

By the Committee on Governmental Operations; and Senator
Lawson

585-2077-07

1 A bill to be entitled
2 An act relating to state retirement programs;
3 amending s. 121.051, F.S.; revising conditions
4 for membership in the State Community College
5 System Optional Retirement Program; amending s.
6 121.35, F.S.; revising conditions for
7 membership in the State University System
8 Optional Retirement Program; authorizing
9 transfer of funds for specified earned credit
10 between the Florida Retirement System and such
11 optional retirement program; authorizing a
12 transfer of membership between the State
13 University System Optional Retirement Program
14 and the Florida Retirement System; amending s.
15 121.4501, F.S.; redefining the term "eligible
16 employee" for purposes of the Public Employee
17 Optional Retirement Program; revising
18 conditions for participation in the Public
19 Employee Optional Retirement Program; providing
20 an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Paragraph (c) of subsection (2) of section
25 121.051, Florida Statutes, is amended to read:
26 121.051 Participation in the system.--
27 (2) OPTIONAL PARTICIPATION.--
28 (c) Employees of public community colleges or charter
29 technical career centers sponsored by public community
30 colleges, as designated in s. 1000.21(3), who are members of
31 the Regular Class of the Florida Retirement System and who

1 | comply with the criteria set forth in this paragraph and in s.
2 | 1012.875 may elect, in lieu of participating in the Florida
3 | Retirement System, to withdraw from the Florida Retirement
4 | System altogether and participate in an optional retirement
5 | program provided by the employing agency under s. 1012.875, to
6 | be known as the State Community College System Optional
7 | Retirement Program. Pursuant thereto:

8 | 1. Through June 30, 2001, the cost to the employer for
9 | such annuity shall equal the normal cost portion of the
10 | employer retirement contribution which would be required if
11 | the employee were a member of the Regular Class defined
12 | benefit program, plus the portion of the contribution rate
13 | required by s. 112.363(8) that would otherwise be assigned to
14 | the Retiree Health Insurance Subsidy Trust Fund. Effective
15 | July 1, 2001, each employer shall contribute on behalf of each
16 | participant in the optional program an amount equal to 10.43
17 | percent of the participant's gross monthly compensation. The
18 | employer shall deduct an amount to provide for the
19 | administration of the optional retirement program. The
20 | employer providing the optional program shall contribute an
21 | additional amount to the Florida Retirement System Trust Fund
22 | equal to the unfunded actuarial accrued liability portion of
23 | the Regular Class contribution rate.

24 | 2. The decision to participate in such an optional
25 | retirement program shall be irrevocable for as long as the
26 | employee holds a position eligible for participation, except
27 | as provided in subparagraph 3. Any service creditable under
28 | the Florida Retirement System shall be retained after the
29 | member withdraws from the Florida Retirement System; however,
30 | additional service credit in the Florida Retirement System
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1 shall not be earned while a member of the optional retirement
2 program.

3 3. An employee who has elected to participate in the
4 optional retirement program shall have one opportunity, at the
5 employee's discretion, to choose to transfer from the optional
6 retirement program to the defined benefit program of the
7 Florida Retirement System or to the Public Employee Optional
8 Retirement Program, subject to the terms of the applicable
9 optional retirement program contracts.

10 a. If the employee chooses to move to the Public
11 Employee Optional Retirement Program, any contributions,
12 interest, and earnings creditable to the employee under the
13 State Community College System Optional Retirement Program
14 shall be retained by the employee in the State Community
15 College System Optional Retirement Program, and the applicable
16 provisions of s. 121.4501(4) shall govern the election.

17 b. If the employee chooses to move to the defined
18 benefit program of the Florida Retirement System, the employee
19 shall receive service credit equal to his or her years of
20 service under the State Community College Optional Retirement
21 Program.

22 (I) The cost for such credit shall be an amount
23 representing the present value of that employee's accumulated
24 benefit obligation for the affected period of service. The
25 cost shall be calculated as if the benefit commencement occurs
26 on the first date the employee would become eligible for
27 unreduced benefits, using the discount rate and other relevant
28 actuarial assumptions that were used to value the Florida
29 Retirement System defined benefit plan liabilities in the most
30 recent actuarial valuation. The calculation shall include any
31 service already maintained under the defined benefit plan in

1 addition to the years under the State Community College
2 Optional Retirement Program. The present value of any service
3 already maintained under the defined benefit plan shall be
4 applied as a credit to total cost resulting from the
5 calculation. The division shall ensure that the transfer sum
6 is prepared using a formula and methodology certified by an
7 enrolled actuary.

