

By Senator Fasano

11-00274-08

2008396\_\_

1                   A bill to be entitled  
2           An act relating to the defined contribution retirement  
3           program; amending s. 121.4501, F.S.; changing the name of  
4           the Public Employee Optional Retirement Program to the  
5           Public Employee Retirement Investment Program; limiting  
6           the option of enrolling in the State Retirement System's  
7           defined benefit program or defined contribution program to  
8           public employees employed prior to January 1, 2009;  
9           requiring public employees employed on or after January 1,  
10          2009, to enroll in the defined contribution program;  
11          deleting obsolete provisions relating to the 2002 optional  
12          transfer of public employees from the defined benefit  
13          program to the defined contribution program; deleting  
14          requirements for an educational program that compares  
15          retirement programs; amending s. 121.4502, F.S.; changing  
16          the name of the Public Employee Optional Retirement  
17          Program Trust Fund to the Public Employee Retirement  
18          Investment Program Trust Fund; amending ss. 110.123,  
19          112.0801, 112.363, 112.65, 121.021, 121.051, 121.35,  
20          121.71, 121.72, 121.73, 121.74, 121.77, and 121.78, F.S.;  
21          conforming cross-references; substituting references to  
22          the defined contribution program for references to the  
23          Public Employee Optional Retirement Program; amending ss.  
24          121.091, 121.4503, 121.571, 121.591, and 121.5911, F.S.;  
25          conforming cross-references; substituting the name of the  
26          Public Employee Retirement Investment Program and the  
27          Public Employee Retirement Investment Program Trust Fund;  
28          amending s. 121.055, F.S.; conforming changes relating to  
29          the name of the Florida Employee Retirement Investment

11-00274-08

2008396\_\_

30 Program and deleting obsolete provisions; amending s.  
31 121.70, F.S.; changing the name of the Public Employee  
32 Optional Retirement Program to the defined contribution  
33 program; deleting provisions relating to having a choice  
34 in retirement plans; providing a directive to the Division  
35 of Statutory Revision; providing an effective date.  
36

37 Be It Enacted by the Legislature of the State of Florida:  
38

39 Section 1. Section 121.4501, Florida Statutes, is amended  
40 to read:

41 121.4501 Public Employee ~~Optional~~ Retirement Investment  
42 Program.--

43 (1) The Trustees of the State Board of Administration shall  
44 establish a ~~an optional~~ defined contribution ~~retirement~~ program  
45 called the Public Employee Retirement Investment Program for  
46 members of the Florida Retirement System under which retirement  
47 benefits will be provided for eligible employees employed prior  
48 to January 1, 2009, who elect to participate in the program, and  
49 for all eligible employees employed on or after January 1, 2009.  
50 ~~The retirement benefits to be provided for or on behalf of~~  
51 ~~participants in such optional retirement program~~ shall be  
52 provided through employee-directed investments, in accordance  
53 with s. 401(a) of the Internal Revenue Code and ~~its~~ related  
54 regulations. The employers shall contribute, as provided in this  
55 section and ss. 121.571~~7~~ and 121.71 to the Public Employee  
56 ~~Optional~~ Retirement Investment Program Trust Fund toward the  
57 funding of the ~~such optional~~ benefits.  
58

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

11-00274-08

2008396\_\_

59 (a) "Approved provider" or "provider" means a private  
60 sector company that is selected and approved by the state board  
61 to offer one or more investment products or services to the  
62 investment ~~Public Employee Optional Retirement~~ program. The term  
63 includes a bundled provider that offers participants a range of  
64 individually allocated or unallocated investment products and may  
65 offer a range of administrative and customer services, which may  
66 include accounting and administration of individual participant  
67 benefits and contributions; individual participant recordkeeping;  
68 asset purchase, control, and safekeeping; direct execution of the  
69 participant's instructions as to asset and contribution  
70 allocation; calculation of daily net asset values; direct access  
71 to participant account information; periodic reporting to  
72 participants, at least quarterly, on account balances and  
73 transactions; guidance, advice, and allocation services directly  
74 relating to the provider's ~~its~~ own investment options or  
75 products, but only if the bundled provider complies with the  
76 standard of care of s. 404(a)(1)(A-B) of the Employee Retirement  
77 Income Security Act of 1974 (ERISA) and if providing such  
78 guidance, advice, or allocation services does not constitute a  
79 prohibited transaction under s. 4975(c)(1) of the Internal  
80 Revenue Code or s. 406 of ERISA, notwithstanding that such  
81 prohibited transaction provisions do not apply to the ~~optional~~  
82 retirement program; a broad array of distribution options; asset  
83 allocation; and retirement counseling and education. Private  
84 sector companies include investment management companies,  
85 insurance companies, depositories, and mutual fund companies.

86 (b) "Average monthly compensation" means one-twelfth of  
87 average final compensation as defined in s. 121.021(24).

11-00274-08

2008396\_\_

88 (c) "Covered employment" means employment in a regularly  
89 established position as defined in s. 121.021(52).

90 (d) "Defined benefit program" means the defined benefit  
91 program of the Florida Retirement System as administered under  
92 part I of this chapter ~~"Department" means the Department of~~  
93 ~~Management Services.~~

94 (e) "District school board employer" means a district  
95 school board that participates in the Florida Retirement System  
96 for the benefit of certain employees, or a charter school or  
97 charter technical career center that participates in the Florida  
98 Retirement System as provided under s. 121.051(2)(d).

99 (f) ~~(e)~~ "Division" means the Division of Retirement within  
100 the department of ~~Management Services.~~

101 (g) ~~(f)~~ "Eligible employee" means an officer or employee, as  
102 defined in s. 121.021(11), who:

103 1. Is a member of, or is eligible for membership in, the  
104 Florida Retirement System, including any renewed member of the  
105 Florida Retirement System; or

106 2. Participates in, or is eligible to participate in, the  
107 Senior Management Service Optional Annuity Program as established  
108 under s. 121.055(6), the State Community College Optional  
109 Retirement Program as established under s. 121.051(2)(c), or the  
110 State University System Optional Retirement Program established  
111 under s. 121.35.

112  
113 The term does not include any member participating in the  
114 Deferred Retirement Option Program established under s.  
115 121.091(13) or a mandatory participant of the State University  
116 System Optional Retirement Program established under s. 121.35.

11-00274-08

2008396\_\_

117        ~~(h)~~(g) "Employer" means an employer, as defined in s.  
118 121.021(10), of an eligible employee.

119        (i) "Investment program" means the Public Employee  
120 Retirement Investment Program established under this part.

121        (j) "Local employer" means an employer who is not a state  
122 employer or a district school board employer.

123        ~~(k)~~(h) "Participant" means an eligible employee who is  
124 enrolled ~~elects to participate in the investment~~ Public Employee  
125 Optional Retirement program and ~~enrolls in such optional program~~  
126 ~~as provided in subsection (4)~~ or a terminated Deferred Retirement  
127 Option Program participant as described in subsection (22) ~~(21)~~.

128        ~~(i) "Public Employee Optional Retirement Program,"~~  
129 ~~"optional program," or "optional retirement program" means the~~  
130 ~~alternative defined contribution retirement program established~~  
131 ~~under this section.~~

132        ~~(l)~~(j) "Retiree" means a former participant of the  
133 investment ~~Florida Retirement System~~ Public Employee Optional  
134 Retirement program who has terminated employment and has taken a  
135 distribution as provided in s. 121.591, except for a mandatory  
136 distribution of a de minimis account authorized by the state  
137 board.

138        ~~(m)~~(k) "State board" ~~or "board"~~ means the State Board of  
139 Administration.

140        ~~(l) "Trustees" means Trustees of the State Board of~~  
141 ~~Administration.~~

142        (n) "State employer" means an agency, board, branch,  
143 commission, community college, department, institution,  
144 institution of higher education, or water management district of  
145 the state that participates in the Florida Retirement System for

11-00274-08

2008396\_\_

146 the benefit of certain employees.

147 (o)~~(m)~~ "Vested" or "vesting" means the guarantee that a  
148 participant is eligible to receive a retirement benefit upon  
149 completion of the required years of service under the Public  
150 Employee Optional Retirement Program.

151 (3) ~~ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF~~  
152 BENEFITS.--

153 ~~(a) Participation in the Public Employee Optional~~  
154 ~~Retirement Program is limited to eligible employees.~~  
155 ~~Participation in the optional retirement program is in lieu of~~  
156 ~~participation in the defined benefit program of the Florida~~  
157 ~~Retirement System.~~

158 (a)~~(b)~~ An eligible employee who is employed in a regularly  
159 established position by a state employer on June 1, 2002; by a  
160 district school board employer on September 1, 2002; or by a  
161 local employer on December 1, 2002, and who is a member of the  
162 defined benefit retirement program of the Florida Retirement  
163 System at the time of his or her election to participate in the  
164 investment Public Employee Optional Retirement program shall  
165 retain all retirement service credit earned under the defined  
166 benefit retirement program of the Florida Retirement System as  
167 credited under the system and is ~~shall be~~ entitled to a deferred  
168 benefit upon termination, if eligible ~~under the system~~. However,  
169 election to participate in the investment Public Employee  
170 Optional Retirement program terminates the active membership of  
171 the employee in the defined benefit program ~~of the Florida~~  
172 ~~Retirement System~~, and the service of a participant in the  
173 investment Public Employee Optional Retirement program is shall  
174 not ~~be~~ creditable under the defined benefit ~~retirement~~ program ~~of~~

11-00274-08

2008396\_\_

175 ~~the Florida Retirement System~~ for purposes of benefit accrual but  
176 is credible ~~shall be credited~~ for purposes of vesting.

177 (b)(e)1. Notwithstanding paragraph (a), ~~an (b)~~, each  
178 eligible employee who elects to participate in the investment  
179 ~~Public Employee Optional Retirement~~ program and establishes one  
180 or more individual participant accounts ~~under the optional~~  
181 ~~program~~ may elect to transfer to the investment ~~optional~~ program  
182 a sum representing the present value of the employee's  
183 accumulated benefit obligation under the defined benefit  
184 ~~retirement program of the Florida Retirement System~~. Upon such  
185 transfer, all service credit ~~previously~~ earned under the defined  
186 benefit program is ~~of the Florida Retirement System shall be~~  
187 nullified for purposes of entitlement to a future benefit under  
188 the defined benefit program ~~of the Florida Retirement System~~. A  
189 participant may not transfer ~~is precluded from transferring~~ the  
190 accumulated benefit obligation balance from the defined benefit  
191 program after the time ~~upon the expiration of the period for~~  
192 enrolling ~~afforded to enroll~~ in the investment ~~optional~~ program.

193 1.2. For purposes of this subsection, the present value of  
194 the member's accumulated benefit obligation is based upon the  
195 member's estimated creditable service and estimated average final  
196 compensation under the defined benefit program, subject to  
197 recomputation under subparagraph 2. ~~3.~~ For state employees  
198 ~~enrolling under subparagraph (4)(a)1.~~, initial estimates shall  
199 ~~will~~ be based upon creditable service and average final  
200 compensation as of midnight on June 30, 2002; for district school  
201 board employees ~~enrolling under subparagraph (4)(b)1.~~, initial  
202 estimates shall ~~will~~ be based upon creditable service and average  
203 final compensation as of midnight on September 30, 2002; and for

11-00274-08

2008396\_\_

204 local government employees ~~enrolling under subparagraph (4)(c)1.~~,  
205 initial estimates shall ~~will~~ be based upon creditable service and  
206 average final compensation as of midnight on December 31, 2002.  
207 The dates ~~respectively~~ specified are ~~above~~ ~~shall be construed as~~  
208 the "estimate date" for these employees. The actuarial present  
209 value of the employee's accumulated benefit obligation shall be  
210 based on the following:

211 a. The discount rate and other relevant actuarial  
212 assumptions used to value the Florida Retirement System Trust  
213 Fund at the time the amount to be transferred is determined,  
214 consistent with the factors provided in sub-subparagraphs b. and  
215 c.

216 b. A benefit commencement age, based on the member's  
217 estimated creditable service as of the estimate date. The benefit  
218 commencement age is ~~shall be~~ the younger of the following, but  
219 may ~~shall~~ not be younger than the member's age as of the estimate  
220 date:

221 (I) Age 62; or

222 (II) The age the member would attain if the member  
223 completed 30 years of service with an employer, assuming the  
224 member worked continuously from the estimate date, and  
225 disregarding any vesting requirement that would otherwise apply  
226 under the defined benefit program ~~of the Florida Retirement~~  
227 ~~System.~~

228 c. For members of the Special Risk Class and for members of  
229 the Special Risk Administrative Support Class entitled to retain  
230 special risk normal retirement date, the benefit commencement age  
231 is ~~shall be~~ the younger of the following, but may ~~shall~~ not be  
232 younger than the member's age as of the estimate date:



11-00274-08

2008396\_\_

233 (I) Age 55; or

234 (II) The age the member would attain if the member  
235 completed 25 years of service with an employer, assuming the  
236 member worked continuously from the estimate date, and  
237 disregarding any vesting requirement that would otherwise apply  
238 under the defined benefit program ~~of the Florida Retirement~~  
239 ~~System.~~

240 d. The calculation must ~~shall~~ disregard vesting  
241 requirements and early retirement reduction factors that would  
242 otherwise apply under the defined benefit ~~retirement~~ program.

