

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

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

24
 25 Section 1. Paragraph (c) of subsection (2) of section
 26 121.051, Florida Statutes, is amended to read:

27 121.051 Participation in the system.--
 28 (2) OPTIONAL PARTICIPATION.--

29 (c) Employees of public community colleges or charter
30 technical career centers sponsored by public community colleges,
31 as designated in s. 1000.21(3), who are members of the Regular
32 Class of the Florida Retirement System and who comply with the
33 criteria set forth in this paragraph and in s. 1012.875 may
34 elect, in lieu of participating in the Florida Retirement
35 System, to withdraw from the Florida Retirement System
36 altogether and participate in an optional retirement program
37 provided by the employing agency under s. 1012.875, to be known
38 as the State Community College System Optional Retirement
39 Program. Pursuant thereto:

40 1. Through June 30, 2001, the cost to the employer for
41 such annuity shall equal the normal cost portion of the employer
42 retirement contribution which would be required if the employee
43 were a member of the Regular Class defined benefit program, plus
44 the portion of the contribution rate required by s. 112.363(8)
45 that would otherwise be assigned to the Retiree Health Insurance
46 Subsidy Trust Fund. Effective July 1, 2001, each employer shall
47 contribute on behalf of each participant in the optional program
48 an amount equal to 10.43 percent of the participant's gross
49 monthly compensation. The employer shall deduct an amount to
50 provide for the administration of the optional retirement
51 program. The employer providing the optional program shall
52 contribute an additional amount to the Florida Retirement System
53 Trust Fund equal to the unfunded actuarial accrued liability
54 portion of the Regular Class contribution rate.

55 2. The decision to participate in such an optional
56 retirement program shall be irrevocable for as long as the

57 | employee holds a position eligible for participation, except as
58 | provided in subparagraph 3. Any service creditable under the
59 | Florida Retirement System shall be retained after the member
60 | withdraws from the Florida Retirement System; however,
61 | additional service credit in the Florida Retirement System shall
62 | not be earned while a member of the optional retirement program.

63 | 3. An employee who has elected to participate in the
64 | optional retirement program shall have one opportunity, at the
65 | employee's discretion, to choose to transfer from the optional
66 | retirement program to the defined benefit program of the Florida
67 | Retirement System or to the Public Employee Optional Retirement
68 | Program, subject to the terms of the applicable optional
69 | retirement program contracts.

70 | a. If the employee chooses to move to the Public Employee
71 | Optional Retirement Program, any contributions, interest, and
72 | earnings creditable to the employee under the State Community
73 | College System Optional Retirement Program shall be retained by
74 | the employee in the State Community College System Optional
75 | Retirement Program, and the applicable provisions of s.
76 | 121.4501(4) shall govern the election.

77 | b. If the employee chooses to move to the defined benefit
78 | program of the Florida Retirement System, the employee shall
79 | receive service credit equal to his or her years of service
80 | under the State Community College Optional Retirement Program.

81 | (I) The cost for such credit shall be an amount
82 | representing the present value of that employee's accumulated
83 | benefit obligation for the affected period of service. The cost
84 | shall be calculated as if the benefit commencement occurs on the

85 first date the employee would become eligible for unreduced
86 benefits, using the discount rate and other relevant actuarial
87 assumptions that were used to value the Florida Retirement
88 System defined benefit plan liabilities in the most recent
89 actuarial valuation. The calculation shall include any service
90 already maintained under the defined benefit plan in addition to
91 the years under the State Community College Optional Retirement
92 Program. The present value of any service already maintained
93 under the defined benefit plan shall be applied as a credit to
94 total cost resulting from the calculation. The division shall
95 ensure that the transfer sum is prepared using a formula and
96 methodology certified by an enrolled actuary.

97 (II) The employee must transfer from his or her State
98 Community College System Optional Retirement Program account and
99 from other employee moneys as necessary, a sum representing the
100 present value of that employee's accumulated benefit obligation
101 immediately following the time of such movement, determined
102 assuming that attained service equals the sum of service in the
103 defined benefit program and service in the State Community
104 College System Optional Retirement Program.

