendations of the Public Employee Optional~~

253 ~~Retirement Program Advisory Committee established in subsection~~  
 254 ~~(12).~~

255 3. The establishment of the criteria shall be solely  
 256 within the discretion of the board.

257 (12) ADVISORY COUNCIL ~~COMMITTEES~~ TO PROVIDE ADVICE AND  
 258 ASSISTANCE.--The Investment Advisory Council shall assist the  
 259 board in implementing and administering the Public Employee  
 260 Optional Retirement Program. The Investment Advisory Council,  
 261 created pursuant to s. 215.444, shall review the board's initial  
 262 recommendations regarding the criteria to be used in selecting  
 263 and evaluating approved providers and investment products. The  
 264 council may provide comments on the recommendations to the board  
 265 within 45 days after receiving the initial recommendations. The  
 266 board shall make the final determination as to whether any  
 267 investment provider or product, any contractor, or any and all  
 268 contract provisions shall be approved for the program.

269 (20) DESIGNATION OF BENEFICIARIES.--

270 (a) Each participant may, on a form provided for that  
 271 purpose, signed and filed with the third-party administrator,  
 272 designate a choice of one or more persons, named sequentially or  
 273 jointly, as his or her beneficiary who shall receive the  
 274 benefits, if any, which may be payable pursuant to this chapter  
 275 in the event of the participant's death. If no beneficiary is  
 276 named in this manner, or if no beneficiary designated by the  
 277 participant survives the participant, the beneficiary shall be  
 278 the spouse of the deceased, if living. If the participant's  
 279 spouse is not alive at his or her death, the beneficiary shall  
 280 be the living children of the participant. If no children

281 survive, the beneficiary shall be the participant's father or  
282 mother, if living; otherwise, the beneficiary shall be the  
283 participant's estate. The beneficiary most recently designated  
284 by a participant on a form or letter filed with the third-party  
285 administrator shall be the beneficiary entitled to any benefits  
286 payable at the time of the participant's death. Notwithstanding  
287 any other provision in this subsection to the contrary, for a  
288 participant who dies prior to his or her effective date of  
289 retirement, the spouse at the time of death shall be the  
290 participant's beneficiary unless such participant designates a  
291 different beneficiary as provided in this subsection subsequent  
292 to the participant's most recent marriage.

293 (b) If a participant designates a primary beneficiary  
294 other than the participant's spouse, the participant's spouse  
295 must sign the beneficiary designation form to acknowledge the  
296 designation. This requirement does not apply to the designation  
297 of one or more contingent beneficiaries to receive benefits  
298 remaining upon the death of the primary beneficiary or  
299 beneficiaries.

300 (c) Notwithstanding the participant's designation of  
301 benefits to be paid through a trust to a beneficiary that is a  
302 natural person, and notwithstanding the provisions of the trust,  
303 benefits shall be paid directly to the beneficiary if such  
304 person is no longer a minor or incapacitated as defined in s.  
305 744.102(11) and (12).

306 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT  
307 OPTION PROGRAM PARTICIPANTS.--Notwithstanding any provision of  
308 law to the contrary, participants in the Deferred Retirement

309 Option Program offered under part I may, after conclusion of  
310 their participation in the program, elect to roll over or  
311 authorize a direct trustee-to-trustee transfer to an account  
312 under the Public Employee Optional Retirement Program of their  
313 Deferred Retirement Option Program proceeds distributed as  
314 provided under s. 121.091(13)(c)5. The transaction must  
315 constitute an "eligible rollover distribution" within the  
316 meaning of s. 402(c)(4) of the Internal Revenue Code.

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

320 (b) The affected participant shall direct the investment  
321 of his or her investment account; however, unless he or she  
322 becomes a renewed member of the Florida Retirement System under  
323 s. 121.122 and elects to participate in the Public Employee  
324 Optional Retirement Program, employer contributions may not be  
325 made to the participant's account as provided under paragraph  
326 (5)(a).

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

331 Section 4. Section 121.591, Florida Statutes, is amended  
332 to read:

333 121.591 Benefits payable under the Public Employee  
334 Optional Retirement Program of the Florida Retirement  
335 System.--Benefits may not be paid under this section unless the  
336 member has terminated employment as provided in s.