243 ~~2.3.~~ For each participant who elects to transfer moneys  
244 from the defined benefit program to his or her account in the  
245 investment optional ~~optional~~ program, the division shall recompute the  
246 amount transferred under subparagraph 1. ~~2.~~ not later than 60  
247 days after the actual transfer of funds based upon the  
248 participant's actual creditable service and actual final average  
249 compensation as of the initial date of participation in the  
250 investment optional ~~optional~~ program. If the recomputed amount differs  
251 from the amount transferred ~~under subparagraph 2.~~ by \$10 or more,  
252 the division shall:

253 a. Transfer, or cause to be transferred, from the Florida  
254 Retirement System Trust Fund to the participant's account ~~in the~~  
255 ~~optional program~~ the excess, if any, of the recomputed amount  
256 over the previously transferred amount together with interest  
257 from the initial date of transfer to the date of transfer under  
258 this subparagraph, based upon the effective annual interest equal  
259 to the assumed return on the actuarial investment which was used  
260 in the most recent actuarial valuation of the system, compounded  
261 annually.

11-00274-08

2008396\_\_

262           b. Transfer, or cause to be transferred, from the  
263 participant's account to the Florida Retirement System Trust Fund  
264 the excess, if any, of the previously transferred amount over the  
265 recomputed amount, together with interest from the initial date  
266 of transfer to the date of transfer under this subparagraph,  
267 based upon 6 percent effective annual interest, compounded  
268 annually, pro rata based on the participant's allocation plan.

269           3.4. As directed by the participant, the state board shall  
270 transfer or cause to be transferred the appropriate amounts to  
271 the designated accounts no. ~~The board shall establish transfer~~  
272 ~~procedures by rule, but the actual transfer shall not be later~~  
273 than 30 days after the effective date of the member's  
274 participation in the investment ~~optional~~ program unless the major  
275 financial markets for securities available for a transfer are  
276 seriously disrupted by an unforeseen event that ~~which also~~ causes  
277 the suspension of trading on any national securities exchange in  
278 the country where the securities are ~~were~~ issued. In that event,  
279 the ~~such~~ 30-day period ~~of time~~ may be extended by a resolution of  
280 the state board ~~trustees~~. The state board shall establish  
281 transfer procedures by rule. Transfers are not commissionable or  
282 subject to other fees and may be in the form of securities or  
283 cash as determined by the state board. Such securities are ~~shall~~  
284 ~~be~~ valued as of the date of receipt in the participant's account.

285           4.5. If the state board or the division receives  
286 notification from the United States Internal Revenue Service that  
287 this paragraph or any portion of this paragraph will cause the  
288 retirement system, or a portion thereof, to be disqualified for  
289 tax purposes under the Internal Revenue Code, then the portion  
290 that will cause the disqualification does not apply. Upon such

11-00274-08

2008396\_\_

291 notice, the state board and the division shall notify the  
292 presiding officers of the Legislature.

293 (4) OPTIONAL PARTICIPATION; ENROLLMENT.--

294 (a)~~1.~~ With respect to an eligible employee who is employed  
295 in a regularly established position by a state employer after on  
296 June 1, 2002; by a district school board employer after September  
297 1, 2002; or by a local employer after December 1, 2002, but prior  
298 to January 1, 2009, the, by a state employer:

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

318 b. ~~Any such employee who fails to elect to participate in~~  
319 ~~the Public Employee Optional Retirement Program within the~~

11-00274-08

2008396\_\_

320 ~~prescribed time period is deemed to have elected to retain~~  
321 ~~membership in the defined benefit program of the Florida~~  
322 ~~Retirement System, and the employee's option to elect to~~  
323 ~~participate in the optional program is forfeited.~~

324 ~~2. With respect to employees who become eligible to~~  
325 ~~participate in the Public Employee Optional Retirement Program by~~  
326 ~~reason of employment in a regularly established position with a~~  
327 ~~state employer commencing after April 1, 2002:~~

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

338 ~~1.b.~~ If the employee files such election within the  
339 prescribed time period, enrollment in the investment ~~optional~~  
340 program ~~is shall be~~ effective on the first day of employment. The  
341 employer retirement contributions paid through the month of the  
342 employee plan change shall be transferred to the investment  
343 ~~optional~~ program, and, effective the first day of the next month,  
344 the employer must ~~shall~~ pay the applicable contributions based on  
345 the employee membership class in the ~~optional~~ program.

346 ~~2.c.~~ An ~~Any such~~ employee who fails to elect to participate  
347 in the investment ~~Public Employee Optional Retirement~~ program  
348 within the prescribed time period is deemed to have elected to

11-00274-08

2008396\_\_

349 retain membership in the defined benefit program ~~of the Florida~~  
350 ~~Retirement System~~, and the employee's option to elect to  
351 participate in the investment optional program is forfeited.

352 3. With respect to employees who become eligible to  
353 participate in the Public Employee ~~Optional Retirement Investment~~  
354 Program pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), the  
355 ~~any such~~ employee may elect to participate in the investment  
356 ~~Public Employee Optional Retirement~~ program in lieu of retaining  
357 his or her participation in the State Community College Optional  
358 Retirement Program or the State University System Optional  
359 Retirement Program. The election must be made in writing or by  
360 electronic means and must be filed with the third-party  
361 administrator. This election is irrevocable, except as provided  
362 in paragraph (c) ~~(e)~~. Upon making such election, the employee  
363 shall be enrolled as a participant of the investment Public  
364 ~~Employee Optional Retirement~~ program, the employee's membership  
365 in the Florida Retirement System shall be governed by the  
366 provisions of this part, and the employee's participation in the  
367 State Community College Optional Retirement Program or the State  
368 University System Optional Retirement Program shall terminate.  
369 The employee's enrollment in the investment Public Employee  
370 ~~Optional Retirement~~ program shall be effective the first day of  
371 the month for which a full month's employer contribution is made  
372 to the investment optional program.

373 4. ~~For purposes of this paragraph, "state employer" means~~  
374 ~~any agency, board, branch, commission, community college,~~  
375 ~~department, institution, institution of higher education, or~~  
376 ~~water management district of the state, which participates in the~~  
377 ~~Florida Retirement System for the benefit of certain employees.~~

11-00274-08

2008396\_\_

378 ~~(b)1. With respect to an eligible employee who is employed~~  
379 ~~in a regularly established position on September 1, 2002, by a~~  
380 ~~district school board employer:~~

381 ~~a. Any such employee may elect to participate in the Public~~  
382 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
383 ~~her membership in the defined benefit program of the Florida~~  
384 ~~Retirement System. The election must be made in writing or by~~  
385 ~~electronic means and must be filed with the third-party~~  
386 ~~administrator by November 30, or, in the case of an active~~  
387 ~~employee who is on a leave of absence on July 1, 2002, by the~~  
388 ~~last business day of the 5th month following the month the leave~~  
389 ~~of absence concludes. This election is irrevocable, except as~~  
390 ~~provided in paragraph (c). Upon making such election, the~~  
391 ~~employee shall be enrolled as a participant of the Public~~  
392 ~~Employee Optional Retirement Program, the employee's membership~~  
393 ~~in the Florida Retirement System shall be governed by the~~  
394 ~~provisions of this part, and the employee's membership in the~~  
395 ~~defined benefit program of the Florida Retirement System shall~~  
396 ~~terminate. The employee's enrollment in the Public Employee~~  
397 ~~Optional Retirement Program shall be effective the first day of~~  
398 ~~the month for which a full month's employer contribution is made~~  
399 ~~to the optional program.~~

400 ~~b. Any such employee who fails to elect to participate in~~  
401 ~~the Public Employee Optional Retirement Program within the~~  
402 ~~prescribed time period is deemed to have elected to retain~~  
403 ~~membership in the defined benefit program of the Florida~~  
404 ~~Retirement System, and the employee's option to elect to~~  
405 ~~participate in the optional program is forfeited.~~

406 ~~2. With respect to employees who become eligible to~~

11-00274-08

2008396\_\_

407 ~~participate in the Public Employee Optional Retirement Program by~~  
408 ~~reason of employment in a regularly established position with a~~  
409 ~~district school board employer commencing after July 1, 2002:~~

410 ~~a. Any such employee shall, by default, be enrolled in the~~  
411 ~~defined benefit retirement program of the Florida Retirement~~  
412 ~~System at the commencement of employment, and may, by the last~~  
413 ~~business day of the 5th month following the employee's month of~~  
414 ~~hire, elect to participate in the Public Employee Optional~~  
415 ~~Retirement Program. The employee's election must be made in~~  
416 ~~writing or by electronic means and must be filed with the third-~~  
417 ~~party administrator. The election to participate in the optional~~  
418 ~~program is irrevocable, except as provided in paragraph (c).~~

419 ~~b. If the employee files such election within the~~  
420 ~~prescribed time period, enrollment in the optional program shall~~  
421 ~~be effective on the first day of employment. The employer~~  
422 ~~retirement contributions paid through the month of the employee~~  
423 ~~plan change shall be transferred to the optional program, and,~~  
424 ~~effective the first day of the next month, the employer shall pay~~  
425 ~~the applicable contributions based on the employee membership~~  
426 ~~class in the optional program.~~

427 ~~c. Any such employee who fails to elect to participate in~~  
428 ~~the Public Employee Optional Retirement Program within the~~  
429 ~~prescribed time period is deemed to have elected to retain~~  
430 ~~membership in the defined benefit program of the Florida~~  
431 ~~Retirement System, and the employee's option to elect to~~  
432 ~~participate in the optional program is forfeited.~~

433 ~~3. For purposes of this paragraph, "district school board~~  
434 ~~employer" means any district school board that participates in~~  
435 ~~the Florida Retirement System for the benefit of certain~~

11-00274-08

2008396\_\_

436 ~~employees, or a charter school or charter technical career center~~  
437 ~~that participates in the Florida Retirement System as provided in~~  
438 ~~s. 121.051(2)(d).~~

439 ~~(c)1. With respect to an eligible employee who is employed~~  
440 ~~in a regularly established position on December 1, 2002, by a~~  
441 ~~local employer:~~

442 ~~a. Any such employee may elect to participate in the Public~~  
443 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
444 ~~her membership in the defined benefit program of the Florida~~  
445 ~~Retirement System. The election must be made in writing or by~~  
446 ~~electronic means and must be filed with the third-party~~  
447 ~~administrator by February 28, 2003, or, in the case of an active~~  
448 ~~employee who is on a leave of absence on October 1, 2002, by the~~  
449 ~~last business day of the 5th month following the month the leave~~  
450 ~~of absence concludes. This election is irrevocable, except as~~  
451 ~~provided in paragraph (c). Upon making such election, the~~  
452 ~~employee shall be enrolled as a participant of the Public~~  
453 ~~Employee Optional Retirement Program, the employee's membership~~  
454 ~~in the Florida Retirement System shall be governed by the~~  
455 ~~provisions of this part, and the employee's membership in the~~  
456 ~~defined benefit program of the Florida Retirement System shall~~  
457 ~~terminate. The employee's enrollment in the Public Employee~~  
458 ~~Optional Retirement Program shall be effective the first day of~~  
459 ~~the month for which a full month's employer contribution is made~~  
460 ~~to the optional program.~~

461 ~~b. Any such employee who fails to elect to participate in~~  
462 ~~the Public Employee Optional Retirement Program within the~~  
463 ~~prescribed time period is deemed to have elected to retain~~  
464 ~~membership in the defined benefit program of the Florida~~



11-00274-08

2008396\_\_

465 ~~Retirement System, and the employee's option to elect to~~  
466 ~~participate in the optional program is forfeited.~~

467 ~~2. With respect to employees who become eligible to~~  
468 ~~participate in the Public Employee Optional Retirement Program by~~  
469 ~~reason of employment in a regularly established position with a~~  
470 ~~local employer commencing after October 1, 2002:~~

471 ~~a. Any such employee shall, by default, be enrolled in the~~  
472 ~~defined benefit retirement program of the Florida Retirement~~  
473 ~~System at the commencement of employment, and may, by the last~~  
474 ~~business day of the 5th month following the employee's month of~~  
475 ~~hire, elect to participate in the Public Employee Optional~~  
476 ~~Retirement Program. The employee's election must be made in~~  
477 ~~writing or by electronic means and must be filed with the third-~~  
478 ~~party administrator. The election to participate in the optional~~  
479 ~~program is irrevocable, except as provided in paragraph (c).~~

480 ~~b. If the employee files such election within the~~  
481 ~~prescribed time period, enrollment in the optional program shall~~  
482 ~~be effective on the first day of employment. The employer~~  
483 ~~retirement contributions paid through the month of the employee~~  
484 ~~plan change shall be transferred to the optional program, and,~~  
485 ~~effective the first day of the next month, the employer shall pay~~  
486 ~~the applicable contributions based on the employee membership~~  
487 ~~class in the optional program.~~

488 ~~e. Any such employee who fails to elect to participate in~~  
489 ~~the Public Employee Optional Retirement Program within the~~  
490 ~~prescribed time period is deemed to have elected to retain~~  
491 ~~membership in the defined benefit program of the Florida~~  
492 ~~Retirement System, and the employee's option to elect to~~  
493 ~~participate in the optional program is forfeited.~~

11-00274-08

2008396\_\_

494           ~~3. For purposes of this paragraph, "local employer" means~~  
495 ~~any employer not included in paragraph (a) or paragraph (b).~~

496           (b)~~(d)~~ Contributions available for self-direction by a  
497 participant who has not selected one or more specific investment  
498 products shall be allocated as prescribed by the state board. The  
499 third-party administrator shall notify the ~~any such~~ participant  
500 at least quarterly that the participant should take an  
501 affirmative action to make an asset allocation among the ~~optional~~  
502 program products.