105 4. Participation in the optional retirement program shall
106 be limited to those employees who satisfy the following
107 eligibility criteria:

108 a. The employee must be otherwise eligible for membership
109 or renewed membership in the Regular Class of the Florida
110 Retirement System, as provided in s. 121.021(11) and (12) or s.
111 121.122.

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

115 (I) Instructional; or

116 (II) Executive Management, Instructional Management, or
 117 Institutional Management, if a community college determines that
 118 recruiting to fill a vacancy in the position is to be conducted
 119 in the national or regional market, and:

120 (A) The duties and responsibilities of the position
 121 include either the formulation, interpretation, or
 122 implementation of policies; or

123 (B) The duties and responsibilities of the position
 124 include the performance of functions that are unique or
 125 specialized within higher education and that frequently involve
 126 the support of the mission of the community college.

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

130 5. Participants in the program are subject to the same
 131 reemployment limitations, renewed membership provisions, and
 132 forfeiture provisions as are applicable to regular members of
 133 the Florida Retirement System under ss. 121.091(9), 121.122, and
 134 121.091(5), respectively.

135 6. Eligible community college employees shall be
 136 compulsory members of the Florida Retirement System until,
 137 pursuant to the procedures set forth in s. 1012.875, a written
 138 election to withdraw from the Florida Retirement System and to
 139 participate in the State Community College Optional Retirement

140 Program is filed with the program administrator and received by
141 the division.

142 a. Any community college employee whose program
143 eligibility results from initial employment shall be enrolled in
144 the State Community College Optional Retirement Program
145 retroactive to the first day of eligible employment. The
146 employer retirement contributions paid through the month of the
147 employee plan change shall be transferred to the community
148 college for the employee's optional program account, and,
149 effective the first day of the next month, the employer shall
150 pay the applicable contributions based upon subparagraph 1.

151 b. Any community college employee whose program
152 eligibility results from a change in status due to the
153 subsequent designation of the employee's position as one of
154 those specified in subparagraph 4. or due to the employee's
155 appointment, promotion, transfer, or reclassification to a
156 position specified in subparagraph 4. shall be enrolled in the
157 program upon the first day of the first full calendar month that
158 such change in status becomes effective. The employer retirement
159 contributions paid from the effective date through the month of
160 the employee plan change shall be transferred to the community
161 college for the employee's optional program account, and,
162 effective the first day of the next month, the employer shall
163 pay the applicable contributions based upon subparagraph 1.

164 7. Effective July 1, 2003, through December 31, 2008, any
165 participant of the State Community College Optional Retirement
166 Program who has service credit in the defined benefit plan of
167 the Florida Retirement System for the period between his or her

168 first eligibility to transfer from the defined benefit plan to
 169 the optional retirement program and the actual date of transfer
 170 may, during his or her employment, elect to transfer to the
 171 optional retirement program a sum representing the present value
 172 of the accumulated benefit obligation under the defined benefit
 173 retirement program for such period of service credit. Upon such
 174 transfer, all such service credit previously earned under the
 175 defined benefit program of the Florida Retirement System during
 176 this period shall be nullified for purposes of entitlement to a
 177 future benefit under the defined benefit program of the Florida
 178 Retirement System.

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

183 121.35 Optional retirement program for the State
 184 University System.--

185 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.--

186 (a) Participation in the optional retirement program
 187 provided by this section shall be limited to persons who are
 188 otherwise eligible for membership or renewed membership in the
 189 Florida Retirement System and who are employed in one of the
 190 following State University System positions:

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

194 2. Positions classified as administrative and professional
 195 which are exempt from the career service under the provisions of
 196 s. 110.205(2)(d).

197 3. The Chancellor and the university presidents.

198 (3) ELECTION OF OPTIONAL PROGRAM.--

199 (e) The election by an eligible employee to participate in
 200 the optional retirement program shall be irrevocable for so long
 201 as the employee continues to meet the eligibility requirements
 202 specified in subsection (2), except as provided in paragraph (h)
 203 or paragraph (i). In the event that an employee participates in
 204 the optional retirement program for 90 days or more and is
 205 subsequently employed in an administrative or professional
 206 position which has been determined by the department, under
 207 subparagraph (2)(a)2., to be not otherwise eligible for
 208 participation in the optional retirement program, the employee
 209 shall continue participation in the optional program so long as
 210 the employee meets the other eligibility requirements for the
 211 program, except as provided in paragraph (h) or paragraph (i).

