

1                                   A bill to be entitled  
 2       An act relating to state financial matters; amending s.  
 3       121.4501, F.S.; revising the method for calculating  
 4       interest on certain moneys transferred between retirement  
 5       accounts; providing for credit for military service of  
 6       members of the Public Employee Optional Retirement  
 7       Program; amending s. 121.591, F.S.; prescribing procedures  
 8       to follow if a participant in the Public Employee Optional  
 9       Retirement Program receives an invalid distribution;  
 10      amending s. 215.47, F.S.; revising standards for  
 11      determining eligibility of specified savings accounts,  
 12      certificates of deposit, time drafts, bills of exchange,  
 13      bonds, notes, and other instruments for investment by the  
 14      State Board of Administration; amending s. 1002.36, F.S.;  
 15      conforming a cross-reference; providing an effective date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1. Paragraph (c) of subsection (3) of section  
 20   121.4501, Florida Statutes, is amended, and subsection (22) is  
 21   added to that section, to read:

22           121.4501 Public Employee Optional Retirement Program.--

23           (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.--

24           (c)1. Notwithstanding paragraph (b), each eligible  
 25   employee who elects to participate in the Public Employee  
 26   Optional Retirement Program and establishes one or more  
 27   individual participant accounts under the optional program may  
 28   elect to transfer to the optional program a sum representing the

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29 present value of the employee's accumulated benefit obligation  
30 under the defined benefit retirement program of the Florida  
31 Retirement System. Upon such transfer, all service credit  
32 previously earned under the defined benefit program of the  
33 Florida Retirement System shall be nullified for purposes of  
34 entitlement to a future benefit under the defined benefit  
35 program of the Florida Retirement System. A participant is  
36 precluded from transferring the accumulated benefit obligation  
37 balance from the defined benefit program upon the expiration of  
38 the period afforded to enroll in the optional program.

39 2. For purposes of this subsection, the present value of  
40 the member's accumulated benefit obligation is based upon the  
41 member's estimated creditable service and estimated average  
42 final compensation under the defined benefit program, subject to  
43 recomputation under subparagraph 3. For state employees  
44 enrolling under subparagraph (4)(a)1., initial estimates will be  
45 based upon creditable service and average final compensation as  
46 of midnight on June 30, 2002; for district school board  
47 employees enrolling under subparagraph (4)(b)1., initial  
48 estimates will be based upon creditable service and average  
49 final compensation as of midnight on September 30, 2002; and for  
50 local government employees enrolling under subparagraph  
51 (4)(c)1., initial estimates will be based upon creditable  
52 service and average final compensation as of midnight on  
53 December 31, 2002. The dates respectively specified above shall  
54 be construed as the "estimate date" for these employees. The  
55 actuarial present value of the employee's accumulated benefit  
56 obligation shall be based on the following:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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57 a. The discount rate and other relevant actuarial  
58 assumptions used to value the Florida Retirement System Trust  
59 Fund at the time the amount to be transferred is determined,  
60 consistent with the factors provided in sub-subparagraphs b. and  
61 c.

62 b. A benefit commencement age, based on the member's  
63 estimated creditable service as of the estimate date. The  
64 benefit commencement age shall be the younger of the following,  
65 but shall not be younger than the member's age as of the  
66 estimate date:

67 (I) Age 62; or

68 (II) The age the member would attain if the member  
69 completed 30 years of service with an employer, assuming the  
70 member worked continuously from the estimate date, and  
71 disregarding any vesting requirement that would otherwise apply  
72 under the defined benefit program of the Florida Retirement  
73 System.

74 c. For members of the Special Risk Class and for members  
75 of the Special Risk Administrative Support Class entitled to  
76 retain special risk normal retirement date, the benefit  
77 commencement age shall be the younger of the following, but  
78 shall not be younger than the member's age as of the estimate  
79 date:

80 (I) Age 55; or

81 (II) The age the member would attain if the member  
82 completed 25 years of service with an employer, assuming the  
83 member worked continuously from the estimate date, and  
84 disregarding any vesting requirement that would otherwise apply

85 | under the defined benefit program of the Florida Retirement  
 86 | System.