503           (c)~~(e)~~ After the period during which an eligible employee  
504 had the choice to elect the defined benefit program or the  
505 investment ~~Public Employee Optional Retirement~~ program, or the  
506 month following the receipt of the eligible employee's plan  
507 election, if sooner, the employee shall have one opportunity, at  
508 the employee's discretion, to choose to move from the defined  
509 benefit program to the investment ~~Public Employee Optional~~  
510 ~~Retirement~~ program or from the investment ~~Public Employee~~  
511 ~~Optional Retirement~~ program to the defined benefit program.  
512 Eligible employees may elect to move between Florida Retirement  
513 System programs only if they are earning service credit in an  
514 employer-employee relationship consistent with the requirements  
515 under s. 121.021(17)(b), excluding leaves of absence without pay.  
516 Effective July 1, 2005, such elections are ~~shall be~~ effective on  
517 the first day of the month following the receipt of the election  
518 by the third-party administrator and are not subject to the  
519 requirements regarding an employer-employee relationship or  
520 receipt of contributions for the eligible employee in the  
521 effective month, except ~~that the employee must meet the~~  
522 ~~conditions of the previous sentence~~ when the election is received

11-00274-08

2008396\_\_

523 | by the third-party administrator. This paragraph is ~~shall be~~  
524 | contingent upon approval by ~~from~~ the Internal Revenue Service ~~for~~  
525 | ~~including the choice described herein within the programs offered~~  
526 | ~~by the Florida Retirement System.~~

527 |       1. If the employee chooses to move to the investment ~~Public~~  
528 | ~~Employee Optional Retirement~~ program, the applicable provisions  
529 | of subsection (3) ~~this section~~ shall govern the transfer.

530 |       2. If the employee chooses to move to the defined benefit  
531 | program, the employee must transfer from his or her investment  
532 | ~~Public Employee Optional Retirement~~ program account and from  
533 | other employee moneys as necessary, a sum representing the  
534 | present value of that employee's accumulated benefit obligation  
535 | immediately following the time of such movement, determined  
536 | assuming that attained service equals the sum of service in the  
537 | defined benefit program and service in the investment ~~Public~~  
538 | ~~Employee Optional Retirement~~ program. Benefit commencement occurs  
539 | on the first date the employee is ~~would become~~ eligible for  
540 | unreduced benefits, using the discount rate and other relevant  
541 | actuarial assumptions that were used to value the ~~Florida~~  
542 | ~~Retirement System~~ defined benefit program ~~plan~~ liabilities in the  
543 | most recent actuarial valuation. For any employee who, at the  
544 | time of the second election, already maintains an accrued benefit  
545 | amount in the defined benefit program ~~plan~~, the then-present  
546 | value of the ~~such~~ accrued benefit shall be deemed part of the  
547 | required transfer amount ~~described in this subparagraph~~. The  
548 | division shall ensure that the transfer sum is prepared using a  
549 | formula and methodology certified by an enrolled actuary.

550 |       3. Notwithstanding subparagraph 2., an employee who chooses  
551 | to move to the defined benefit program ~~and who became eligible to~~

11-00274-08

2008396\_\_

552 ~~participate in the Public Employee Optional Retirement Program by~~  
553 ~~reason of employment in a regularly established position with a~~  
554 ~~state employer after June 1, 2002; a district school board~~  
555 ~~employer after September 1, 2002; or a local employer after~~  
556 ~~December 1, 2002,~~ must transfer from his or her investment Public  
557 ~~Employee Optional Retirement~~ program account and, from other  
558 employee moneys as necessary, a sum representing that employee's  
559 actuarial accrued liability.

560 4. An employee's ~~Employees'~~ ability to transfer from the  
561 ~~Florida Retirement System~~ defined benefit program to the  
562 investment ~~Public Employee Optional Retirement~~ program pursuant  
563 to paragraphs (a) and (b) ~~through (d)~~, and the ability of a ~~for~~  
564 current employee ~~employees~~ to have an option to later transfer  
565 back into the defined benefit program under subparagraph 2.,  
566 shall be deemed a significant system amendment. Pursuant to s.  
567 121.031(4), any ~~such~~ resulting unfunded liability arising from  
568 actual original transfers from the defined benefit program to the  
569 investment ~~optional~~ program must ~~shall~~ be amortized within 30  
570 plan years as a separate unfunded actuarial base independent of  
571 the reserve stabilization mechanism defined in s. 121.031(3)(f).  
572 For the first 25 years, a ~~no~~ direct amortization payment may not  
573 ~~shall~~ be calculated for this base. During this 25-year period,  
574 the ~~such~~ separate base shall be used to offset the impact of  
575 employees exercising their second program election under this  
576 paragraph. It is the ~~legislative~~ intent of the Legislature that  
577 the actuarial funded status of the ~~Florida Retirement System~~  
578 defined benefit program ~~plan~~ is not ~~neither~~ beneficially or ~~nor~~  
579 adversely impacted by such second program elections in any  
580 significant manner, after due recognition of the separate

11-00274-08

2008396\_\_

581 unfunded actuarial base. Following this initial 25-year period,  
582 any remaining balance of the original separate base shall be  
583 amortized over the remaining 5 years of the required 30-year  
584 amortization period.

585 (5) COMPULSORY ENROLLMENT.--An eligible employee who is  
586 employed in a regularly established position on or after January  
587 1, 2009, shall be enrolled in the Public Employee Retirement  
588 Investment Program in accordance with this part.

589 (6)~~(5)~~ CONTRIBUTIONS.--

590 (a) Each employer shall contribute on behalf of each  
591 participant in the investment ~~Public Employee Optional Retirement~~  
592 program, as provided in part III of this chapter. The state  
593 board, acting as plan fiduciary, shall ensure that all plan  
594 assets are held in a trust, pursuant to s. 401 of the Internal  
595 Revenue Code. The fiduciary shall ensure that ~~said~~ contributions  
596 are allocated as follows:

597 1. The portion earmarked for participant accounts shall be  
598 used to purchase interests in the appropriate investment vehicles  
599 ~~for the accounts of each participant~~ as specified by the  
600 participant, or in accordance with paragraph (4) (b) ~~(4) (d)~~.

601 2. The portion earmarked for administrative and educational  
602 expenses shall be transferred to the state board.

603 3. The portion earmarked for disability benefits shall be  
604 transferred to the department.

605 (b) Employers are responsible for notifying participants  
606 regarding maximum contribution levels permitted under the  
607 Internal Revenue Code. If a participant contributes to any other  
608 tax-deferred plan, he or she is responsible for ensuring that  
609 total contributions made to the investment ~~optional~~ program and

11-00274-08

2008396\_\_

610 to any other ~~such~~ plan do not exceed federally permitted  
611 maximums.

612 (c) The investment ~~Public Employee Optional Retirement~~  
613 program may accept for deposit into participant accounts  
614 contributions in the form of rollovers or direct trustee-to-  
615 trustee transfers by or on behalf of participants, reasonably  
616 determined by the state board to be eligible for rollover or  
617 transfer to the investment ~~optional retirement~~ program pursuant  
618 to the Internal Revenue Code, if such contributions are made in  
619 accordance with rules ~~as may be~~ adopted by the state board. The  
620 ~~Such~~ contributions must ~~shall~~ be accounted for in accordance with  
621 ~~any~~ applicable Internal Revenue Code requirements and rules of  
622 the state board.

623 (7) ~~(6)~~ VESTING REQUIREMENTS.--

624 (a)1. With respect to employer contributions paid on behalf  
625 of the participant to the investment ~~Public Employee Optional~~  
626 ~~Retirement~~ program, plus interest and earnings thereon and less  
627 investment fees and administrative charges, a participant is  
628 ~~shall be~~ vested after completing 1 work year, ~~as defined in s.~~  
629 ~~121.021(54)~~, with an employer, including any service while the  
630 participant was a member of the defined benefit ~~retirement~~  
631 program or an optional retirement program authorized under s.  
632 121.051(2)(c) or s. 121.055(6).

633 2. If the participant terminates employment prior to  
634 satisfying the vesting requirements, the nonvested accumulation  
635 must ~~shall~~ be transferred from the participant's accounts to the  
636 state board for deposit and investment by the state board in the  
637 board's suspense account of the Public Employee ~~Optional~~  
638 Retirement Investment Program Trust Fund ~~of the board~~. If the

11-00274-08

2008396\_\_

639 terminated participant is reemployed as an eligible employee  
640 within 5 years, the state board shall transfer to the  
641 participant's account any amount of the moneys previously  
642 transferred from the participant's accounts to the suspense  
643 account ~~of the Public Employee Optional Retirement Program Trust~~  
644 ~~Fund~~, plus the actual earnings on such amount while in the  
645 suspense account.

646 (b)1. With respect to amounts transferred from the defined  
647 benefit program to the investment program, plus interest and  
648 earnings, and less investment fees and administrative charges, a  
649 participant shall be vested in the amount transferred ~~from the~~  
650 ~~defined benefit program, plus interest and earnings thereon and~~  
651 ~~less administrative charges and investment fees,~~ upon meeting the  
652 service requirements for the participant's membership class as  
653 set forth in s. 121.021(29). The third-party administrator shall  
654 account for such amounts for each participant. The division shall  
655 notify the participant and the third-party administrator when the  
656 participant has satisfied the vesting period for Florida  
657 Retirement System purposes.

658 2. If the participant terminates employment prior to  
659 satisfying the vesting requirements, the nonvested accumulation  
660 must ~~shall~~ be transferred from the participant's accounts to the  
661 state board for deposit and investment by the board in the  
662 board's suspense account of the Public Employee ~~Optional~~  
663 Retirement Investment Program Trust Fund ~~of the board~~. If the  
664 terminated participant is reemployed as an eligible employee  
665 within 5 years, the state board shall transfer to the  
666 participant's account any amount of the moneys previously  
667 transferred from the participant's accounts to the suspense

11-00274-08

2008396\_\_

668 account ~~of the Public Employee Optional Retirement Program Trust~~  
669 ~~Fund~~, plus the actual earnings on such amount while in the  
670 suspense account.

671 (c) Any nonvested accumulations transferred from a  
672 participant's account to the state board's suspense account shall  
673 be forfeited by the participant if the participant is not  
674 reemployed as an eligible employee within 5 years after  
675 termination.

676 (8) ~~(7)~~ BENEFITS.--Under the Public Employee ~~Optional~~  
677 Retirement Investment Program:

678 (a) Benefits shall be provided in accordance with s. 401(a)  
679 of the Internal Revenue Code.

680 (b) Benefits shall accrue in individual accounts that are  
681 participant-directed, portable, and funded by employer  
682 contributions and earnings thereon.

683 (c) Benefits shall be payable in accordance with ~~the~~  
684 ~~provisions of~~ s. 121.591.

685 (9) ~~(8)~~ ADMINISTRATION OF PROGRAM.--

686 ~~(a)~~ The Public Employee ~~Optional~~ Retirement Investment  
687 Program shall be administered by the state board and affected  
688 employers. The state board is authorized to require oaths, by  
689 affidavit or otherwise, and acknowledgments from persons in  
690 connection with the administration of its duties and  
691 responsibilities under this program ~~chapter~~. An ~~No~~ oath, by  
692 affidavit or otherwise, may not ~~shall~~ be required of an employee  
693 participant at the time of enrollment ~~election~~. ~~Acknowledgment of~~  
694 ~~an employee's election to participate in the program shall be no~~  
695 ~~greater than necessary to confirm the employee's election~~. The  
696 state board shall adopt rules establishing the roles ~~role~~ and



11-00274-08

2008396\_\_

697 responsibilities of affected state, local government, and  
698 education-related employers, the state board, the department, and  
699 third-party contractors in administering the investment ~~Public~~  
700 ~~Employee Optional Retirement~~ program. The department shall adopt  
701 rules necessary to administer ~~implement~~ the investment ~~optional~~  
702 program in coordination with the defined benefit ~~retirement~~  
703 program and the disability benefits available under the  
704 investment ~~optional~~ program.

705 (a)1. ~~(b)1.~~ The state board shall select and contract with a  
706 ~~one~~ third-party administrator to provide administrative services  
707 if those services cannot be competitively and contractually  
708 provided by the division ~~of Retirement within the Department of~~  
709 ~~Management Services~~. With the approval of the state board, the  
710 third-party administrator may subcontract ~~with other~~  
711 ~~organizations or individuals~~ to provide components of the  
712 administrative services. As a cost of administration, the board  
713 may compensate any such contractor for its services, in  
714 accordance with the terms of the contract, as is deemed necessary  
715 or proper by the board. The third-party administrator may not be  
716 an approved provider or be affiliated with an approved provider.

717 2. These administrative services may include, but are not  
718 limited to, enrollment of eligible employees, collection of  
719 employer contributions, disbursement of ~~such~~ contributions to  
720 approved providers in accordance with the allocation directions  
721 of participants; services relating to consolidated billing;  
722 individual and collective recordkeeping and accounting; asset  
723 purchase, control, and safekeeping; and direct disbursement of  
724 funds to and from the third-party administrator, the division,  
725 the state board, employers, participants, approved providers, and

11-00274-08

2008396\_\_

726 beneficiaries. This section does not prevent or prohibit a  
727 bundled provider from providing any administrative or customer  
728 service, including accounting and administration of individual  
729 participant benefits and contributions; individual participant  
730 recordkeeping; asset purchase, control, and safekeeping; direct  
731 execution of the participant's instructions as to asset and  
732 contribution allocation; calculation of daily net asset values;  
733 direct access to participant account information; or periodic  
734 reporting to participants, at least quarterly, on account  
735 balances and transactions, if these services are authorized by  
736 the state board as part of the contract.