212 (g) An eligible employee who is a member of the Florida
 213 Retirement System at the time of election to participate in the
 214 optional retirement program shall retain all retirement service
 215 credit earned under the Florida Retirement System, at the rate
 216 earned. No additional service credit in the Florida Retirement
 217 System shall be earned while the employee participates in the
 218 optional program, nor shall the employee be eligible for
 219 disability retirement under the Florida Retirement System. An
 220 eligible employee may transfer from the Florida Retirement
 221 System to his or her accounts under the State University System

222 Optional Retirement Program a sum representing the present value
223 of the employee's accumulated benefit obligation under the
224 defined benefit program of the Florida Retirement System for any
225 service credit accrued from the employee's first eligible
226 transfer date to the optional retirement program through the
227 actual date of such transfer, if such service credit was earned
228 in the period from July 1, 1984, through December 31, 1992. The
229 present value of the employee's accumulated benefit obligation
230 shall be calculated as described in s. 121.4501(3)(c)2. Upon
231 such transfer, all such service credit previously earned under
232 the defined benefit program of the Florida Retirement System
233 during this period shall be nullified for purposes of
234 entitlement to a future benefit under the defined benefit
235 program of the Florida Retirement System.

236 (i) Effective January 1, 2008, through December 31, 2008,
237 except for an employee who is a mandatory participant of the
238 State University System Optional Retirement Program, an employee
239 who has elected to participate in the State University System
240 Optional Retirement Program shall have one opportunity, at the
241 employee's discretion, to choose to transfer from this program
242 to the defined benefit program of the Florida Retirement System
243 or to the Public Employee Optional Retirement Program, subject
244 to the terms of the applicable contracts of the State University
245 System Optional Retirement Program.

246 1. If the employee chooses to move to the Public Employee
247 Optional Retirement Program, any contributions, interest, and
248 earnings creditable to the employee under the State University
249 System Optional Retirement Program shall be retained by the

250 employee in the State University System Optional Retirement
251 Program, and the applicable provisions of s. 121.4501(4) shall
252 govern the election.

253 2. If the employee chooses to move to the defined benefit
254 program of the Florida Retirement System, the employee shall
255 receive service credit equal to his or her years of service
256 under the State University System Optional Retirement Program.

257 a. The cost for such credit shall be an amount
258 representing the actuarial accrued liability for the affected
259 period of service. The cost shall be calculated using the
260 discount rate and other relevant actuarial assumptions that were
261 used to value the Florida Retirement System defined benefit plan
262 liabilities in the most recent actuarial valuation. The
263 calculation shall include any service already maintained under
264 the defined benefit plan in addition to the years under the
265 State University System Optional Retirement Program. The
266 actuarial accrued liability of any service already maintained
267 under the defined benefit plan shall be applied as a credit to
268 the total cost resulting from the calculation. The division
269 shall ensure that the transfer sum is prepared using a formula
270 and methodology certified by an enrolled actuary.

271 b. The employee must transfer from his or her State
272 University System Optional Retirement Program account, and from
273 other employee moneys as necessary, a sum representing the
274 actuarial accrued liability immediately following the time of
275 such movement, determined assuming that attained service equals
276 the sum of service in the defined benefit program and service in
277 the State University System Optional Retirement Program.

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

281 121.4501 Public Employee Optional Retirement Program.--

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

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

285 1. Is a member of, or is eligible for membership in, the
 286 Florida Retirement System, including any renewed member of the
 287 Florida Retirement System; or

288 2. Participates in, or is eligible to participate in, the
 289 Senior Management Service Optional Annuity Program as
 290 established under s. 121.055(6), or ~~the~~ State Community College
 291 Optional Retirement Program as established under s.
 292 121.051(2)(c) or ~~or~~

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

296
 297 The term does not include any member participating in the
 298 Deferred Retirement Option Program established under s.
 299 121.091(13) or a mandatory participant of the State University
 300 System Optional Retirement Program ~~or any employee participating~~
 301 ~~in an optional retirement program~~ established under s. 121.35.