337 121.021(39)(a) or is deceased and a proper application has been  
338 filed in the manner prescribed by the state board or the  
339 department. The state board or department, as appropriate, may  
340 cancel an application for retirement benefits when the member or  
341 beneficiary fails to timely provide the information and  
342 documents required by this chapter and the rules of the state  
343 board and department. In accordance with their respective  
344 responsibilities as provided herein, the State Board of  
345 Administration and the Department of Management Services shall  
346 adopt rules establishing procedures for application for  
347 retirement benefits and for the cancellation of such application  
348 when the required information or documents are not received. The  
349 State Board of Administration and the Department of Management  
350 Services, as appropriate, are authorized to cash out a de  
351 minimis account of a participant who has been terminated from  
352 Florida Retirement System covered employment for a minimum of 6  
353 calendar months. A de minimis account is an account containing  
354 employer contributions and accumulated earnings of not more than  
355 \$5,000 made under the provisions of this chapter. Such cash-out  
356 must either be a complete lump-sum liquidation of the account  
357 balance, subject to the provisions of the Internal Revenue Code,  
358 or a lump-sum direct rollover distribution paid directly to the  
359 custodian of an eligible retirement plan, as defined by the  
360 Internal Revenue Code, on behalf of the participant. If any  
361 financial instrument issued for the payment of retirement  
362 benefits under this section is not presented for payment within  
363 180 days after the last day of the month in which it was  
364 originally issued, the third-party administrator or other duly

365 authorized agent of the State Board of Administration shall  
 366 cancel the instrument and credit the amount of the instrument to  
 367 the suspense account of the Public Employee Optional Retirement  
 368 Program Trust Fund authorized under s. 121.4501(6). Any such  
 369 amounts transferred to the suspense account are payable upon a  
 370 proper application, not to include earnings thereon, as provided  
 371 in this section, within 5 years after the last day of the month  
 372 in which the instrument was originally issued, after which time  
 373 such amounts and any earnings thereon shall be forfeited. Any  
 374 such forfeited amounts are assets of the Public Employee  
 375 Optional Retirement Program Trust Fund and are not subject to  
 376 the provisions of chapter 717.

377 (1) NORMAL BENEFITS.--Under the Public Employee Optional  
 378 Retirement Program:

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

383 1. To the extent vested, benefits shall be payable only to  
 384 a participant.

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

388 3. To receive benefits under this subsection, the  
 389 participant must be terminated from all employment with all  
 390 Florida Retirement System employers, as provided in s.  
 391 121.021(39).

392 4. Benefit payments may not be made until the participant

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393 has been terminated for 3 calendar months, except that the board  
394 may authorize by rule for the distribution of up to 10 percent  
395 of the participant's account after the participant has been  
396 terminated for 1 calendar month if the participant has reached  
397 the normal retirement requirements of the defined benefit plan,  
398 as provided in s. 121.021(29).

399 (b) If a participant elects to receive his or her benefits  
400 upon termination of employment, the participant must submit a  
401 written application or an equivalent form to the third-party  
402 administrator indicating his or her preferred distribution date  
403 and selecting an authorized method of distribution as provided  
404 in paragraph (c). The participant may defer receipt of benefits  
405 until he or she chooses to make such application, subject to  
406 federal requirements.

407 (c) Upon receipt by the third-party administrator of a  
408 properly executed application for distribution of benefits, the  
409 total accumulated benefit shall be payable to the participant,  
410 as:

- 411 1. A lump-sum distribution to the participant;
- 412 2. A lump-sum direct rollover distribution whereby all  
413 accrued benefits, plus interest and investment earnings, are  
414 paid from the participant's account directly to the custodian of  
415 an eligible retirement plan, as defined in s. 402(c)(8)(B) of  
416 the Internal Revenue Code, on behalf of the participant; or
- 417 3. Periodic distributions, as authorized by the state  
418 board.