737 (b)1.3. The state board shall select and contract with one  
738 or more organizations to provide educational services. With  
739 approval of the state board, the organizations may subcontract  
740 ~~with other organizations or individuals~~ to provide components of  
741 the educational services. As a cost of administration, the state  
742 board may compensate any such contractor for its services in  
743 accordance with the terms of the contract, as is deemed necessary  
744 or proper by the board. The education organization may not be an  
745 approved provider or be affiliated with an approved provider.

746 2.4. Educational services shall be designed by the state  
747 board and department to assist employers, eligible employees,  
748 participants, and beneficiaries in order to maintain compliance  
749 with United States Department of Labor regulations under s.  
750 404(c) of the Employee Retirement Income Security Act of 1974 and  
751 to assist employees in understanding their ~~choice of defined~~  
752 ~~benefit or defined contribution~~ retirement program alternatives.  
753 Educational services include, but are not limited to,  
754 disseminating educational materials; providing retirement

11-00274-08

2008396\_\_

755 | planning education; explaining the ~~differences between the~~  
756 | defined benefit ~~retirement plan~~ and the defined contribution  
757 | retirement programs ~~plan~~; and offering financial planning  
758 | guidance on matters such as investment diversification,  
759 | investment risks, investment costs, and asset allocation. An  
760 | approved provider may also provide educational information,  
761 | including retirement planning and investment allocation  
762 | information concerning its products and services.

763 | (c)1. In evaluating and selecting a third-party  
764 | administrator, the state board shall establish criteria under  
765 | which it shall consider the relative capabilities and  
766 | qualifications of each proposed administrator. In developing such  
767 | criteria, the board shall consider:

768 | a. The administrator's demonstrated experience in providing  
769 | administrative services to public or private sector retirement  
770 | systems.

771 | b. The administrator's demonstrated experience in providing  
772 | daily valued recordkeeping to defined contribution programs  
773 | ~~plans~~.

774 | c. The administrator's ability and willingness to  
775 | coordinate its activities with ~~the Florida Retirement System~~  
776 | employers, the state board, and the division, and to supply to  
777 | such employers, the board, and the division the information and  
778 | data they require, including, but not limited to, monthly  
779 | management reports, quarterly participant reports, and ad hoc  
780 | reports requested by the department or state board.

781 | d. The cost-effectiveness and levels of the administrative  
782 | services provided.

783 | e. The administrator's ability to interact with the

11-00274-08

2008396\_\_

784 participants, the employers, the state board, the division, and  
785 the providers; the means by which participants may access account  
786 information, direct investment of contributions, make changes to  
787 their accounts, transfer moneys between available investment  
788 vehicles, and transfer moneys between investment products; and  
789 any fees that apply to such activities.

790 f. Any other factor deemed necessary by the ~~Trustees of the~~  
791 state board ~~of Administration~~.

792 2. In evaluating and selecting an educational provider, the  
793 state board shall establish criteria under which it shall  
794 consider the relative capabilities and qualifications of each  
795 proposed educational provider. In developing such criteria, the  
796 board shall consider:

797 a. Demonstrated experience in providing educational  
798 services to public or private sector retirement systems.

799 b. Ability and willingness to coordinate its activities  
800 with the ~~Florida Retirement System~~ employers, the state board,  
801 and the division, and to supply to such employers, the board, and  
802 the division the information and data they require, including,  
803 but not limited to, reports on educational contacts.

804 c. The cost-effectiveness and levels of the educational  
805 services provided.

806 d. Ability to provide educational services via different  
807 media, including, but not limited to, the Internet, personal  
808 contact, seminars, brochures, and newsletters.

809 e. Any other factor deemed necessary by the ~~Trustees of the~~  
810 state board ~~of Administration~~.

811 3. The establishment of the criteria shall be solely within  
812 the discretion of the state board.

11-00274-08

2008396\_\_

813 (d) The state board shall develop the form and content of  
814 any contracts to be offered under the investment ~~Public Employee~~  
815 ~~Optional Retirement~~ program. In developing the ~~its~~ contracts, the  
816 board shall ~~must~~ consider:

817 1. The nature and extent of the rights and benefits to be  
818 afforded in relation to the ~~required~~ contributions required under  
819 the program.

820 2. The suitability of the rights and benefits provided ~~to~~  
821 ~~be afforded~~ and the interests of employers in the recruitment and  
822 retention of eligible employees.

823 (e)1. The state board may contract ~~with any consultant~~ for  
824 professional services, including legal, consulting, accounting,  
825 and actuarial services, deemed necessary to implement and  
826 administer the investment ~~optional~~ program ~~by the Trustees of the~~  
827 ~~state board of Administration~~. The board may enter into a  
828 contract with one or more vendors to provide low-cost investment  
829 advice to participants, supplemental to education provided by the  
830 third-party administrator. All fees under ~~any~~ such contract shall  
831 be paid by those participants who choose to use the services of  
832 the vendor.

833 2. The department may contract ~~with consultants~~ for  
834 professional services, including legal, consulting, accounting,  
835 and actuarial services, deemed necessary to implement and  
836 administer the investment ~~optional~~ program in coordination with  
837 the defined benefit program ~~of the Florida Retirement System~~. The  
838 department, in coordination with the state board, may enter into  
839 a contract with the third-party administrator in order to  
840 coordinate services common to the various programs within the  
841 Florida Retirement System.

11-00274-08

2008396\_\_

842 (f) The third-party administrator may ~~shall~~ not receive  
843 direct or indirect compensation from an approved provider, except  
844 as specifically provided for in the contract with the state  
845 board.

846 (g) The state board shall resolve any conflict between the  
847 third-party administrator and an approved provider when such  
848 conflict threatens the implementation or administration of the  
849 program or the quality of services to employees and may resolve  
850 any other conflicts.

851 (10) ~~(9)~~ INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE  
852 REVIEW.--

853 (a) The state board shall develop policy and procedures for  
854 selecting, evaluating, and monitoring the performance of approved  
855 providers and investment products ~~to which employees may direct~~  
856 ~~retirement contributions~~ under the investment program. In  
857 accordance with such policy and procedures, the state board shall  
858 designate and contract for a number of investment products as  
859 determined by the board. The board shall also select one or more  
860 bundled providers each of whom may offer multiple investment  
861 options and related services when such an approach is determined  
862 by the board to provide ~~afford~~ value to the participants  
863 otherwise not available through individual investment products.  
864 Each approved bundled provider may offer investment options that  
865 provide participants with the opportunity to invest in each of  
866 the following asset classes, to be composed of individual options  
867 that represent either a single asset class or a combination  
868 thereof: money markets, United States fixed income, United  
869 States equities, and foreign stock. The state board shall review  
870 and manage all educational materials, contract terms, fee

11-00274-08

2008396\_\_

871 | schedules, and other aspects of ~~the~~ approved provider  
872 | relationships to ensure that no provider is unduly favored or  
873 | penalized by virtue of its status within the investment program  
874 | plan.

875 |         (b) The state board shall consider investment options or  
876 | products it considers appropriate for providing ~~to give~~  
877 | participants the opportunity to accumulate retirement benefits,  
878 | subject to the following:

879 |             1. The investment ~~Public Employee Optional Retirement~~  
880 | program must offer a diversified mix of low-cost investment  
881 | products that span the risk-return spectrum and may include a  
882 | guaranteed account as well as investment products, such as  
883 | individually allocated guaranteed and variable annuities, which  
884 | meet the requirements of this subsection and combine the ability  
885 | to accumulate investment returns with the option of receiving  
886 | lifetime income consistent with the long-term retirement security  
887 | of a pension plan and similar to the lifetime-income benefit  
888 | provided by the Florida Retirement System.

889 |             2. Investment options or products offered by ~~the group of~~  
890 | approved providers may include mutual funds, group annuity  
891 | contracts, individual retirement annuities, interests in trusts,  
892 | collective trusts, separate accounts, and other such financial  
893 | instruments, and may include products that give participants the  
894 | option of committing their contributions for an extended time  
895 | period in an effort to obtain returns higher than those that  
896 | could be obtained from investment products offering full  
897 | liquidity.

898 |             3. The state board may ~~shall~~ not contract with a ~~any~~  
899 | provider that imposes a front-end, back-end, contingent, or

11-00274-08

2008396\_\_

900 deferred sales charge, or any other fee that limits or restricts  
901 the ability of participants to select any investment product  
902 available in the investment ~~optional~~ program. This prohibition  
903 does not apply to fees or charges that are imposed on withdrawals  
904 from products that give participants the option of committing  
905 ~~their~~ contributions for an extended time period in an effort to  
906 obtain returns higher than those that could be obtained from  
907 investment products offering full liquidity, provided that the  
908 product ~~in question~~, net of all fees and charges, produces  
909 material benefits relative to other comparable products in the  
910 program offering full liquidity.

911 4. Fees or charges for insurance features, such as  
912 mortality and expense-risk charges, must be reasonable relative  
913 to the benefits provided.

914 (c) In evaluating and selecting approved providers and  
915 products, the state board shall establish criteria under which it  
916 shall consider the relative capabilities and qualifications of  
917 each proposed provider company and product. In developing such  
918 criteria, the board shall consider the following to the extent  
919 such factors may be applied in connection with investment  
920 products, services, or providers:

921 1. Experience in the United States providing retirement  
922 products and related financial services under defined  
923 contribution retirement programs ~~plans~~.

924 2. Financial strength and stability as ~~which shall be~~  
925 evidenced by the highest ratings assigned by nationally  
926 recognized rating services when comparing proposed providers that  
927 are so rated.

928 3. Intrastate and interstate portability of the product



11-00274-08

2008396\_\_

929 | offered, including early withdrawal options.

930 |       4. Compliance with the Internal Revenue Code.

931 |       5. The cost-effectiveness of the product provided and the  
932 | levels of service supporting the product relative to its benefits  
933 | and its characteristics, including, ~~without limitation,~~ the level  
934 | of risk borne by the provider.

935 |       6. The provider company's ability and willingness to  
936 | coordinate its activities with Florida Retirement System  
937 | employers, the department, and the state board, and to supply to  
938 | the ~~such~~ employers, the department, and the board with the  
939 | information and data they require.

940 |       7. The methods available to participants to interact with  
941 | the provider company; the means by which participants may access  
942 | account information, direct investment of contributions, make  
943 | changes to their accounts, transfer moneys between available  
944 | investment vehicles, and transfer moneys between provider  
945 | companies; and any fees that apply to such activities.

946 |       8. The provider company's policies with respect to the  
947 | transfer of individual account balances, contributions, and  
948 | earnings thereon, both internally among investment products  
949 | offered by the provider company and externally between approved  
950 | providers, as well as any fees, charges, reductions, or penalties  
951 | that may be applied.

952 |       9. An evaluation of specific investment products, taking  
953 | into account each product's experience in meeting its investment  
954 | return objectives net of all related fees, expenses, and charges,  
955 | including, but not limited to, investment management fees, loads,  
956 | distribution and marketing fees, custody fees, recordkeeping  
957 | fees, education fees, annuity expenses, and consulting fees.

11-00274-08

2008396\_\_

958 10. Organizational factors, including, but not limited to,  
959 financial solvency, organizational depth, and experience in  
960 providing institutional and retail investment services.

961 (d) As a condition of offering an ~~any~~ investment option or  
962 product in the investment ~~optional retirement~~ program, the  
963 approved provider must agree to make the investment product or  
964 service available under the most beneficial terms offered to any  
965 other customer, subject to approval by the ~~Trustees of the state~~  
966 ~~board of Administration~~.

967 (e) The state board shall regularly review the performance  
968 of each approved provider and product and related organizational  
969 factors to ensure continued compliance with established selection  
970 criteria and with board policy and procedures. Providers and  
971 products may be terminated subject to contract provisions. The  
972 state board shall adopt procedures to transfer account balances  
973 from terminated products or providers to other products or  
974 providers in the investment ~~optional~~ program.

975 (f)1. An approved provider shall comply with all applicable  
976 federal and state securities and insurance laws and regulations  
977 ~~applicable to the provider~~, as well as with the applicable rules  
978 and guidelines of the National Association of Securities Dealers  
979 which govern the ethical marketing of investment products. In  
980 furtherance of this mandate, an approved provider must agree in  
981 its contract with the state board to establish and maintain a  
982 compliance education and monitoring system to supervise the  
983 activities of all personnel who directly communicate with  
984 individual participants and recommend investment products, which  
985 system is consistent with rules of the National Association of  
986 Securities Dealers.

11-00274-08

2008396\_\_

987 2. Approved provider personnel who directly communicate  
988 with individual participants and who recommend investment  
989 products shall make an independent and unbiased determination as  
990 to whether an investment product is suitable for a particular  
991 participant.

992 3. The state board shall develop procedures to receive and  
993 resolve participant complaints against a provider or approved  
994 provider personnel, and, when appropriate, refer such complaints  
995 to the appropriate agency.

996 4. Approved providers may not sell or in any way distribute  
997 any customer list or participant identification information  
998 generated through their offering of products or services through  
999 the investment ~~optional retirement~~ program.