8 (II) The employee must transfer from his or her State
9 Community College System Optional Retirement Program account
10 and from other employee moneys as necessary, a sum
11 representing the present value of that employee's accumulated
12 benefit obligation immediately following the time of such
13 movement, determined assuming that attained service equals the
14 sum of service in the defined benefit program and service in
15 the State Community College System Optional Retirement
16 Program.

17 4. Participation in the optional retirement program
18 shall be limited to those employees who satisfy the following
19 eligibility criteria:

20 a. The employee must be otherwise eligible for
21 membership or renewed membership in the Regular Class of the
22 Florida Retirement System, as provided in s. 121.021(11) and
23 (12) or s. 121.122.

24 b. The employee must be employed in a full-time
25 position classified in the Accounting Manual for Florida's
26 Public Community Colleges as:

27 (I) Instructional; or

28 (II) Executive Management, Instructional Management,
29 or Institutional Management, if a community college determines
30 that recruiting to fill a vacancy in the position is to be
31 conducted in the national or regional market, and:

1 (A) The duties and responsibilities of the position
2 include either the formulation, interpretation, or
3 implementation of policies; or

4 (B) The duties and responsibilities of the position
5 include the performance of functions that are unique or
6 specialized within higher education and that frequently
7 involve the support of the mission of the community college.

8 c. The employee must be employed in a position not
9 included in the Senior Management Service Class of the Florida
10 Retirement System, as described in s. 121.055.

11 5. Participants in the program are subject to the same
12 reemployment limitations, renewed membership provisions, and
13 forfeiture provisions as are applicable to regular members of
14 the Florida Retirement System under ss. 121.091(9), 121.122,
15 and 121.091(5), respectively.

16 6. Eligible community college employees shall be
17 compulsory members of the Florida Retirement System until,
18 pursuant to the procedures set forth in s. 1012.875, a written
19 election to withdraw from the Florida Retirement System and to
20 participate in the State Community College Optional Retirement
21 Program is filed with the program administrator and received
22 by the division.

23 a. Any community college employee whose program
24 eligibility results from initial employment shall be enrolled
25 in the State Community College Optional Retirement Program
26 retroactive to the first day of eligible employment. The
27 employer retirement contributions paid through the month of
28 the employee plan change shall be transferred to the community
29 college for the employee's optional program account, and,
30 effective the first day of the next month, the employer shall
31 pay the applicable contributions based upon subparagraph 1.

1 b. Any community college employee whose program
2 eligibility results from a change in status due to the
3 subsequent designation of the employee's position as one of
4 those specified in subparagraph 4. or due to the employee's
5 appointment, promotion, transfer, or reclassification to a
6 position specified in subparagraph 4. shall be enrolled in the
7 program upon the first day of the first full calendar month
8 that such change in status becomes effective. The employer
9 retirement contributions paid from the effective date through
10 the month of the employee plan change shall be transferred to
11 the community college for the employee's optional program
12 account, and, effective the first day of the next month, the
13 employer shall pay the applicable contributions based upon
14 subparagraph 1.

15 7. Effective July 1, 2003, through December 31, 2008,
16 any participant of the State Community College Optional
17 Retirement Program who has service credit in the defined
18 benefit plan of the Florida Retirement System for the period
19 between his or her first eligibility to transfer from the
20 defined benefit plan to the optional retirement program and
21 the actual date of transfer may, during his or her employment,
22 elect to transfer to the optional retirement program a sum
23 representing the present value of the accumulated benefit
24 obligation under the defined benefit retirement program for
25 such period of service credit. Upon such transfer, all such
26 service credit previously earned under the defined benefit
27 program of the Florida Retirement System during this period
28 shall be nullified for purposes of entitlement to a future
29 benefit under the defined benefit program of the Florida
30 Retirement System.

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1 Section 2. Paragraph (a) of subsection (2) and
2 paragraphs (e) and (g) of subsection (3) of section 121.35,
3 Florida Statutes, are amended, and paragraph (i) is added to
4 subsection (3), to read:

5 121.35 Optional retirement program for the State
6 University System.--

7 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
8 PROGRAM.--

9 (a) Participation in the optional retirement program
10 provided by this section shall be limited to persons who are
11 otherwise eligible for membership or renewed membership in the
12 Florida Retirement System and who are employed in one of the
13 following State University System positions:

14 1. Positions classified as instructional and research
15 faculty which are exempt from the career service under the
16 provisions of s. 110.205(2)(d).