419 (2) **DISABILITY RETIREMENT BENEFITS.**--Benefits provided  
420 under this subsection are payable in lieu of the benefits which

421 would otherwise be payable under the provisions of subsection  
 422 (1). Such benefits shall be funded entirely from employer  
 423 contributions made under s. 121.571, transferred participant  
 424 funds accumulated pursuant to paragraph (a), and interest and  
 425 earnings thereon. Pursuant thereto:

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

428 1. All moneys accumulated in the participant's Public  
 429 Employee Optional Retirement Program accounts, including vested  
 430 and nonvested accumulations as described in s. 121.4501(6),  
 431 shall be transferred from such individual accounts to the  
 432 Division of Retirement for deposit in the disability account of  
 433 the Florida Retirement System Trust Fund. Such moneys shall be  
 434 separately accounted for. Earnings shall be credited on an  
 435 annual basis for amounts held in the disability accounts of the  
 436 Florida Retirement System Trust Fund based on actual earnings of  
 437 the Florida Retirement System Trust Fund.

438 2. If the participant has retained retirement credit he or  
 439 she had earned under the defined benefit program of the Florida  
 440 Retirement System as provided in s. 121.4501(3)(b), a sum  
 441 representing the actuarial present value of such credit within  
 442 the Florida Retirement System Trust Fund shall be reassigned by  
 443 the Division of Retirement from the defined benefit program to  
 444 the disability program as implemented under this subsection and  
 445 shall be deposited in the disability account of the Florida  
 446 Retirement System Trust Fund. Such moneys shall be separately  
 447 accounted for.

448 (b) Disability retirement; entitlement.--



449           1. A participant of the Public Employee Optional  
450 Retirement Program who becomes totally and permanently disabled,  
451 as defined in s. 121.091(4)(b), after completing 8 years of  
452 creditable service, or a participant who becomes totally and  
453 permanently disabled in the line of duty regardless of his or  
454 her length of service, shall be entitled to a monthly disability  
455 benefit as provided herein.

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

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

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

468           c. If the participant has elected to transfer to his or  
469 her participant accounts a sum representing the present value of  
470 his or her retirement credit under the defined benefit program  
471 as provided under s. 121.4501(3)(c), the period of service under  
472 the defined benefit program represented in the present value  
473 amounts transferred will be considered creditable service for  
474 purposes of vesting for disability benefits, except as provided  
475 in subparagraph d.

476           d. Whenever a participant has terminated employment and

477 has taken distribution of his or her funds as provided in  
 478 subsection (1), all creditable service represented by such  
 479 distributed funds is forfeited for purposes of this subsection.

480 (c) Disability retirement effective date.--The effective  
 481 retirement date for a participant who applies and is approved  
 482 for disability retirement shall be established as provided under  
 483 s. 121.091(4)(a)2. and 3.

484 (d) Total and permanent disability.--A participant shall  
 485 be considered totally and permanently disabled if, in the  
 486 opinion of the division, he or she is prevented, by reason of a  
 487 medically determinable physical or mental impairment, from  
 488 rendering useful and efficient service as an officer or  
 489 employee.

490 (e) Proof of disability.--The division, before approving  
 491 payment of any disability retirement benefit, shall require  
 492 proof that the participant is totally and permanently disabled  
 493 in the same manner as provided for members of the defined  
 494 benefit program of the Florida Retirement System under s.  
 495 121.091(4)(c).

496 (f) Disability retirement benefit.--Upon the disability  
 497 retirement of a participant under this subsection, the  
 498 participant shall receive a monthly benefit that shall begin to  
 499 accrue on the first day of the month of disability retirement,  
 500 as approved by the division, and shall be payable on the last  
 501 day of that month and each month thereafter during his or her  
 502 lifetime and continued disability. All disability benefits  
 503 payable to such member shall be paid out of the disability  
 504 account of the Florida Retirement System Trust Fund established

505 under this subsection.

506 (g) Computation of disability retirement benefit.--The  
507 amount of each monthly payment shall be calculated in the same  
508 manner as provided for members of the defined benefit program of  
509 the Florida Retirement System under s. 121.091(4)(f). For such  
510 purpose, creditable service under both the defined benefit  
511 program and the Public Employee Optional Retirement Program of  
512 the Florida Retirement System shall be applicable as provided  
513 under paragraph (b).

514 (h) Reapplication.--A participant whose initial  
515 application for disability retirement has been denied may  
516 reapply for disability benefits in the same manner, and under  
517 the same conditions, as provided for members of the defined  
518 benefit program of the Florida Retirement System under s.  
519 121.091(4)(g).