1000 (11)~~(10)~~ EDUCATION COMPONENT.--

1001 ~~(a)~~ The board, in coordination with the department, shall  
1002 provide for an education component for eligible employees ~~system~~  
1003 ~~members~~ in a manner consistent with the provisions of this  
1004 section. ~~The education component must be available to eligible~~  
1005 ~~employees at least 90 days prior to the beginning date of the~~  
1006 ~~election period for the employees of the respective types of~~  
1007 ~~employers.~~

1008 ~~(b)~~ ~~The education component must provide system members~~  
1009 ~~with impartial and balanced information about plan choices. The~~  
1010 ~~education component must involve multimedia formats. Program~~  
1011 ~~comparisons must, to the greatest extent possible, be based upon~~  
1012 ~~the retirement income that different retirement programs may~~  
1013 ~~provide to the participant. The board shall monitor the~~  
1014 ~~performance of the contract to ensure that the program is~~  
1015 ~~conducted in accordance with the contract, applicable law, and~~

11-00274-08

2008396\_\_

1016 ~~the rules of the board.~~

1017 ~~(c) The board, in coordination with the department, shall~~  
1018 ~~provide for an initial and ongoing transfer education component~~  
1019 ~~to provide system members with information necessary to make~~  
1020 ~~informed plan choice decisions. The transfer education component~~  
1021 ~~must include, but is not limited to, information on:~~

1022 ~~1. The amount of money available to a member to transfer to~~  
1023 ~~the defined contribution program.~~

1024 ~~2. The features of and differences between the defined~~  
1025 ~~benefit program and the defined contribution program, both~~  
1026 ~~generally and specifically, as those differences may affect the~~  
1027 ~~member.~~

1028 ~~3. The expected benefit available if the member were to~~  
1029 ~~retire under each of the retirement programs, based on~~  
1030 ~~appropriate alternative sets of assumptions.~~

1031 ~~4. The rate of return from investments in the defined~~  
1032 ~~contribution program and the period of time over which such rate~~  
1033 ~~of return must be achieved to equal or exceed the expected~~  
1034 ~~monthly benefit payable to the member under the defined benefit~~  
1035 ~~program.~~

1036 ~~5. The historical rates of return for the investment~~  
1037 ~~alternatives available in the defined contribution programs.~~

1038 ~~6. The benefits and historical rates of return on~~  
1039 ~~investments available in a typical deferred compensation plan or~~  
1040 ~~a typical plan under s. 403(b) of the Internal Revenue Code for~~  
1041 ~~which the employee may be eligible.~~

1042 ~~7. The program choices available to employees of the State~~  
1043 ~~University System and the comparative benefits of each available~~  
1044 ~~program, if applicable.~~

11-00274-08

2008396\_\_

1045 ~~8. Payout options available in each of the retirement~~  
1046 ~~programs.~~

1047 (a) ~~(d)~~ An ongoing education and communication component  
1048 must provide eligible employees ~~system members~~ with information  
1049 necessary to make informed decisions about choices within their  
1050 retirement program ~~of membership~~ and in preparation for  
1051 retirement. The component must include, but is not limited to,  
1052 information concerning:

1053 1. Rights and conditions of membership.

1054 2. Benefit features within the program, options, and  
1055 effects of certain decisions.

1056 3. Coordination of contributions and benefits with a  
1057 deferred compensation plan under s. 457 or a plan under s. 403(b)  
1058 of the Internal Revenue Code.

1059 4. Significant program changes.

1060 5. Contribution rates and program funding status.

1061 6. Planning for retirement.

1062 (b) ~~(e)~~ Descriptive materials must be prepared under the  
1063 assumption that the employee is an unsophisticated investor, and  
1064 all materials used in the education component must be approved by  
1065 the state board prior to dissemination.

1066 (c) ~~(f)~~ The state board and the department shall also  
1067 establish a communication component to provide program  
1068 information to participating employers and the employers'  
1069 personnel and payroll officers and to explain their respective  
1070 responsibilities in conjunction with the retirement programs.

1071 (d) ~~(g)~~ Funding for education of new employees may reflect  
1072 administrative costs to the investment ~~optional~~ program and the  
1073 defined benefit program.

11-00274-08

2008396\_\_

1074           ~~(h) Pursuant to paragraph (8) (a), all Florida Retirement~~  
1075 ~~System employers have an obligation to regularly communicate the~~  
1076 ~~existence of the two Florida Retirement System plans and the plan~~  
1077 ~~choice in the natural course of administering their personnel~~  
1078 ~~functions, using the educational materials supplied by the state~~  
1079 ~~board and the Department of Management Services.~~

1080           (12)~~(11)~~ PARTICIPANT INFORMATION REQUIREMENTS.--The state  
1081 board shall ensure that each participant is provided a quarterly  
1082 statement that accounts for ~~the~~ contributions made on behalf of  
1083 the ~~such~~ participant; the interest and investment earnings  
1084 thereon; and any fees, penalties, or other deductions that apply  
1085 ~~thereto~~. At a minimum, such statements must:

1086           (a) Indicate the participant's investment options.

1087           (b) State the market value of the account at the close of  
1088 the current quarter and previous quarter.

1089           (c) Show account gains and losses ~~for the period~~ and  
1090 changes in account accumulation unit values for the quarter  
1091 period.

1092           (d) Itemize account contributions for the quarter.

1093           (e) Indicate any account changes due to adjustment of  
1094 contribution levels, reallocation of contributions, balance  
1095 transfers, or withdrawals.

1096           (f) Set forth any fees, charges, penalties, and deductions  
1097 that apply to the account.

1098           (g) Indicate the amount of the account in which the  
1099 participant is fully vested and the amount of the account in  
1100 which the participant is not vested.

1101           (h) Indicate each investment product's performance relative  
1102 to an appropriate market benchmark.

11-00274-08

2008396\_\_

1103  
1104 The third-party administrator shall provide quarterly and annual  
1105 summary reports to the state board and any other reports  
1106 requested by the department or the board. In any solicitation or  
1107 offer of coverage under the defined contribution ~~an optional~~  
1108 ~~retirement~~ program, a provider company shall be governed by the  
1109 contract readability provisions of s. 627.4145, notwithstanding  
1110 s. 627.4145(6)(c). In addition, all descriptive materials must be  
1111 prepared under the assumption that the participant is an  
1112 unsophisticated investor. Provider companies must maintain an  
1113 internal system of quality assurance, have proven functional  
1114 systems that are date-calculation compliant, and be subject to a  
1115 due-diligence inquiry that proves their capacity and fitness to  
1116 undertake service responsibilities.

1117 (13)~~(12)~~ ADVISORY COUNCIL TO PROVIDE ADVICE AND  
1118 ASSISTANCE.--The Investment Advisory Council, created pursuant to  
1119 s. 215.444, shall assist the state board in implementing and  
1120 administering the Public Employee ~~Optional~~ Retirement Investment  
1121 Program. The ~~Investment Advisory~~ council, ~~created pursuant to s.~~  
1122 ~~215.444~~, shall review the state board's initial recommendations  
1123 regarding the criteria to be used in selecting and evaluating  
1124 approved providers and investment products. The council may  
1125 provide comments on the recommendations to the board within 45  
1126 days after receiving the initial recommendations. The state board  
1127 shall make the final determination as to whether any investment  
1128 provider or product, any contractor, or any and all contract  
1129 provisions are ~~shall be~~ approved for the investment program.

1130 (14)~~(13)~~ FEDERAL REQUIREMENTS.--

1131 (a) ~~Provisions of~~ This section shall be construed, and the

11-00274-08

2008396\_\_

1132 investment ~~Public Employee Optional Retirement~~ program shall be  
1133 administered, so as to comply with the Internal Revenue Code, 26  
1134 U.S.C., and specifically with plan qualification requirements  
1135 imposed on governmental plans under s. 401(a) of the Internal  
1136 Revenue Code. The state board ~~may shall have the power and~~  
1137 ~~authority to~~ adopt rules reasonably necessary to establish or  
1138 maintain the qualified status of the investment ~~Optional~~  
1139 ~~Retirement~~ program under the Internal Revenue Code and to  
1140 implement and administer the ~~Optional Retirement~~ program in  
1141 compliance with the Internal Revenue Code and as designed under  
1142 ~~this part; provided however, that the board shall not have the~~  
1143 ~~authority to adopt any rule which makes a substantive change to~~  
1144 ~~the Optional Retirement Program as designed by this part.~~

1145 (b) Any section or provision of this chapter which is  
1146 susceptible to more than one construction shall ~~must~~ be  
1147 interpreted in favor of the construction most likely to satisfy  
1148 requirements imposed by s. 401(a) of the Internal Revenue Code.

1149 (c) Contributions payable under this section for any  
1150 limitation year may not exceed the maximum amount allowable for  
1151 qualified defined contribution pension plans under applicable  
1152 provisions of the Internal Revenue Code. If an employee enrolled  
1153 ~~who has elected to participate~~ in the Public Employee ~~Optional~~  
1154 Retirement Investment Program participates in any other plan that  
1155 is maintained by the participating employer, benefits that accrue  
1156 under the investment ~~Public Employee Optional Retirement~~ program  
1157 shall be considered primary for any aggregate limitation  
1158 applicable under s. 415 of the Internal Revenue Code.

1159 (15) ~~(14)~~ INVESTMENT POLICY STATEMENT.--

1160 (a) Investment products and approved providers selected for



11-00274-08

2008396\_\_

1161 the investment ~~Public Employee Optional Retirement~~ program must  
1162 ~~shall~~ conform with the Public Employee ~~Optional~~ Retirement  
1163 Investment Program Investment Policy Statement, herein referred  
1164 to as the "statement," as developed and approved by the ~~Trustees~~  
1165 ~~of the~~ state board of ~~Administration~~. The statement must include,  
1166 among other items, the investment objectives of the investment  
1167 ~~Public Employee Optional Retirement~~ program, manager selection  
1168 and monitoring guidelines, and performance measurement criteria.  
1169 As required from time to time, the executive director of the  
1170 state board may present recommended changes in the statement to  
1171 the board for approval.

1172 (b) Prior to presenting the statement, or any recommended  
1173 changes ~~thereto~~, to the state board, the executive director of  
1174 the board shall present such statement or changes to the  
1175 Investment Advisory Council for review. The council shall present  
1176 the results of its review to the board prior to the board's final  
1177 approval of the statement or changes in the statement.

1178 ~~(16)-(15)~~ STATEMENT OF FIDUCIARY STANDARDS AND  
1179 RESPONSIBILITIES.--

1180 (a) Investment of ~~optional~~ defined contribution program  
1181 ~~retirement plan~~ assets shall be made for the sole interest and  
1182 exclusive purpose of providing benefits to ~~plan~~ participants and  
1183 beneficiaries and defraying reasonable expenses of administering  
1184 the program ~~plan~~. The program's assets are to be invested, on  
1185 behalf of the program participants, with the care, skill, and  
1186 diligence that a prudent person acting in a like manner would  
1187 undertake. The performance of the investment duties set forth in  
1188 this paragraph shall comply with the fiduciary standards set  
1189 forth in the Employee Retirement Income Security Act of 1974 at

11-00274-08

2008396\_\_

1190 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of conflict with other  
1191 provisions of law authorizing investments, the investment and  
1192 fiduciary standards set forth in this subsection shall prevail.

1193 (b) If a participant or beneficiary of the defined  
1194 contribution ~~Public Employee Optional Retirement~~ program  
1195 exercises control over the assets in his or her account, as  
1196 determined by reference to regulations of the United States  
1197 Department of Labor under s. 404(c) of the Employee Retirement  
1198 Income Security Act of 1974 and all applicable laws governing the  
1199 operation of the program, a ~~ne~~ program fiduciary is not ~~shall be~~  
1200 liable for any loss to a participant's or beneficiary's account  
1201 which results from the ~~such~~ participant's or beneficiary's  
1202 exercise of control.

1203 (c) Subparagraph (9)(b)2. ~~(8)(b)4.~~ and paragraph (16)(b)  
1204 ~~(15)(b)~~ incorporate the federal law concept of participant  
1205 control, established by regulations of the United States  
1206 Department of Labor under s. 404(c) of the Employee Retirement  
1207 Income Security Act of 1974 (ERISA). The purpose of this  
1208 paragraph is to assist employers and the state board ~~of~~  
1209 ~~Administration~~ in maintaining compliance with s. 404(c), while  
1210 avoiding unnecessary costs and eroding participant benefits under  
1211 the defined contribution ~~Public Employee Optional Retirement~~  
1212 program. Pursuant to 29 C.F.R. s. 2550.404c-  
1213 1(b)(2)(i)(B)(1)(viii), the state board ~~of Administration~~ or its  
1214 designated agents shall deliver to participants of the Public  
1215 Employee Optional Retirement Program a copy of the prospectus  
1216 most recently provided to the plan, and, pursuant to 29 C.F.R. s.  
1217 2550.404c-1(b)(2)(i)(B)(2)(ii), shall provide such participants  
1218 an opportunity to obtain this information, except that:

11-00274-08

2008396\_\_

1219 1. The requirement to deliver a prospectus is ~~shall be~~  
1220 deemed to be satisfied by delivery of a fund profile that  
1221 contains the information that would be included in a summary  
1222 prospectus as described by Rule 498 under the Securities Act of  
1223 1933, 17 C.F.R. s. 230.498. When the transaction fees, expense  
1224 information or other information provided by a mutual fund in the  
1225 prospectus does not reflect terms negotiated by the state board  
1226 ~~of Administration~~ or its designated agents, the  ~~aforementioned~~  
1227 retirement is deemed to be satisfied by delivery of a separate  
1228 document described by Rule 498 substituting accurate information;  
1229 and

1230 2. Delivery is ~~shall be~~ deemed to have been effected if  
1231 delivery is through electronic means and the following standards  
1232 are satisfied:

1233 a. Electronically-delivered documents are prepared and  
1234 provided consistent with style, format, and content requirements  
1235 applicable to printed documents;

1236 b. Each participant is provided timely and adequate notice  
1237 of the documents that are to be delivered and their significance  
1238 ~~thereof~~, and of the participant's right to obtain a paper copy of  
1239 such documents free of charge;

1240 c. ~~(I)~~ Participants have adequate access to the electronic  
1241 documents, at locations such as their worksites or public  
1242 facilities, and have the ability to convert the documents to  
1243 paper free of charge by the state board ~~of Administration~~, and  
1244 the board or its designated agents take appropriate and  
1245 reasonable measures to ensure that the system for furnishing  
1246 electronic documents results in actual receipt. ~~7~~ ~~or~~

1247 ~~(II)~~ Participants must provide ~~have provided~~ consent to

11-00274-08

2008396\_\_

1248 receive information in electronic format, which consent may be  
1249 revoked; and

1250 d. The state board ~~of Administration~~, or its designated  
1251 agent, actually provides paper copies of the documents free of  
1252 charge, upon request.