87 |       d. The calculation shall disregard vesting requirements  
 88 | and early retirement reduction factors that would otherwise  
 89 | apply under the defined benefit retirement program.

90 |       3. For each participant who elects to transfer moneys from  
 91 | the defined benefit program to his or her account in the  
 92 | optional program, the division shall recompute the amount  
 93 | transferred under subparagraph 2. not later than 60 days after  
 94 | the actual transfer of funds based upon the participant's actual  
 95 | creditable service and actual final average compensation as of  
 96 | the initial date of participation in the optional program. If  
 97 | the recomputed amount differs from the amount transferred under  
 98 | subparagraph 2. by \$10 or more, the division shall:

99 |       a. Transfer, or cause to be transferred, from the Florida  
 100 | Retirement System Trust Fund to the participant's account in the  
 101 | optional program the excess, if any, of the recomputed amount  
 102 | over the previously transferred amount together with interest  
 103 | from the initial date of transfer to the date of transfer under  
 104 | this subparagraph, based upon ~~8 percent~~ effective annual  
 105 | interest equal to the assumed return on the actuarial investment  
 106 | which was used in the most recent actuarial valuation of the  
 107 | system, compounded annually.

108 |       b. Transfer, or cause to be transferred, from the  
 109 | participant's account to the Florida Retirement System Trust  
 110 | Fund the excess, if any, of the previously transferred amount  
 111 | over the recomputed amount, together with interest from the  
 112 | initial date of transfer to the date of transfer under this

113 | subparagraph, based upon 6 percent effective annual interest,  
 114 | compounded annually, pro rata based on the participant's  
 115 | allocation plan.

116 |         4. As directed by the participant, the board shall  
 117 | transfer or cause to be transferred the appropriate amounts to  
 118 | the designated accounts. The board shall establish transfer  
 119 | procedures by rule, but the actual transfer shall not be later  
 120 | than 30 days after the effective date of the member's  
 121 | participation in the optional program unless the major financial  
 122 | markets for securities available for a transfer are seriously  
 123 | disrupted by an unforeseen event which also causes the  
 124 | suspension of trading on any national securities exchange in the  
 125 | country where the securities were issued. In that event, such  
 126 | 30-day period of time may be extended by a resolution of the  
 127 | trustees. Transfers are not commissionable or subject to other  
 128 | fees and may be in the form of securities or cash as determined  
 129 | by the state board. Such securities shall be valued as of the  
 130 | date of receipt in the participant's account.

131 |         5. If the board or the division receives notification from  
 132 | the United States Internal Revenue Service that this paragraph  
 133 | or any portion of this paragraph will cause the retirement  
 134 | system, or a portion thereof, to be disqualified for tax  
 135 | purposes under the Internal Revenue Code, then the portion that  
 136 | will cause the disqualification does not apply. Upon such  
 137 | notice, the state board and the division shall notify the  
 138 | presiding officers of the Legislature.

139 |         (22) CREDIT FOR MILITARY SERVICE.--Creditable service of  
 140 | any member of the Public Employee Optional Retirement Program

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141 shall include military service in the Armed Forces of the United  
142 States as provided in the conditions outlined in s. 121.111(1).

