

By the Committees on General Government Appropriations;
Governmental Operations; and Senator Fasano

601-05938-08

20081428c2

1 A bill to be entitled
2 An act relating to retirement; amending s. 121.021, F.S.;
3 clarifying that the term "compensation" for purposes of
4 the benefit retirement program or the Public Employee
5 Optional Retirement Program of the Florida Retirement
6 System does not include fees or salary payments made from
7 a faculty practice plan authorized by the Board of
8 Governors of the State University System for clinical
9 faculty at a state university having a faculty practice
10 plan; amending s. 121.051, F.S.; requiring that a person
11 appointed to a faculty position at a state university
12 having a faculty practice plan participate in the optional
13 retirement program of the State University System rather
14 than the Florida Retirement System; providing definitions;
15 amending s. 121.35, F.S.; requiring the participating
16 employee in the optional retirement program to execute a
17 contract, not just an annuity contract, with a designated
18 company in order for employee contributions to be
19 forwarded to the company and for interest to accrue;
20 defining the term "participant's gross monthly
21 compensation" for purposes of the optional retirement
22 program for the State University System; creating s.
23 121.355, F.S.; authorizing certain former participants in
24 the Community College Optional Retirement Program or the
25 State University System Optional Retirement Program and
26 present mandatory participants in the Florida Retirement
27 System to receive a specified amount of service credit
28 under certain conditions; providing a specified time

601-05938-08

20081428c2

29 period for the election of such transfer; limiting certain
30 service credit; providing an effective date.

31

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

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34 Section 1. Paragraph (b) of subsection (22) of section
35 121.021, Florida Statutes, is amended to read:

36 121.021 Definitions.--The following words and phrases as
37 used in this chapter have the respective meanings set forth
38 unless a different meaning is plainly required by the context:

39 (22) "Compensation" means the monthly salary paid a member
40 by his or her employer for work performed arising from that
41 employment.

42 (b) Under no circumstances shall compensation for a member
43 participating in the defined benefit retirement program or the
44 Public Employee Optional Retirement Program of the Florida
45 Retirement System include:

46 1. Fees paid professional persons for special or particular
47 services or include salary payments made from a faculty practice
48 plan authorized by the Board of Governors of the State University
49 System for eligible clinical faculty at a college in a state
50 university with a faculty practice plan; or

51 2. Any bonuses or other payments prohibited from inclusion
52 in the member's average final compensation and defined in
53 subsection (47).

54 Section 2. Paragraph (a) of subsection (1) of section
55 121.051, Florida Statutes, is amended to read:

56 121.051 Participation in the system.--

57 (1) COMPULSORY PARTICIPATION.--

601-05938-08

20081428c2

58 (a) The provisions of this law shall be compulsory as to
59 all officers and employees, except elected officers who meet the
60 requirements of s. 121.052(3), who are employed on or after
61 December 1, 1970, of an employer other than those referred to in
62 paragraph (2)(b), and each officer or employee, as a condition of
63 employment, shall become a member of the system as of his or her
64 date of employment, except that a person who is retired from any
65 state retirement system and is reemployed on or after December 1,
66 1970, may ~~shall not be permitted to~~ renew his or her membership
67 in any state retirement system except as provided in s.
68 121.091(4)(h) for a person who recovers from disability, and as
69 provided in s. 121.091(9)(b)8. for a person who is elected to
70 public office, and, effective July 1, 1991, as provided in s.
71 121.122 for all other retirees. Officers and employees of the
72 University Athletic Association, Inc., a nonprofit association
73 connected with the University of Florida, employed on and after
74 July 1, 1979, shall not participate in any state-supported
75 retirement system.

76 1.a. Any person appointed on or after July 1, 1989, to a
77 faculty position in a college at the J. Hillis Miller Health
78 Center at the University of Florida or the Medical Center at the
79 University of South Florida which has a faculty practice plan
80 provided by rule adopted by the Board of Regents may ~~shall~~ not
81 participate in the Florida Retirement System. Effective July 1,
82 2008, any person appointed thereafter to a faculty position,
83 including clinical faculty, in a college at a state university
84 that has a faculty practice plan authorized by the Board of
85 Governors may not participate in the Florida Retirement System. A
86 faculty member so appointed shall participate in the optional

601-05938-08

20081428c2

87 retirement program for the State University System ~~on the basis~~
88 ~~of his or her state-funded compensation,~~ notwithstanding the
89 provisions of s. 121.35(2) (a).