1253 (17)~~(16)~~ DISABILITY BENEFITS.--For any participant of the  
1254 investment optional retirement program who becomes totally and  
1255 permanently disabled, benefits must ~~shall~~ be paid in accordance  
1256 with the provisions of s. 121.591.

1257 (18)~~(17)~~ SOCIAL SECURITY COVERAGE.--Social security  
1258 coverage shall be provided for all officers and employees who  
1259 become participants of the investment optional program. Any  
1260 modification of the present agreement with the Social Security  
1261 Administration, or referendum required under the Social Security  
1262 Act, for the purpose of providing social security coverage for  
1263 any member shall be requested by the state agency in compliance  
1264 with the applicable provisions of the Social Security Act  
1265 governing such coverage. However, retroactive social security  
1266 coverage for service prior to December 1, 1970, with the employer  
1267 shall not be provided for any member who was not covered under  
1268 the agreement as of November 30, 1970.

1269 (19)~~(18)~~ RETIREE HEALTH INSURANCE SUBSIDY.--All officers  
1270 and employees who are participants of the investment optional  
1271 program are ~~shall be~~ eligible to receive the retiree health  
1272 insurance subsidy, subject to the provisions of s. 112.363.

1273 (20)~~(19)~~ PARTICIPANT RECORDS.--Personal identifying  
1274 information of a participant in the investment Public Employee  
1275 Optional Retirement program contained in Florida Retirement  
1276 System records held by the state board ~~of Administration~~ or the

11-00274-08

2008396\_\_

1277 department ~~of Management Services~~ is exempt from s. 119.07(1) and  
1278 s. 24(a), Art. I of the State Constitution.

1279 (21)~~(20)~~ DESIGNATION OF BENEFICIARIES.--

1280 (a) Each participant may, on a form provided for that  
1281 purpose, signed and filed with the third-party administrator,  
1282 designate a choice of one or more persons, named sequentially or  
1283 jointly, as his or her beneficiary for receiving ~~who shall~~  
1284 ~~receive~~ the benefits, if any, which may be payable pursuant to  
1285 this chapter in the event of the participant's death. If no  
1286 beneficiary is named in this manner, or if no beneficiary  
1287 designated by the participant survives the participant, the  
1288 beneficiary shall be the spouse of the deceased, if living. If  
1289 the participant's spouse is not alive at the time of the  
1290 beneficiary's ~~his or her~~ death, the beneficiary shall be the  
1291 living children of the participant. If no children survive, the  
1292 beneficiary shall be the participant's father or mother, if  
1293 living; otherwise, the beneficiary shall be the participant's  
1294 estate. The beneficiary most recently designated by a participant  
1295 ~~on a form or letter filed with the third-party administrator~~  
1296 shall be the beneficiary entitled to any benefits payable at the  
1297 time of the participant's death. However ~~Notwithstanding any~~  
1298 ~~other provision in this subsection to the contrary~~, for a  
1299 participant who dies prior to his or her effective date of  
1300 retirement, the spouse at the time of death shall be the  
1301 participant's beneficiary unless the ~~such~~ participant designates  
1302 a different beneficiary ~~as provided in this subsection~~ subsequent  
1303 to the participant's most recent marriage.

1304 (b) If a participant designates a primary beneficiary other  
1305 than the participant's spouse, the participant's spouse must also

11-00274-08

2008396\_\_

1306 sign the beneficiary designation form to acknowledge the  
1307 designation. This requirement does not apply to the designation  
1308 of one or more contingent beneficiaries to receive benefits  
1309 remaining upon the death of the primary beneficiary or  
1310 beneficiaries.

1311 (c) Notwithstanding the participant's designation of  
1312 benefits to be paid through a trust to a beneficiary that is a  
1313 natural person, ~~and notwithstanding~~ the provisions of the trust,  
1314 benefits must ~~shall~~ be paid directly to the beneficiary if the  
1315 person is no longer a minor or an incapacitated person as defined  
1316 in s. 744.102.

1317 ~~(22)-(21)~~ PARTICIPATION BY TERMINATED DEFERRED RETIREMENT  
1318 OPTION PROGRAM PARTICIPANTS.--Notwithstanding any other provision  
1319 of law ~~to the contrary~~, participants in the Deferred Retirement  
1320 Option Program offered under part I may, after conclusion of  
1321 their participation in the program, elect to roll over or  
1322 authorize a direct trustee-to-trustee transfer to an account  
1323 under the Public Employee ~~Optional~~ Retirement Investment Program  
1324 of their Deferred Retirement Option Program proceeds distributed  
1325 as provided under s. 121.091(13)(c)5. The transaction must  
1326 constitute an "eligible rollover distribution" within the meaning  
1327 of s. 402(c)(4) of the Internal Revenue Code.

1328 (a) The investment ~~Public Employee Optional Retirement~~  
1329 program may accept such amounts for deposit into participant  
1330 accounts as provided in paragraph (6)(c) ~~(5)(e)~~.

1331 (b) The affected participant shall direct the investment of  
1332 his or her investment account; however, unless he or she becomes  
1333 a renewed member of the Florida Retirement System under s.  
1334 121.122 and elects to participate in the investment ~~Public~~

11-00274-08

2008396\_\_

1335 ~~Employee Optional Retirement~~ program, employer contributions may  
1336 not be made to the participant's account as provided under  
1337 paragraph (6) (a) ~~(5) (a)~~.

1338 (c) The state board or the department is not responsible  
1339 for locating those persons who may be eligible to participate in  
1340 the investment ~~Public Employee Optional Retirement~~ program under  
1341 this subsection.

1342 (23) ~~(22)~~ CREDIT FOR MILITARY SERVICE.--Creditable service  
1343 of any member of the Public Employee ~~Optional Retirement~~  
1344 Investment Program includes ~~shall include~~ military service in the  
1345 Armed Forces of the United States as provided in ~~the conditions~~  
1346 ~~outlined in~~ s. 121.111(1).

1347 Section 2. Section 121.4502, Florida Statutes, is amended  
1348 to read:

1349 121.4502 Public Employee ~~Optional Retirement~~ Investment  
1350 Program Trust Fund.--

1351 (1) The Public Employee ~~Optional Retirement~~ Investment  
1352 Program Trust Fund is created to hold the assets of the Public  
1353 Employee ~~Optional Retirement~~ Investment Program in trust for the  
1354 exclusive benefit of the ~~such~~ program's participants and  
1355 beneficiaries, and for the payment of reasonable administrative  
1356 expenses of the program, in accordance with s. 401 of the  
1357 Internal Revenue Code, and shall be administered by the State  
1358 Board of Administration as trustee. Funds shall be credited to  
1359 the trust fund as provided in this part, to be used for the  
1360 purposes of this part. The trust fund is exempt from the service  
1361 charges imposed by s. 215.20.

1362 (2) The Public Employee ~~Optional Retirement~~ Investment  
1363 Program Trust Fund is a retirement trust fund of the Florida

11-00274-08

2008396\_\_

1364 Retirement System that accounts for retirement plan assets held  
1365 by the state in a trustee capacity as a fiduciary for individual  
1366 participants in the Public Employee ~~Optional~~ Retirement  
1367 Investment Program and, pursuant to s. 19(f), Art. III of the  
1368 State Constitution, is not subject to termination.

1369 Section 3. Paragraphs (g) of subsection (2) of section  
1370 110.123, Florida Statutes, is amended to read:

1371 110.123 State group insurance program.--

1372 (2) DEFINITIONS.--As used in this section, the term:

1373 (g) "Retired state officer or employee" or "retiree" means  
1374 any state or state university officer or employee who retires  
1375 under a state retirement system or a state optional annuity or  
1376 retirement program or is placed on disability retirement, and who  
1377 was insured under the state group insurance program at the time  
1378 of retirement, and who begins receiving retirement benefits  
1379 immediately after retirement from state or state university  
1380 office or employment. In addition to these requirements, the term  
1381 includes any state officer or state employee who retires under  
1382 the defined contribution ~~Public Employee Optional Retirement~~  
1383 program established under part II of chapter 121 ~~shall be~~  
1384 ~~considered a "retired state officer or employee" or "retiree" as~~  
1385 ~~used in this section~~ if he or she:

1386 1. Meets the age and service requirements to qualify for  
1387 normal retirement as set forth in s. 121.021(29); or

1388 2. Has attained the age specified by s. 72(t)(2)(A)(i) of  
1389 the Internal Revenue Code and has 6 years of creditable service.

1390 Section 4. Section 112.0801, Florida Statutes, is amended  
1391 to read:

1392 112.0801 Group insurance; participation by retired



11-00274-08

2008396\_\_

1393 employees.--

1394       ~~(1)~~ Any state agency, county, municipality, special  
1395 district, community college, or district school board that ~~which~~  
1396 provides life, health, accident, hospitalization, or annuity  
1397 insurance, or all of any kinds of such insurance, for its  
1398 officers and employees and their dependents upon a group  
1399 insurance plan or self-insurance plan shall allow all former  
1400 personnel who have retired prior to October 1, 1987, as well as  
1401 those who retire on or after such date, and their eligible  
1402 dependents, the option of continuing to participate in the ~~such~~  
1403 group insurance plan or self-insurance plan. Retirees and their  
1404 eligible dependents shall be offered the same health and  
1405 hospitalization insurance coverage as is offered to active  
1406 employees at a premium cost of no more than the premium cost  
1407 applicable to active employees. For ~~the~~ retired employees and  
1408 their eligible dependents, the cost of ~~any such~~ continued  
1409 participation ~~in any type of plan or any of the cost thereof~~ may  
1410 be paid by the employer or by the retired employees. To determine  
1411 health and hospitalization plan costs, the employer shall  
1412 commingle the claims experience of the retiree group with the  
1413 claims experience of the active employees; and, for other types  
1414 of coverage, the employer may commingle the claims experience of  
1415 the retiree group with the claims experience of active employees.  
1416 Retirees covered under Medicare may be experience-rated  
1417 separately from the retirees not covered by Medicare and from  
1418 active employees if, ~~provided that~~ the total premium does not  
1419 exceed that of the active group and coverage is basically the  
1420 same as for the active group.

1421       ~~(2)~~ For purposes of this section, "retiree" has the same

11-00274-08

2008396\_\_

1422 ~~meaning as in s. 110.123(2). means any officer or employee who~~  
1423 ~~retires under a state retirement system or a state optional~~  
1424 ~~annuity or retirement program or is placed on disability~~  
1425 ~~retirement and who begins receiving retirement benefits~~  
1426 ~~immediately after retirement from employment. In addition to~~  
1427 ~~these requirements, any officer or employee who retires under the~~  
1428 ~~Public Employee Optional Retirement Program established under~~  
1429 ~~part II of chapter 121 shall be considered a "retired officer or~~  
1430 ~~employee" or "retiree" as used in this section if he or she:~~

1431 ~~(a) Meets the age and service requirements to qualify for~~  
1432 ~~normal retirement as set forth in s. 121.021(29); or~~

1433 ~~(b) Has attained the age specified by s. 72(t)(2)(A)(i) of~~  
1434 ~~the Internal Revenue Code and has 6 years of creditable service.~~

1435 Section 5. Paragraph (b) of subsection (2) and paragraph  
1436 (e) of subsection (3) of section 112.363, Florida Statutes, are  
1437 amended to read:

1438 112.363 Retiree health insurance subsidy.--

1439 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.--

1440 (b) For purposes of this section, a person is deemed  
1441 retired from a state-administered retirement system when he or  
1442 she terminates employment with all employers participating in the  
1443 Florida Retirement System as described in s. 121.021(39) and:

1444 1. For a participant of the defined contribution ~~Public~~  
1445 ~~Employee Optional Retirement~~ program established under part II of  
1446 chapter 121, the participant meets the age or service  
1447 requirements to qualify for normal retirement as set forth in s.  
1448 121.021(29).

1449 2. For a member of the ~~Florida Retirement System~~ defined  
1450 benefit program, or any employee who maintains creditable service

11-00274-08

2008396\_\_

1451 | under ~~both~~ the defined benefit program and the defined  
1452 | contribution Public Employee Optional Retirement program, the  
1453 | member begins drawing retirement benefits from the defined  
1454 | benefit program ~~of the Florida Retirement System~~.