520 (i) Membership.--Upon approval of an application for  
521 disability benefits under this subsection, the applicant shall  
522 be transferred to the defined benefit program of the Florida  
523 Retirement System, effective upon his or her disability  
524 retirement effective date.

525 (j) Option to cancel.--Any participant whose application  
526 for disability benefits is approved may cancel his or her  
527 application for disability benefits, provided that the  
528 cancellation request is received by the division before a  
529 disability retirement warrant has been deposited, cashed, or  
530 received by direct deposit. Upon such cancellation:

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

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

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

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

541           (k) Recovery from disability.--

542           1. The division may require periodic reexaminations at the  
543 expense of the disability program account of the Florida  
544 Retirement System Trust Fund. Except as otherwise provided in  
545 subparagraph 2., the requirements, procedures, and restrictions  
546 relating to the conduct and review of such reexaminations,  
547 discontinuation or termination of benefits, reentry into  
548 employment, disability retirement after reentry into covered  
549 employment, and all other matters relating to recovery from  
550 disability shall be the same as are set forth under s.  
551 121.091(4)(h).

552           2. Upon recovery from disability, any recipient of  
553 disability retirement benefits under this subsection shall be a  
554 compulsory member of the Public Employee Optional Retirement  
555 Program of the Florida Retirement System. The net difference  
556 between the recipient's original account balance transferred to  
557 the Florida Retirement System Trust Fund, including earnings,  
558 under paragraph (a) and total disability benefits paid to such  
559 recipient, if any, shall be determined as provided in sub-  
560 subparagraph a.

561           a. An amount equal to the total benefits paid shall be  
 562 subtracted from that portion of the transferred account balance  
 563 consisting of vested accumulations as described under s.  
 564 121.4501(6), if any, and an amount equal to the remainder of  
 565 benefit amounts paid, if any, shall then be subtracted from any  
 566 remaining portion consisting of nonvested accumulations as  
 567 described under s. 121.4501(6).

568           b. Amounts subtracted under sub-subparagraph a. shall be  
 569 retained within the disability account of the Florida Retirement  
 570 System Trust Fund. Any remaining account balance shall be  
 571 transferred to the third-party administrator for disposition as  
 572 provided under sub-subparagraph c. or sub-subparagraph d., as  
 573 appropriate.

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

579           d. If the recipient fails to return to covered employment  
 580 upon recovery from disability:

581           (I) Any remaining vested amount shall be deposited in  
 582 individual accounts under the Public Employee Optional  
 583 Retirement Program, as directed by the participant, and shall be  
 584 payable as provided in subsection (1).

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

588           3. If present value was reassigned from the defined

589 benefit program to the disability program of the Florida  
590 Retirement System as provided under subparagraph (a)2., the full  
591 present value amount shall be returned to the defined benefit  
592 account within the Florida Retirement System Trust Fund and the  
593 affected individual's associated retirement credit under the  
594 defined benefit program shall be reinstated in full. Any benefit  
595 based upon such credit shall be calculated as provided in s.  
596 121.091(4)(h)1.

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

601 (m) Disability retirement of justice or judge by order of  
602 Supreme Court.--

603 1. If a participant is a justice of the Supreme Court,  
604 judge of a district court of appeal, circuit judge, or judge of  
605 a county court who has served for 6 years or more as an elected  
606 constitutional judicial officer, including service as a judicial  
607 officer in any court abolished pursuant to Art. V of the State  
608 Constitution, and who is retired for disability by order of the  
609 Supreme Court upon recommendation of the Judicial Qualifications  
610 Commission pursuant to the provisions of Art. V of the State  
611 Constitution, the participant's Option 1 monthly disability  
612 benefit amount as provided in s. 121.091(6)(a)1. shall be two-  
613 thirds of his or her monthly compensation as of the  
614 participant's disability retirement date. Such a participant  
615 may alternatively elect to receive an actuarially adjusted  
616 disability retirement benefit under any other option as provided

617 in s. 121.091(6)(a), or to receive the normal benefit payable  
 618 under the Public Employee Optional Retirement Program as set  
 619 forth in subsection (1).