17 2. Positions classified as administrative and
18 professional which are exempt from the career service under
19 the provisions of s. 110.205(2)(d).

20 3. The Chancellor and the university presidents.

21 (3) ELECTION OF OPTIONAL PROGRAM.--

22 (e) The election by an eligible employee to
23 participate in the optional retirement program shall be
24 irrevocable for so long as the employee continues to meet the
25 eligibility requirements specified in subsection (2), except
26 as provided in paragraph (h) or paragraph (i). In the event
27 that an employee participates in the optional retirement
28 program for 90 days or more and is subsequently employed in an
29 administrative or professional position which has been
30 determined by the department, under subparagraph (2)(a)2., to
31 be not otherwise eligible for participation in the optional

1 retirement program, the employee shall continue participation
2 in the optional program so long as the employee meets the
3 other eligibility requirements for the program, except as
4 provided in paragraph (h) or paragraph (i).

5 (g) An eligible employee who is a member of the
6 Florida Retirement System at the time of election to
7 participate in the optional retirement program shall retain
8 all retirement service credit earned under the Florida
9 Retirement System, at the rate earned. No additional service
10 credit in the Florida Retirement System shall be earned while
11 the employee participates in the optional program, nor shall
12 the employee be eligible for disability retirement under the
13 Florida Retirement System. An eligible employee may transfer
14 from the Florida Retirement System to his or her accounts
15 under the State University System Optional Retirement Program
16 a sum representing the present value of the employee's
17 accumulated benefit obligation under the defined benefit
18 program of the Florida Retirement System for any service
19 credit accrued from the employee's first eligible transfer
20 date to the optional retirement program through the actual
21 date of such transfer, if such service credit was earned in
22 the period from July 1, 1984, through December 31, 1992. The
23 present value of the employee's accumulated benefit obligation
24 shall be calculated as described in s. 121.4501(3)(c)2. Upon
25 such transfer, all such service credit previously earned under
26 the defined benefit program of the Florida Retirement System
27 during this period shall be nullified for purposes of
28 entitlement to a future benefit under the defined benefit
29 program of the Florida Retirement System.

30 (i) Effective January 1, 2008, through December 31,
31 2008, except for an employee who is a mandatory participant of

1 the State University System Optional Retirement Program, an
2 employee who has elected to participate in the State
3 University System Optional Retirement Program shall have one
4 opportunity, at the employee's discretion, to choose to
5 transfer from this program to the defined benefit program of
6 the Florida Retirement System or to the Public Employee
7 Optional Retirement Program, subject to the terms of the
8 applicable contracts of the State University System Optional
9 Retirement Program.

10 1. If the employee chooses to move to the Public
11 Employee Optional Retirement Program, any contributions,
12 interest, and earnings creditable to the employee under the
13 State University System Optional Retirement Program shall be
14 retained by the employee in the State University System
15 Optional Retirement Program, and the applicable provisions of
16 s. 121.4501(4) shall govern the election.

17 2. If the employee chooses to move to the defined
18 benefit program of the Florida Retirement System, the employee
19 shall receive service credit equal to his or her years of
20 service under the State University System Optional Retirement
21 Program.

22 a. The cost for such credit shall be an amount
23 representing the actuarial accrued liability for the affected
24 period of service. The cost shall be calculated using the
25 discount rate and other relevant actuarial assumptions that
26 were used to value the Florida Retirement System defined
27 benefit plan liabilities in the most recent actuarial
28 valuation. The calculation shall include any service already
29 maintained under the defined benefit plan in addition to the
30 years under the State University System Optional Retirement
31 Program. The actuarial accrued liability of any service

1 already maintained under the defined benefit plan shall be
2 applied as a credit to total cost resulting from the
3 calculation. The division shall ensure that the transfer sum
4 is prepared using a formula and methodology certified by an
5 enrolled actuary.

6 b. The employee must transfer from his or her State
7 University System Optional Retirement Program account, and
8 from other employee moneys as necessary, a sum representing
9 the actuarial accrued liability immediately following the time
10 of such movement, determined assuming that attained service
11 equals the sum of service in the defined benefit program and
12 service in the State University System Optional Retirement
13 Program.