1455 | (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.--

1456 | (e)1. Beginning July 1, 2001, each eligible retiree of the  
1457 | defined benefit program of the Florida Retirement System, or, if  
1458 | the retiree is deceased, his or her beneficiary who is receiving  
1459 | a monthly benefit from such retiree's account and who is a  
1460 | spouse, or a person who meets the definition of joint annuitant  
1461 | in s. 121.021(28), shall receive a monthly retiree health  
1462 | insurance subsidy payment equal to the number of years of  
1463 | creditable service, as defined in s. 121.021(17), completed at  
1464 | the time of retirement multiplied by \$5; however, no eligible  
1465 | retiree or beneficiary may receive a subsidy payment of more than  
1466 | \$150 or less than \$30. If there are multiple beneficiaries, the  
1467 | total payment may ~~must~~ not be greater than the payment to which  
1468 | the retiree was entitled. The health insurance subsidy amount  
1469 | payable to any person receiving the retiree health insurance  
1470 | subsidy payment on July 1, 2001, may ~~shall~~ not be reduced solely  
1471 | by operation of this subparagraph.

1472 | 2. Beginning July 1, 2002, each eligible participant of the  
1473 | defined contribution Public Employee Optional Retirement program  
1474 | of the Florida Retirement System who has met the requirements of  
1475 | this section, or, if the participant is deceased, his or her  
1476 | spouse who is the participant's designated beneficiary, shall  
1477 | receive a monthly retiree health insurance subsidy payment equal  
1478 | to the number of years of creditable service, as provided in this  
1479 | subparagraph, completed at the time of retirement, multiplied by

11-00274-08

2008396\_\_

1480 \$5; however, no eligible retiree or beneficiary may receive a  
1481 subsidy payment of more than \$150 or less than \$30. For purposes  
1482 of determining a participant's creditable service used to  
1483 calculate the health insurance subsidy, a participant's years of  
1484 service credit or fraction thereof shall be based on the  
1485 participant's work year as defined in s. 121.021(54). Credit  
1486 must ~~shall~~ be awarded for a full work year whenever health  
1487 insurance subsidy contributions have been made ~~as required by law~~  
1488 for each month in the participant's work year. In addition, all  
1489 years of creditable service retained under the Florida Retirement  
1490 System defined benefit program must ~~shall~~ be included as  
1491 creditable service for purposes of this section. Notwithstanding  
1492 any other provision in this section ~~to the contrary~~, the spouse  
1493 at the time of death is ~~shall be~~ the participant's beneficiary  
1494 unless such participant has designated a different beneficiary  
1495 subsequent to the participant's most recent marriage.

1496 Section 6. Subsection (1) of section 112.65, Florida  
1497 Statutes, is amended to read:

1498 112.65 Limitation of benefits.--

1499 (1) ESTABLISHMENT OF PROGRAM.--The normal retirement  
1500 benefit or pension payable to a retiree who becomes a member of  
1501 any retirement system or plan and who has not previously  
1502 participated in such plan, on or after January 1, 1980, may ~~shall~~  
1503 not exceed 100 percent of his or her average final compensation.

1504 However, ~~nothing contained in this section~~ does not ~~shall~~ apply  
1505 to supplemental retirement benefits or to pension increases  
1506 attributable to cost-of-living increases or adjustments. For the  
1507 purposes of this section, benefits accruing in individual  
1508 participant accounts established under the defined contribution

11-00274-08

2008396\_\_

1509 ~~Public Employee Optional Retirement~~ program established in part  
1510 II of chapter 121 are considered supplemental benefits. As used  
1511 in this section, the term "average final compensation" means the  
1512 average of the member's earnings over a period of time which the  
1513 governmental entity has established by statute, charter, or  
1514 ordinance.

1515 Section 7. Subsection (3) of section 121.021, Florida  
1516 Statutes, is amended to read:

1517 121.021 Definitions.--The following words and phrases as  
1518 used in this chapter have the respective meanings set forth  
1519 unless a different meaning is plainly required by the context:

1520 (3) "System" means the general retirement system  
1521 established by this chapter to be known and cited as the "Florida  
1522 Retirement System," including, but not limited to, the defined  
1523 benefit ~~retirement~~ program administered under ~~the provisions of~~  
1524 ~~part I of this part chapter~~ and the defined contribution  
1525 retirement program ~~known as the Public Employee Optional~~  
1526 ~~Retirement Program~~ and administered under ~~the provisions of~~ part  
1527 II of this chapter.

1528 Section 8. Paragraph (c) of subsection (2) of section  
1529 121.051, Florida Statutes, is amended to read:

1530 121.051 Participation in the system.--

1531 (2) OPTIONAL PARTICIPATION.--

1532 (c) Employees of public community colleges or charter  
1533 technical career centers sponsored by public community colleges,  
1534 as designated in s. 1000.21(3), who are members of the Regular  
1535 Class of the Florida Retirement System and who comply with the  
1536 criteria set forth in this paragraph and in s. 1012.875 may  
1537 elect, in lieu of participating in the Florida Retirement System,

11-00274-08

2008396\_\_

1538 to withdraw from the Florida Retirement System altogether and  
1539 participate in an optional retirement program provided by the  
1540 employing agency under s. 1012.875, ~~to be~~ known as the State  
1541 Community College System Optional Retirement Program. Pursuant  
1542 thereto:

1543 1. Through June 30, 2001, the cost to the employer for an  
1544 ~~such~~ annuity under the optional retirement program shall equal  
1545 the normal cost portion of the employer retirement contribution  
1546 which would be required if the employee were a member of the  
1547 Regular Class defined benefit program, plus the portion of the  
1548 contribution rate required by s. 112.363(8) that would otherwise  
1549 be assigned to the Retiree Health Insurance Subsidy Trust Fund.  
1550 Effective July 1, 2001, each employer shall contribute on behalf  
1551 of each participant in the optional program an amount equal to  
1552 10.43 percent of the participant's gross monthly compensation.  
1553 The employer shall deduct an amount to provide for the  
1554 administration of the optional retirement program. The employer  
1555 providing the optional program shall contribute an additional  
1556 amount to the Florida Retirement System Trust Fund equal to the  
1557 unfunded actuarial accrued liability portion of the Regular Class  
1558 contribution rate.

1559 2. The decision to participate in the ~~such an~~ optional  
1560 retirement program is ~~shall be~~ irrevocable for as long as the  
1561 employee holds a position eligible for participation, except as  
1562 provided in subparagraph 3. Any service creditable under the  
1563 Florida Retirement System is ~~shall be~~ retained after the member  
1564 withdraws from the Florida Retirement System; however, additional  
1565 service credit in the Florida Retirement System may ~~shall~~ not be  
1566 earned while a member of the optional retirement program.

11-00274-08

2008396\_\_

1567 3. An employee who has elected to participate in the  
1568 optional retirement program shall have one opportunity, at the  
1569 employee's discretion, ~~to choose~~ to transfer from the optional  
1570 retirement program to the defined benefit program of the Florida  
1571 Retirement System or to the defined contribution ~~Public Employee~~  
1572 ~~Optional Retirement~~ program established under part II of this  
1573 chapter, subject to the terms of the applicable optional  
1574 retirement program contracts.

1575 a. If the employee chooses to move to the defined  
1576 contribution ~~Public Employee Optional Retirement~~ program, any  
1577 contributions, interest, and earnings creditable to the employee  
1578 under the State Community College System Optional Retirement  
1579 Program shall be retained by the employee in the State Community  
1580 College System Optional Retirement Program, and the applicable  
1581 provisions of s. 121.4501(4) shall govern the election.

1582 b. If the employee chooses to move to the defined benefit  
1583 program ~~of the Florida Retirement System~~, the employee shall  
1584 receive service credit equal to his or her years of service under  
1585 the State Community College Optional Retirement Program.

1586 (I) The cost for such credit must ~~shall~~ be an amount  
1587 representing the present value of that employee's accumulated  
1588 benefit obligation for the affected period of service. The cost  
1589 shall be calculated as if the benefit commencement occurs on the  
1590 first date the employee would become eligible for unreduced  
1591 benefits, using the discount rate and other relevant actuarial  
1592 assumptions that were used to value the ~~Florida Retirement System~~  
1593 defined benefit program plan liabilities in the most recent  
1594 actuarial valuation. The calculation must ~~shall~~ include any  
1595 service already maintained under the defined benefit program plan

11-00274-08

2008396\_\_

1596 in addition to the years under the State Community College  
1597 Optional Retirement Program. The present value of any service  
1598 already maintained under the defined benefit program plan shall  
1599 be applied as a credit to total cost resulting from the  
1600 calculation. The division shall ensure that the transfer sum is  
1601 prepared using a formula and methodology certified by an enrolled  
1602 actuary.

1603 (II) The employee must transfer from his or her State  
1604 Community College System Optional Retirement Program account and  
1605 from other employee moneys as necessary, a sum representing the  
1606 present value of that employee's accumulated benefit obligation  
1607 immediately following the time of such movement, determined  
1608 assuming that attained service equals the sum of service in the  
1609 defined benefit program and service in the State Community  
1610 College System Optional Retirement Program.

1611 4. Participation in the optional retirement program is  
1612 ~~shall be~~ limited to those employees who satisfy the following  
1613 eligibility criteria:

1614 a. The employee is ~~must be~~ otherwise eligible for  
1615 membership or renewed membership in the Regular Class of the  
1616 Florida Retirement System, as provided in s. 121.021(11) and (12)  
1617 or s. 121.122.

1618 b. The employee is ~~must be~~ employed in a full-time position  
1619 classified in the Accounting Manual for Florida's Public  
1620 Community Colleges as:

1621 (I) Instructional; or

1622 (II) Executive Management, Instructional Management, or  
1623 Institutional Management, if a community college determines that  
1624 recruiting to fill a vacancy in the position is to be conducted



11-00274-08

2008396\_\_

1625 in the national or regional market, and the duties and  
1626 responsibilities of the position include:

1627 ~~(A) The duties and responsibilities of the position include~~  
1628 ~~either~~ The formulation, interpretation, or implementation of  
1629 policies; or

1630 ~~(B) The duties and responsibilities of the position include~~  
1631 The performance of functions that are unique or specialized  
1632 within higher education and that frequently involve the support  
1633 of the mission of the community college.

1634 c. The employee is ~~must be~~ employed in a position not  
1635 included in the Senior Management Service Class of the Florida  
1636 Retirement System, as described in s. 121.055.

1637 5. Participants in the program are subject to the same  
1638 reemployment limitations, renewed membership provisions, and  
1639 forfeiture provisions ~~as are~~ applicable to regular members of the  
1640 Florida Retirement System under ss. 121.091(9), 121.122, and  
1641 121.091(5), respectively.

1642 6. Eligible community college employees are ~~shall be~~  
1643 compulsory members of the Florida Retirement System until,  
1644 pursuant to the procedures set forth in s. 1012.875, a written  
1645 election to withdraw from the Florida Retirement System and to  
1646 participate in the State Community College Optional Retirement  
1647 Program is filed with the program administrator and received by  
1648 the division.

1649 a. Any community college employee whose program eligibility  
1650 results from initial employment shall be enrolled in the State  
1651 Community College Optional Retirement Program retroactive to the  
1652 first day of eligible employment. The employer retirement  
1653 contributions paid through the month of the employee plan change

11-00274-08

2008396\_\_

1654 must ~~shall~~ be transferred to the community college for the  
1655 employee's optional program account, and, effective the first day  
1656 of the next month, the employer shall pay the applicable  
1657 contributions based upon subparagraph 1.

1658       b. Any community college employee whose program eligibility  
1659 results from a change in status due to the subsequent designation  
1660 of the employee's position as one of those specified in  
1661 subparagraph 4. or due to the employee's appointment, promotion,  
1662 transfer, or reclassification to a position specified in  
1663 subparagraph 4. shall be enrolled in the program upon the first  
1664 day of the first full calendar month that such change in status  
1665 becomes effective. The employer retirement contributions paid  
1666 from the effective date through the month of the employee plan  
1667 change must ~~shall~~ be transferred to the community college for the  
1668 employee's optional program account, and, effective the first day  
1669 of the next month, the employer shall pay the applicable  
1670 contributions based upon subparagraph 1.

1671       7. Effective July 1, 2003, through December 31, 2008, any  
1672 participant of the State Community College Optional Retirement  
1673 Program who has service credit in the defined benefit plan of the  
1674 Florida Retirement System for the period between his or her first  
1675 eligibility to transfer from the defined benefit plan to the  
1676 optional retirement program and the actual date of transfer may,  
1677 during his or her employment, elect to transfer to the optional  
1678 retirement program a sum representing the present value of the  
1679 accumulated benefit obligation under the defined benefit  
1680 retirement program for such period of service credit. Upon such  
1681 transfer, all ~~such~~ service credit ~~previously~~ earned under the  
1682 defined benefit program ~~of the Florida Retirement System~~ during

11-00274-08

2008396\_\_

1683 | this period is ~~shall be~~ nullified for purposes of entitlement to  
1684 | a future benefit under the defined benefit program ~~of the Florida~~  
1685 | ~~Retirement System.~~

1686 | Section 9. Paragraph (b) of subsection (1) of section  
1687 | 121.055, Florida Statutes, is amended to read:

1688 | 121.055 Senior Management Service Class.--There is hereby  
1689 | established a separate class of membership within the Florida  
1690 | Retirement System to be known as the "Senior Management Service  
1691 | Class," which shall become effective February 1, 1987.

1692 | (1)

1693 | (b)1. Except as provided in subparagraph 2., effective  
1694 | January 1, 1990, participation in the Senior Management Service  
1695 | Class is ~~shall be~~ compulsory for the president of each community  
1696 | college, the manager of each participating city or county, and  
1697 | all appointed district school superintendents. Effective January  
1698 | 1, 1994, additional positions may be designated for inclusion in  
1699 | the Senior Management Service Class of the Florida Retirement  
1700 | System, provided that:

1701 | a. Positions to be included in the class shall be  
1702 | designated by the local agency employer. Notice of intent to  
1703 | designate positions for inclusion in the class must ~~shall~~ be  
1704 | published once a week for 2 consecutive weeks in a newspaper of  
1705 | general circulation published in the county or counties affected,  
1706 | as provided in chapter 50.