620 2. If any justice or judge who is a participant of the  
 621 Public Employee Optional Retirement Program of the Florida  
 622 Retirement System is retired for disability by order of the  
 623 Supreme Court upon recommendation of the Judicial Qualifications  
 624 Commission pursuant to the provisions of Art. V of the State  
 625 Constitution and elects to receive a monthly disability benefit  
 626 under the provisions of this paragraph:

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

632 b. The monthly benefits payable under this paragraph for  
 633 any affected justice or judge retired from the Florida  
 634 Retirement System pursuant to Art. V of the State Constitution  
 635 shall be paid from the disability account of the Florida  
 636 Retirement System Trust Fund.

637 (n) Death of retiree or beneficiary.--Upon the death of a  
 638 disabled retiree or beneficiary thereof who is receiving monthly  
 639 benefits under this subsection, the monthly benefits shall be  
 640 paid through the last day of the month of death and shall  
 641 terminate, or be adjusted, if applicable, as of that date in  
 642 accordance with the optional form of benefit selected at the  
 643 time of retirement. The Department of Management Services may  
 644 adopt rules necessary to administer this paragraph.

645 (3) DEATH BENEFITS.--Under the Public Employee Optional  
646 Retirement Program:

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

649 1. To the extent vested, benefits shall be payable only to  
650 a participant's beneficiary or beneficiaries as designated by  
651 the participant as provided in s. 121.4501(20). ~~If a participant~~  
652 ~~designates a primary beneficiary other than the participant's~~  
653 ~~spouse, the participant's spouse shall be notified of the~~  
654 ~~designation. This requirement shall not apply to the designation~~  
655 ~~of one or more contingent beneficiaries to receive any benefits~~  
656 ~~remaining upon the death of the primary beneficiary or~~  
657 ~~beneficiaries.~~

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

661 3. To receive benefits under this subsection, the  
662 participant must be deceased.

663 (b) In the event of a participant's death, all vested  
664 accumulations as described in s. 121.4501(6), less withholding  
665 taxes remitted to the Internal Revenue Service, shall be  
666 distributed, as provided in paragraph (c) or as described in s.  
667 121.4501(20), ~~to the participant's designated beneficiary or~~  
668 ~~beneficiaries, or to the participant's estate, as if the~~  
669 participant retired on the date of death. No other death  
670 benefits shall be available for survivors of participants under  
671 the Public Employee Optional Retirement Program, except for such  
672 benefits, or coverage for such benefits, as are otherwise



673 provided by law or are separately afforded by the employer, at  
 674 the employer's discretion.

675 (c) Upon receipt by the third-party administrator of a  
 676 properly executed application for distribution of benefits, the  
 677 total accumulated benefit shall be payable by the third-party  
 678 administrator to the participant's surviving beneficiary or  
 679 beneficiaries, as:

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

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

688 3. A partial lump-sum payment whereby a portion of the  
 689 accrued benefit is paid to the deceased participant's surviving  
 690 spouse or other designated beneficiaries, less withholding taxes  
 691 remitted to the Internal Revenue Service, and the remaining  
 692 amount is transferred directly to the custodian of an eligible  
 693 retirement plan, as described in s. 402(c)(8)(B) of the Internal  
 694 Revenue Code, on behalf of the surviving spouse. The proportions  
 695 must be specified by the participant or the surviving  
 696 beneficiary.

697  
 698 This paragraph does not abrogate other applicable provisions of  
 699 state or federal law providing for payment of death benefits.

700 (4) LIMITATION ON LEGAL PROCESS.--The benefits payable to

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701 any person under the Public Employee Optional Retirement  
702 Program, and any contributions accumulated under such program,  
703 are not subject to assignment, execution, attachment, or any  
704 legal process, except for qualified domestic relations orders by  
705 a court of competent jurisdiction, income deduction orders as  
706 provided in s. 61.1301, and federal income tax levies.

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

709 215.47 Investments; authorized securities; loan of  
710 securities.--Subject to the limitations and conditions of the  
711 State Constitution or of the trust agreement relating to a trust  
712 fund, moneys available for investments under ss. 215.44-215.53  
713 may be invested as follows:

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

715 (k) Asset-backed securities not otherwise authorized by  
716 this section.

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