14 Section 3. Paragraph (f) of subsection (2) and
15 paragraph (a) of subsection (4) of section 121.4501, Florida
16 Statutes, are amended to read:

17 121.4501 Public Employee Optional Retirement
18 Program.--

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

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

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

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

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

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5 The term does not include any member participating in the
6 Deferred Retirement Option Program established under s.
7 121.091(13) or a mandatory participant of the State University
8 System Optional Retirement Program ~~or any employee~~
9 ~~participating in an optional retirement program~~ established
10 under s. 121.35.

11 (4) PARTICIPATION; ENROLLMENT.--

12 (a)1. With respect to an eligible employee who is
13 employed in a regularly established position on June 1, 2002,
14 by a state employer:

15 a. Any such employee may elect to participate in the
16 Public Employee Optional Retirement Program in lieu of
17 retaining his or her membership in the defined benefit program
18 of the Florida Retirement System. The election must be made in
19 writing or by electronic means and must be filed with the
20 third-party administrator by August 31, 2002, or, in the case
21 of an active employee who is on a leave of absence on April 1,
22 2002, by the last business day of the 5th month following the
23 month the leave of absence concludes. This election is
24 irrevocable, except as provided in paragraph (e). Upon making
25 such election, the employee shall be enrolled as a participant
26 of the Public Employee Optional Retirement Program, the
27 employee's membership in the Florida Retirement System shall
28 be governed by the provisions of this part, and the employee's
29 membership in the defined benefit program of the Florida
30 Retirement System shall terminate. The employee's enrollment
31 in the Public Employee Optional Retirement Program shall be

1 effective the first day of the month for which a full month's
2 employer contribution is made to the optional program.

3 b. Any such employee who fails to elect to participate
4 in the Public Employee Optional Retirement Program within the
5 prescribed time period is deemed to have elected to retain
6 membership in the defined benefit program of the Florida
7 Retirement System, and the employee's option to elect to
8 participate in the optional program is forfeited.

9 2. With respect to employees who become eligible to
10 participate in the Public Employee Optional Retirement Program
11 by reason of employment in a regularly established position
12 with a state employer commencing after April 1, 2002:

13 a. Any such employee shall, by default, be enrolled in
14 the defined benefit retirement program of the Florida
15 Retirement System at the commencement of employment, and may,
16 by the last business day of the 5th month following the
17 employee's month of hire, elect to participate in the Public
18 Employee Optional Retirement Program. The employee's election
19 must be made in writing or by electronic means and must be
20 filed with the third-party administrator. The election to
21 participate in the optional program is irrevocable, except as
22 provided in paragraph (e).

23 b. If the employee files such election within the
24 prescribed time period, enrollment in the optional program
25 shall be effective on the first day of employment. The
26 employer retirement contributions paid through the month of
27 the employee plan change shall be transferred to the optional
28 program, and, effective the first day of the next month, the
29 employer shall pay the applicable contributions based on the
30 employee membership class in the optional program.

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1 c. Any such employee who fails to elect to participate
2 in the Public Employee Optional Retirement Program within the
3 prescribed time period is deemed to have elected to retain
4 membership in the defined benefit program of the Florida
5 Retirement System, and the employee's option to elect to
6 participate in the optional program is forfeited.

7 3. With respect to employees who become eligible to
8 participate in the Public Employee Optional Retirement Program
9 pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), any such
10 employee may elect to participate in the Public Employee
11 Optional Retirement Program in lieu of retaining his or her
12 participation in the State Community College Optional
13 Retirement Program or the State University System Optional
14 Retirement Program. The election must be made in writing or by
15 electronic means and must be filed with the third-party
16 administrator. This election is irrevocable, except as
17 provided in paragraph (e). Upon making such election, the
18 employee shall be enrolled as a participant of the Public
19 Employee Optional Retirement Program, the employee's
20 membership in the Florida Retirement System shall be governed
21 by the provisions of this part, and the employee's
22 participation in the State Community College Optional
23 Retirement Program or the State University System Optional
24 Retirement Program shall terminate. The employee's enrollment
25 in the Public Employee Optional Retirement Program shall be
26 effective the first day of the month for which a full month's
27 employer contribution is made to the optional program.

28 4. For purposes of this paragraph, "state employer"
29 means any agency, board, branch, commission, community
30 college, department, institution, institution of higher
31 education, or water management district of the state, which

1 participates in the Florida Retirement System for the benefit
2 of certain employees.

3 Section 4. This act shall take effect July 1, 2007.
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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 420

8 The Committee Substitute provides the correct actuarial
9 standard for the transfer of member account balances and
10 further provides a defined period of time, from January 1
11 through December 31, 2008 for participants to change plans.
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