143 Section 2. Paragraph (a) of subsection (1) of section  
144 121.591, Florida Statutes, is amended to read:

145 121.591 Benefits payable under the Public Employee  
146 Optional Retirement Program of the Florida Retirement  
147 System.--Benefits may not be paid under this section unless the  
148 member has terminated employment as provided in s.  
149 121.021(39)(a) or is deceased and a proper application has been  
150 filed in the manner prescribed by the state board or the  
151 department. The state board or department, as appropriate, may  
152 cancel an application for retirement benefits when the member or  
153 beneficiary fails to timely provide the information and  
154 documents required by this chapter and the rules of the state  
155 board and department. In accordance with their respective  
156 responsibilities as provided herein, the State Board of  
157 Administration and the Department of Management Services shall  
158 adopt rules establishing procedures for application for  
159 retirement benefits and for the cancellation of such application  
160 when the required information or documents are not received. The  
161 State Board of Administration and the Department of Management  
162 Services, as appropriate, are authorized to cash out a de  
163 minimis account of a participant who has been terminated from  
164 Florida Retirement System covered employment for a minimum of 6  
165 calendar months. A de minimis account is an account containing  
166 employer contributions and accumulated earnings of not more than  
167 \$5,000 made under the provisions of this chapter. Such cash-out  
168 must either be a complete lump-sum liquidation of the account

169 balance, subject to the provisions of the Internal Revenue Code,  
 170 or a lump-sum direct rollover distribution paid directly to the  
 171 custodian of an eligible retirement plan, as defined by the  
 172 Internal Revenue Code, on behalf of the participant. If any  
 173 financial instrument issued for the payment of retirement  
 174 benefits under this section is not presented for payment within  
 175 180 days after the last day of the month in which it was  
 176 originally issued, the third-party administrator or other duly  
 177 authorized agent of the State Board of Administration shall  
 178 cancel the instrument and credit the amount of the instrument to  
 179 the suspense account of the Public Employee Optional Retirement  
 180 Program Trust Fund authorized under s. 121.4501(6). Any such  
 181 amounts transferred to the suspense account are payable upon a  
 182 proper application, not to include earnings thereon, as provided  
 183 in this section, within 10 years after the last day of the month  
 184 in which the instrument was originally issued, after which time  
 185 such amounts and any earnings thereon shall be forfeited. Any  
 186 such forfeited amounts are assets of the Public Employee  
 187 Optional Retirement Program Trust Fund and are not subject to  
 188 the provisions of chapter 717.

189 (1) NORMAL BENEFITS.--Under the Public Employee Optional  
 190 Retirement Program:

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

195 1. To the extent vested, benefits shall be payable only to  
 196 a participant.

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

200           3. To receive benefits under this subsection, the  
 201 participant must be terminated from all employment with all  
 202 Florida Retirement System employers, as provided in s.  
 203 121.021(39).

204           4. Benefit payments may not be made until the participant  
 205 has been terminated for 3 calendar months, except that the board  
 206 may authorize by rule for the distribution of up to 10 percent  
 207 of the participant's account after being terminated for 1  
 208 calendar month if a participant has reached the normal  
 209 retirement requirements of the defined benefit plan, as provided  
 210 in s. 121.021(29).

211           5. If a member or former member of the Florida Retirement  
 212 System receives an invalid distribution from the Public Employee  
 213 Optional Retirement Program Trust Fund, such person shall repay  
 214 the full invalid distribution to the trust fund within 90 days  
 215 after receipt of final notification by the State Board of  
 216 Administration or the third-party administrator that the  
 217 distribution was invalid. If such person fails to repay the full  
 218 invalid distribution within 90 days after receipt of final  
 219 notification, the person may be deemed retired from the Public  
 220 Employee Optional Retirement Program by the state board, as  
 221 provided pursuant to s. 121.4501(2)(j), and shall be subject to  
 222 s. 121.122. If such person is deemed retired by the state board,  
 223 any joint and several liability set out in s. 121.091(9)(c)2.  
 224 becomes null and void, and the state board, the Department of



225 Management Services, or the employing agency is not liable for  
 226 gains on payroll contributions that have not been deposited to  
 227 the person's account in the Public Employee Optional Retirement  
 228 Program, pending resolution of the invalid distribution. The  
 229 member or former member who has been deemed retired or who has  
 230 been determined by the board to have taken an invalid  
 231 distribution may appeal the agency decision through the  
 232 complaint process as provided under s. 121.4501(9)(f)3. The term  
 233 "invalid distribution," as used in this section, means any  
 234 distribution from an account in the Public Employee Optional  
 235 Retirement Program that is taken in violation of the provisions  
 236 of this section, s. 121.091(9), or s. 121.4501.