90 b. For purposes of this subparagraph, the term "faculty
91 position" is defined as a position assigned the principal
92 responsibility of teaching, research, or public service activities
93 or administrative responsibility directly related to the academic
94 mission of the college. The term "clinical faculty" is defined as
95 a faculty position appointment in conjunction with a professional
96 position in a hospital or other clinical environment at a college.
97 The term "faculty practice plan" includes professional services to
98 patients, institutions, or other parties which are rendered by the
99 clinical faculty employed by a college with a faculty practice
100 plan at a state university authorized by the Board of Governors.

101 Section 3. Paragraph (a) of subsection (4) of section
102 121.35, Florida Statutes, is amended, and paragraph (g) is added
103 to that subsection, to read:

104 121.35 Optional retirement program for the State University
105 System.--

106 (4) CONTRIBUTIONS.--

107 (a) Through June 30, 2001, each employer shall contribute
108 on behalf of each participant in the optional retirement program
109 an amount equal to the normal cost portion of the employer
110 retirement contribution which would be required if the
111 participant were a regular member of the Florida Retirement
112 System defined benefit program, plus the portion of the
113 contribution rate required in s. 112.363(8) that would otherwise
114 be assigned to the Retiree Health Insurance Subsidy Trust Fund.
115 Effective July 1, 2001, each employer shall contribute on behalf

601-05938-08

20081428c2

116 of each participant in the optional program an amount equal to
117 10.43 percent of the participant's gross monthly compensation.
118 The department shall deduct an amount approved by the Legislature
119 to provide for the administration of this program. The payment of
120 the contributions to the optional program which is required by
121 this paragraph for each participant shall be made by the employer
122 to the department, which shall forward the contributions to the
123 designated company or companies contracting for payment of
124 benefits for the participant under the program. However, such
125 contributions paid on behalf of an employee described in
126 paragraph (3) (c) shall not be forwarded to a company and shall
127 not begin to accrue interest until the employee has executed ~~a~~ an
128 ~~annuity~~ contract and notified the department.

129 (g) Effective July 1, 2008, for purposes of paragraph (a)
130 and notwithstanding s. 121.021(22)(b)1., the term "participant's
131 gross monthly compensation" includes salary payments made to
132 eligible clinical faculty from a state university using funds
133 provided by a faculty practice plan authorized by the Board of
134 Governors of the State University System if:

135 1. There is not any employer contribution from the state
136 university to any other retirement program with respect to such
137 salary payments; and

138 2. The employer contribution on behalf of the participant
139 in the optional retirement program with respect to such salary
140 payments is made using funds provided by the faculty practice
141 plan.

142 Section 4. Section 121.355, Florida Statutes, is created to
143 read:

601-05938-08

20081428c2

144 121.355 Community College Optional Retirement Program and
145 State University System Optional Retirement Program member
146 transfer.--Effective January 1, 2009, through December 31, 2009,
147 an employee who is a former participant in the Community College
148 Optional Retirement Program or the State University System
149 Optional Retirement Program and present mandatory participant in
150 the Florida Retirement System defined benefit plan may receive
151 service credit equal to his or her years of service under the
152 Community College Optional Retirement Program or the State
153 University System Optional Retirement Program under the following
154 conditions:

155 (1) The cost for such credit shall be an amount
156 representing the actuarial accrued liability for the affected
157 period of service. The cost shall be calculated using the
158 discount rate and other relevant actuarial assumptions that were
159 used to value the Florida Retirement System defined benefit plan
160 liabilities in the most recent actuarial valuation. The
161 calculation shall include any service already maintained under
162 the defined benefit plan in addition to the years under the
163 Community College Optional Retirement Program or the State
164 University System Optional Retirement Program. The actuarial
165 accrued liability of any service already maintained under the
166 defined benefit plan shall be applied as a credit to total cost
167 resulting from the calculation. The division shall ensure that
168 the transfer sum is prepared using a formula and methodology
169 certified by an enrolled actuary.

170 (2) The employee must transfer from his or her Community
171 College Optional Retirement Program account or State University
172 System Optional Retirement Program account, subject to the terms

601-05938-08

20081428c2

173 of the applicable optional retirement program contract, and from
174 other employee moneys as necessary, a sum representing the
175 actuarial accrued liability immediately following the time of
176 such movement, determined assuming that attained service equals
177 the sum of service in the defined benefit program and service in
178 the Community College Optional Retirement Program or State
179 University System Optional Retirement Program.

180 (3) The employee may not receive service credit for a
181 period of mandatory participation in the State University
182 Optional Retirement Program or for a period for which a
183 distribution was received from the Community College Optional
184 Retirement Program or State University System Optional Retirement
185 Program.

186 Section 5. This act shall take effect July 1, 2008.