302 (4) PARTICIPATION; ENROLLMENT.--

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

306 a. Any such employee may elect to participate in the
307 Public Employee Optional Retirement Program in lieu of retaining
308 his or her membership in the defined benefit program of the
309 Florida Retirement System. The election must be made in writing
310 or by electronic means and must be filed with the third-party
311 administrator by August 31, 2002, or, in the case of an active
312 employee who is on a leave of absence on April 1, 2002, by the
313 last business day of the 5th month following the month the leave
314 of absence concludes. This election is irrevocable, except as
315 provided in paragraph (e). Upon making such election, the
316 employee shall be enrolled as a participant of the Public
317 Employee Optional Retirement Program, the employee's membership
318 in the Florida Retirement System shall be governed by the
319 provisions of this part, and the employee's membership in the
320 defined benefit program of the Florida Retirement System shall
321 terminate. The employee's enrollment in the Public Employee
322 Optional Retirement Program shall be effective the first day of
323 the month for which a full month's employer contribution is made
324 to the optional program.

325 b. Any such employee who fails to elect to participate in
326 the Public Employee Optional Retirement Program within the
327 prescribed time period is deemed to have elected to retain
328 membership in the defined benefit program of the Florida
329 Retirement System, and the employee's option to elect to
330 participate in the optional program is forfeited.

331 2. With respect to employees who become eligible to
332 participate in the Public Employee Optional Retirement Program

333 by reason of employment in a regularly established position with
334 a state employer commencing after April 1, 2002:

335 a. Any such employee shall, by default, be enrolled in the
336 defined benefit retirement program of the Florida Retirement
337 System at the commencement of employment, and may, by the last
338 business day of the 5th month following the employee's month of
339 hire, elect to participate in the Public Employee Optional
340 Retirement Program. The employee's election must be made in
341 writing or by electronic means and must be filed with the third-
342 party administrator. The election to participate in the optional
343 program is irrevocable, except as provided in paragraph (e).

344 b. If the employee files such election within the
345 prescribed time period, enrollment in the optional program shall
346 be effective on the first day of employment. The employer
347 retirement contributions paid through the month of the employee
348 plan change shall be transferred to the optional program, and,
349 effective the first day of the next month, the employer shall
350 pay the applicable contributions based on the employee
351 membership class in the optional program.

352 c. Any such employee who fails to elect to participate in
353 the Public Employee Optional Retirement Program within the
354 prescribed time period is deemed to have elected to retain
355 membership in the defined benefit program of the Florida
356 Retirement System, and the employee's option to elect to
357 participate in the optional program is forfeited.

358 3. With respect to employees who become eligible to
359 participate in the Public Employee Optional Retirement Program
360 pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), any such

361 employee may elect to participate in the Public Employee
362 Optional Retirement Program in lieu of retaining his or her
363 participation in the State Community College Optional Retirement
364 Program or the State University System Optional Retirement
365 Program. The election must be made in writing or by electronic
366 means and must be filed with the third-party administrator. This
367 election is irrevocable, except as provided in paragraph (e).
368 Upon making such election, the employee shall be enrolled as a
369 participant of the Public Employee Optional Retirement Program,
370 the employee's membership in the Florida Retirement System shall
371 be governed by the provisions of this part, and the employee's
372 participation in the State Community College Optional Retirement
373 Program or the State University System Optional Retirement
374 Program shall terminate. The employee's enrollment in the Public
375 Employee Optional Retirement Program shall be effective the
376 first day of the month for which a full month's employer
377 contribution is made to the optional program.

378 4. For purposes of this paragraph, "state employer" means
379 any agency, board, branch, commission, community college,
380 department, institution, institution of higher education, or
381 water management district of the state, which participates in
382 the Florida Retirement System for the benefit of certain
383 employees.

384 Section 4. This act shall take effect July 1, 2007.