237 Section 3. Subsections (1), (2), and (5) of section  
 238 215.47, Florida Statutes, are amended, and subsection (17) is  
 239 added to that section, to read:

240 215.47 Investments; authorized securities; loan of  
 241 securities.--Subject to the limitations and conditions of the  
 242 State Constitution or of the trust agreement relating to a trust  
 243 fund, moneys available for investments under ss. 215.44-215.53  
 244 may be invested as follows:

245 (1) Without limitation in:

246 (a) Bonds, notes, or other obligations of the United  
 247 States or those guaranteed by the United States or for which the  
 248 credit of the United States is pledged for the payment of the  
 249 principal and interest or dividends thereof.

250 (b) State bonds pledging the full faith and credit of the  
 251 state and revenue bonds additionally secured by the full faith  
 252 and credit of the state.

253 (c) Bonds of the several counties or districts in the  
 254 state containing a pledge of the full faith and credit of the  
 255 county or district involved.

256 (d) Bonds issued or administered by the State Board of  
 257 Administration secured solely by a pledge of all or part of the  
 258 2-cent constitutional fuel tax accruing under the provisions of  
 259 s. 16, Art. IX of the State Constitution of 1885, as amended, or  
 260 of s. 9, Art. XII of the 1968 revised State Constitution.

261 (e) Bonds issued by the State Board of Education pursuant  
 262 to ss. 18 and 19, Art. XII of the State Constitution of 1885, as  
 263 amended, or to s. 9, Art. XII of the 1968 revised State  
 264 Constitution, as amended.

265 (f) Bonds issued by the Florida Outdoor Recreational  
 266 Development Council pursuant to s. 17, Art. IX of the State  
 267 Constitution of 1885, as amended.

268 (g) Bonds issued by the Florida State Improvement  
 269 Commission, Florida Development Commission, Division of Bond  
 270 Finance of the Department of General Services, or Division of  
 271 Bond Finance of the State Board of Administration.

272 (h) Savings accounts in, or certificates of deposit of,  
 273 any bank, savings bank, or savings and loan association  
 274 incorporated under the laws of this state or organized under the  
 275 laws of the United States doing business and situated in this  
 276 state, the accounts of which are insured by the Federal  
 277 Government or an agency thereof, and having a prime quality of  
 278 the highest letter and numerical ratings as provided for by at  
 279 least one nationally recognized statistical rating organization,  
 280 ~~in an amount that does not exceed 15 percent of the net worth of~~

281 ~~the institution, or a lesser amount as determined by rule by the~~  
 282 ~~State Board of Administration,~~ provided such savings accounts  
 283 and certificates of deposit are secured in the manner prescribed  
 284 in chapter 280.

285 (i) Notes, bonds, and other obligations of agencies of the  
 286 United States.

287 (j) Commercial paper of prime quality of the highest  
 288 letter and numerical rating as provided for by at least one  
 289 nationally recognized rating service.

290 (k) Time drafts or bills of exchange drawn on and accepted  
 291 by a commercial bank, otherwise known as banker's acceptances,  
 292 which are accepted by a member bank of the Federal Reserve  
 293 System and are of prime quality of the highest letter and  
 294 numerical ratings as provided for by at least one nationally  
 295 recognized statistical rating organization ~~having total deposits~~  
 296 ~~of not less than \$400 million.~~

297 (l) Negotiable certificates of deposit issued by domestic  
 298 or foreign financial institutions in United States dollars of  
 299 prime quality of the highest letter and numerical ratings as  
 300 provided for by at least one nationally recognized statistical  
 301 rating organization.

302 (m) Short-term obligations not authorized elsewhere in  
 303 this section to be purchased individually or in pooled accounts  
 304 or other collective investment funds, for the purpose of  
 305 providing liquidity to any fund or portfolio.

306 (n) Securities of, or other interests in, any open-end or  
 307 closed-end management type investment company or investment  
 308 trust registered under the Investment Company Act of 1940, 15

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309 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided  
310 that the portfolio of such investment company or investment  
311 trust is limited to obligations of the United States Government  
312 or any agency or instrumentality thereof and to repurchase  
313 agreements fully collateralized by such United States Government  
314 obligations and provided that such investment company or  
315 investment trust takes delivery of such collateral either  
316 directly or through an authorized custodian.

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

318 (a) Bonds, notes, or obligations of any municipality or  
319 political subdivision or any agency or authority of this state,  
320 if the obligations are rated investment grade by at least one  
321 nationally recognized statistical rating organization such  
322 ~~obligations are rated in any one of the three highest ratings by~~  
323 ~~two nationally recognized rating services. However, if only one~~  
324 ~~nationally recognized rating service shall rate such~~  
325 ~~obligations, then such rating service must have rated such~~  
326 ~~obligations in any one of the two highest classifications~~  
327 ~~heretofore mentioned.~~

328 (b) Notes secured by first mortgages ~~on Florida real~~  
329 ~~property,~~ insured or guaranteed by the Federal Housing  
330 Administration or the United States Department of Veterans  
331 Affairs.

332 ~~(c) Investments collateralized by first mortgages covering~~  
333 ~~single family Florida residences, provided such mortgages do not~~  
334 ~~exceed \$60,000, do not exceed 80 percent of value, are not~~  
335 ~~delinquent, and are originated by a lender regulated by the~~  
336 ~~state or Federal Government and the aggregate of the collateral~~

337 ~~furnished is at least 150 percent of the aggregate investment~~  
338 ~~under this subsection. The mortgages used for collateral shall~~  
339 ~~be segregated by the lending institution so that such~~  
340 ~~segregation may be confirmed by independent audit. In the event~~  
341 ~~any such mortgage used as collateral becomes more than 3 months~~  
342 ~~delinquent, the lender shall immediately substitute therefor a~~  
343 ~~mortgage of equal or greater value.~~

344 ~~(c)~~(d) Mortgage securities which represent participation  
345 in or are collateralized by mortgage loans secured by real  
346 property. Such securities must be issued by an agency of or  
347 enterprise sponsored by the United States Government, including,  
348 but not limited to, the Government National Mortgage  
349 Association, the Federal National Mortgage Association, and the  
350 Federal Home Loan Mortgage Corporation.

351 ~~(d)~~(e) Group annuity contracts of the pension investment  
352 type with insurers licensed to do business in this state which  
353 are rated investment grade by at least one nationally recognized  
354 rating service, ~~except that amounts invested by the board with~~  
355 ~~any one insurer shall not exceed 3 percent of its assets.~~

356 ~~(e)~~(f) Certain interests in real property and related  
357 personal property, including mortgages and related instruments  
358 on commercial or industrial real property, with provisions for  
359 equity or income participation or with provisions for  
360 convertibility to equity ownership; and interests in collective  
361 investment funds. Associated expenditures for acquisition and  
362 operation of assets purchased under this provision or of  
363 investments in private equity or other private investment  
364 partnerships or limited liability companies shall be included as

365 a part of the cost of the investment.

366 1. The title to real property acquired under this  
367 paragraph shall be vested in the name of the respective fund.

368 2. For purposes of taxation of property owned by any fund,  
369 the provisions of s. 196.199(2)(b) do not apply.

370 3. Real property acquired under the provisions of this  
371 paragraph shall not be considered state lands or public lands  
372 and property as defined in chapter 253, and the provisions of  
373 that chapter do not apply to such real property.

374 (f)~~(g)~~ Fixed-income obligations not otherwise authorized  
375 by this section issued by foreign governments or political  
376 subdivisions or agencies thereof, supranational agencies,  
377 foreign corporations, or foreign commercial entities, if the  
378 obligations are rated investment grade by at least one  
379 nationally recognized rating service.

380 (g)~~(h)~~ A portion of the funds available for investment  
381 pursuant to this subsection may be invested in rated or unrated  
382 bonds, notes, or instruments backed by the full faith and credit  
383 of the government of Israel.

384 (h)~~(i)~~ Obligations of agencies of the government of the  
385 United States, provided such obligations have been included in  
386 and authorized by the Florida Retirement System Defined Benefit  
387 Plan Investment Policy Statement established in s. 215.475.

388 (i)~~(j)~~ United States dollar-denominated obligations issued  
389 by foreign governments, or political subdivisions or agencies  
390 thereof, supranational agencies, foreign corporations, or  
391 foreign commercial entities.

392 (j)~~(k)~~ Asset-backed securities not otherwise authorized by

393 | this section.

394 |       (5) With no more than 25 ~~20~~ percent of any fund in  
 395 | corporate obligations and securities of any kind of a foreign  
 396 | corporation or a foreign commercial entity having its principal  
 397 | office located in any country other than the United States of  
 398 | America or its possessions or territories, not including United  
 399 | States dollar-denominated securities listed and traded on a  
 400 | United States exchange which are a part of the ordinary  
 401 | investment strategy of the board.

402 |       (17) The State Board of Administration may sell short any  
 403 | of the securities and investments authorized under this section.

404 |       Section 4. Paragraph (e) of subsection (4) of section  
 405 | 1002.36, Florida Statutes, is amended to read:

406 |       1002.36 Florida School for the Deaf and the Blind.--

407 |       (4) BOARD OF TRUSTEES.--

408 |       (e) The board of trustees is invested with full power and  
 409 | authority to:

410 |       1. Appoint a president, faculty, teachers, and other  
 411 | employees and remove the same as in its judgment may be best and  
 412 | fix their compensation.

413 |       2. Procure professional services, such as medical, mental  
 414 | health, architectural, and engineering.

415 |       3. Procure legal services without the prior written  
 416 | approval of the Attorney General.

417 |       4. Determine eligibility of students and procedure for  
 418 | admission.

419 |       5. Provide for the students of the school necessary  
 420 | bedding, clothing, food, and medical attendance and such other

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421 things as may be proper for the health and comfort of the  
422 students without cost to their parents, except that the board of  
423 trustees may set tuition and other fees for nonresidents.

424 6. Provide for the proper keeping of accounts and records  
425 and for budgeting of funds.

426 7. Enter into contracts.

427 8. Sue and be sued.

428 9. Secure public liability insurance.

429 10. Do and perform every other matter or thing requisite  
430 to the proper management, maintenance, support, and control of  
431 the school at the highest efficiency economically possible, the  
432 board of trustees taking into consideration the purposes of the  
433 establishment.

434 11. Receive gifts, donations, and bequests of money or  
435 property, real or personal, tangible or intangible, from any  
436 person, firm, corporation, or other legal entity. However, the  
437 board of trustees may not obligate the state to any expenditure  
438 or policy that is not specifically authorized by law. If the  
439 bill of sale, will, trust indenture, deed, or other legal  
440 conveyance specifies terms and conditions concerning the use of  
441 such money or property, the board of trustees shall observe such  
442 terms and conditions.

443 12. Deposit outside the State Treasury such moneys as are  
444 received as gifts, donations, or bequests and may disburse and  
445 expend such moneys, upon its own warrant, for the use and  
446 benefit of the Florida School for the Deaf and the Blind and its  
447 students, as the board of trustees deems to be in the best  
448 interest of the school and its students. Such money or property



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449 shall not constitute or be considered a part of any legislative  
450 appropriation, and such money shall not be used to compensate  
451 any person for engaging in lobbying activities before the House  
452 of Representatives or Senate or any committee thereof.

453 13. Sell or convey by bill of sale, deed, or other legal  
454 instrument any property, real or personal, received as a gift,  
455 donation, or bequest, upon such terms and conditions as the  
456 board of trustees deems to be in the best interest of the school  
457 and its students.

458 14. Invest such moneys in securities enumerated under s.  
459 215.47(1), (2)(c) ~~(2)(d)~~, (3), (4), and (9), and in The Common  
460 Fund, an Investment Management Fund exclusively for nonprofit  
461 educational institutions.

462 Section 5. This act shall take effect July 1, 2006.