1707 | b. Up to 10 nonelective full-time positions may be  
1708 | designated for each local agency employer reporting to the  
1709 | department ~~of Management Services~~; for local agencies with 100 or  
1710 | more regularly established positions, additional nonelective  
1711 | full-time positions may be designated, not to exceed 1 percent of

11-00274-08

2008396\_\_

1712 the regularly established positions within the agency.

1713 c. Each position added to the class must be a managerial or  
1714 policymaking position filled by an employee who is not subject to  
1715 continuing contract and serves at the pleasure of the local  
1716 agency employer without civil service protection, and who:

1717 (I) Heads an organizational unit; or

1718 (II) Has responsibility to effect or recommend personnel,  
1719 budget, expenditure, or policy decisions in his or her areas of  
1720 responsibility.

1721 2. In lieu of participation in the Senior Management  
1722 Service Class, members of the Senior Management Service Class,  
1723 pursuant to the provisions of subparagraph 1., may withdraw from  
1724 the Florida Retirement System altogether. The decision to  
1725 withdraw from the Florida Retirement System is ~~shall be~~  
1726 irrevocable ~~for~~ as long as the employee holds the ~~such a~~  
1727 position. Any service creditable under the Senior Management  
1728 Service Class shall be retained after the member withdraws from  
1729 the Florida Retirement System; however, additional service credit  
1730 in the Senior Management Service Class shall not be earned after  
1731 such withdrawal. Such members shall not be eligible to  
1732 participate in the Senior Management Service Optional Annuity  
1733 Program.

1734 ~~3. Effective January 1, 2006, through June 30, 2006, an~~  
1735 ~~employee who has withdrawn from the Florida Retirement System~~  
1736 ~~under subparagraph 2. has one opportunity to elect to participate~~  
1737 ~~in either the defined benefit program or the Public Employee~~  
1738 ~~Optional Retirement Program of the Florida Retirement System.~~

1739 ~~a. If the employee elects to participate in the Public~~  
1740 ~~Employee Optional Retirement Program, membership shall be~~

11-00274-08

2008396\_\_

1741 ~~prospective, and the applicable provisions of s. 121.4501(4)~~  
1742 ~~shall govern the election.~~

1743 ~~b. If the employee elects to participate in the defined~~  
1744 ~~benefit program of the Florida Retirement System, the employee~~  
1745 ~~shall, upon payment to the system trust fund of the amount~~  
1746 ~~calculated under sub-sub-subparagraph (I), receive service credit~~  
1747 ~~for prior service based upon the time during which the employee~~  
1748 ~~had withdrawn from the system.~~

1749 ~~(I) The cost for such credit shall be an amount~~  
1750 ~~representing the actuarial accrued liability for the affected~~  
1751 ~~period of service. The cost shall be calculated using the~~  
1752 ~~discount rate and other relevant actuarial assumptions that were~~  
1753 ~~used to value the Florida Retirement System defined benefit plan~~  
1754 ~~liabilities in the most recent actuarial valuation. The~~  
1755 ~~calculation shall include any service already maintained under~~  
1756 ~~the defined benefit plan in addition to the period of withdrawal.~~  
1757 ~~The actuarial accrued liability attributable to any service~~  
1758 ~~already maintained under the defined benefit plan shall be~~  
1759 ~~applied as a credit to the total cost resulting from the~~  
1760 ~~calculation. The division shall ensure that the transfer sum is~~  
1761 ~~prepared using a formula and methodology certified by an actuary.~~

1762 ~~(II) The employee must transfer a sum representing the net~~  
1763 ~~cost owed for the actuarial accrued liability in sub-sub-~~  
1764 ~~subparagraph (I) immediately following the time of such movement,~~  
1765 ~~determined assuming that attained service equals the sum of~~  
1766 ~~service in the defined benefit program and the period of~~  
1767 ~~withdrawal.~~

1768 Section 10. Paragraph (c) of subsection (9) of section  
1769 121.091, Florida Statutes, is amended to read:

11-00274-08

2008396\_\_

1770 121.091 Benefits payable under the system.--Benefits may  
1771 not be paid under this section unless the member has terminated  
1772 employment as provided in s. 121.021(39) (a) or begun  
1773 participation in the Deferred Retirement Option Program as  
1774 provided in subsection (13), and a proper application has been  
1775 filed in the manner prescribed by the department. The department  
1776 may cancel an application for retirement benefits when the member  
1777 or beneficiary fails to timely provide the information and  
1778 documents required by this chapter and the department's rules.  
1779 The department shall adopt rules establishing procedures for  
1780 application for retirement benefits and for the cancellation of  
1781 such application when the required information or documents are  
1782 not received.

1783 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--

1784 (c) The provisions of this subsection apply to a retiree  
1785 ~~retirees~~, as defined in s. 121.4501(2) ~~s. 121.4501(2)(j)~~, of the  
1786 ~~Public Employee Optional Retirement Program created in part II,~~  
1787 subject to the following conditions:

1788 1. The retiree ~~Such retirees~~ may not be reemployed with an  
1789 employer participating in the Florida Retirement System as  
1790 provided in paragraph (b) until such person has been retired for  
1791 3 calendar months, unless the participant has reached the normal  
1792 retirement requirements of the defined benefit plan as provided  
1793 in s. 121.021(29).

1794 2. A ~~Such~~ retiree employed in violation of this subsection  
1795 and any employing agency that knowingly employs or appoints such  
1796 person are ~~shall be~~ jointly and severally liable for  
1797 reimbursement of any benefits paid to the retirement trust fund  
1798 from which the benefits were paid, including the Retirement

11-00274-08

2008396\_\_

1799 System Trust Fund and the Public Employee ~~Optional~~ Retirement  
1800 Investment Program Trust Fund, as appropriate. To avoid  
1801 liability, the ~~such~~ employing agency must have a written  
1802 statement from the retiree that he or she is not retired from a  
1803 state-administered retirement system.

1804 Section 11. Paragraphs (g) and (i) of subsection (3) of  
1805 section 121.35, Florida Statutes, are amended to read:

1806 121.35 Optional retirement program for the State University  
1807 System.--

1808 (3) ELECTION OF OPTIONAL PROGRAM.--

1809 (g) An eligible employee who is a member of the Florida  
1810 Retirement System at the time of election to participate in the  
1811 optional retirement program shall retain all retirement service  
1812 credit earned under the Florida Retirement System, at the rate  
1813 earned. ~~No~~ Additional service credit in the Florida Retirement  
1814 System may not ~~shall~~ be earned while the employee participates in  
1815 the optional program, and ~~nor shall~~ the employee is not ~~be~~  
1816 eligible for disability retirement under the Florida Retirement  
1817 System. An eligible employee may transfer from the Florida  
1818 Retirement System to his or her accounts under the State  
1819 University System Optional Retirement Program a sum representing  
1820 the present value of the employee's accumulated benefit  
1821 obligation under the defined benefit program of the Florida  
1822 Retirement System for any service credit accrued from the  
1823 employee's first eligible transfer date to the optional  
1824 retirement program through the actual date of such transfer, if  
1825 such service credit was earned in the period from July 1, 1984,  
1826 through December 31, 1992. The present value of the employee's  
1827 accumulated benefit obligation must ~~shall~~ be calculated as

11-00274-08

2008396\_\_

1828 described in s. 121.4501(3) ~~s. 121.4501(3)(e)2.~~ Upon ~~such~~  
1829 transfer, all ~~such~~ service credit ~~previously~~ earned under the  
1830 defined benefit program ~~of the Florida Retirement System~~ during  
1831 this period ~~is~~ ~~shall be~~ nullified for purposes of entitlement to  
1832 a future benefit under the defined benefit program ~~of the Florida~~  
1833 ~~Retirement System.~~

1834 (i) Effective January 1, 2008, through December 31, 2008,  
1835 except for an employee who is a mandatory participant of the  
1836 State University System Optional Retirement Program, an employee  
1837 who has elected to participate in the State University System  
1838 Optional Retirement Program shall have one opportunity, at the  
1839 employee's discretion, ~~to choose~~ to transfer from this program to  
1840 the defined benefit program of the Florida Retirement System or  
1841 to the defined contribution ~~Public Employee Optional Retirement~~  
1842 ~~program~~ established under part II of this chapter, subject to the  
1843 terms of the applicable contracts of the State University System  
1844 Optional Retirement Program.

1845 1. If the employee chooses to move to the defined  
1846 contribution ~~Public Employee Optional Retirement~~ program, any  
1847 contributions, interest, and earnings creditable to the employee  
1848 under the State University System Optional Retirement Program  
1849 must ~~shall~~ be retained by the employee in the State University  
1850 System Optional Retirement Program, and the applicable provisions  
1851 of s. 121.4501(4) shall govern the election.

1852 2. If the employee chooses to move to the defined benefit  
1853 program of the Florida Retirement System, the employee shall  
1854 receive service credit equal to his or her years of service under  
1855 the State University System Optional Retirement Program.

1856 a. The cost for such credit must be in ~~shall be~~ an amount



11-00274-08

2008396\_\_

1857 | representing the actuarial accrued liability for the affected  
1858 | period of service. The cost must ~~shall~~ be calculated using the  
1859 | discount rate and other relevant actuarial assumptions that were  
1860 | used to value the Florida Retirement System defined benefit plan  
1861 | liabilities in the most recent actuarial valuation. The  
1862 | calculation must ~~shall~~ include any service already maintained  
1863 | under the defined benefit program ~~plan~~ in addition to the years  
1864 | under the State University System Optional Retirement Program.  
1865 | The actuarial accrued liability of any service already maintained  
1866 | under the defined benefit program ~~must plan~~ ~~shall~~ be applied as a  
1867 | credit to total cost resulting from the calculation. The division  
1868 | shall ensure that the transfer sum is prepared using a formula  
1869 | and methodology certified by an enrolled actuary.

1870 |       b. The employee must transfer from his or her State  
1871 | University System Optional Retirement Program account, and from  
1872 | other employee moneys as necessary, a sum representing the  
1873 | actuarial accrued liability immediately following the time of  
1874 | such movement, determined assuming that attained service equals  
1875 | the sum of service in the defined benefit program and service in  
1876 | the State University System Optional Retirement Program.

1877 |       Section 12. Subsection (1) of section 121.4503, Florida  
1878 | Statutes, is amended to read:

1879 |       121.4503 Florida Retirement System Contributions Clearing  
1880 | Trust Fund.--

1881 |       (1) The Florida Retirement System Contributions Clearing  
1882 | Trust Fund is created as a clearing fund for disbursing employer  
1883 | contributions to the component plans of the Florida Retirement  
1884 | System and shall be administered by the department ~~of Management~~  
1885 | ~~Services~~. Funds shall be credited to the trust fund as provided

11-00274-08

2008396\_\_

1886 in this chapter and shall be held in trust for the contributing  
1887 employers until such time as the assets are transferred by the  
1888 department to the Florida Retirement System Trust Fund, the  
1889 Public Employee ~~Optional~~ Retirement Investment Program Trust  
1890 Fund, or other trust funds as authorized by law, to be used for  
1891 the purposes of this chapter. The trust fund is exempt from the  
1892 service charges imposed by s. 215.20.

1893 Section 13. Section 121.571, Florida Statutes, is amended  
1894 to read:

1895 121.571 Contributions.--Contributions to the Public  
1896 Employee ~~Optional~~ Retirement Investment Program shall be made as  
1897 follows:

1898 (1) NONCONTRIBUTORY PLAN.--Each employer shall make  
1899 ~~accomplish~~ the monthly contributions required under ~~by~~ s. 121.71  
1900 without reducing an ~~by a procedure in which no~~ employee's gross  
1901 salary ~~shall be reduced~~.

1902 (2) CONTRIBUTION RATES GENERALLY.--Contributions to fund  
1903 the retirement and disability benefits provided under this part  
1904 must ~~shall~~ be based on the uniform contribution rates established  
1905 by s. 121.71 and on the membership class or subclass of the  
1906 participant. Such contributions must ~~shall~~ be allocated as  
1907 provided in ss. 121.72 and 121.73.

1908 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR  
1909 RETIREE HEALTH INSURANCE SUBSIDY.--Contributions required under  
1910 s. 121.71 are ~~this section shall be~~ in addition to employer and  
1911 member contributions ~~required~~ for social security and the Retiree  
1912 Health Insurance Subsidy Trust Fund as required under ~~provided in~~  
1913 ss. 112.363, 121.052, 121.055, and 121.071, as appropriate.

1914 Section 14. Section 121.591, Florida Statutes, is amended

11-00274-08

2008396\_\_

1915 to read:

1916       121.591 Payment of benefits ~~payable under the Public~~

1917 ~~Employee Optional Retirement Program of the Florida Retirement~~

1918 ~~System.~~--Benefits may not be paid under the Public Employee

1919 Retirement Investment Program ~~this section~~ unless the member has

1920 terminated employment as provided in s. 121.021(39) (a) or is

1921 deceased and a proper application has been filed as ~~in the manner~~

1922 prescribed by the state board or the department. The state board

1923 or department, as appropriate, may cancel an application for

1924 retirement benefits when the member or beneficiary fails to

1925 timely provide the information and documents required by this

1926 chapter and the rules of the state board and department. In

1927 accordance with their respective responsibilities ~~as provided~~

1928 ~~herein~~, the state board ~~of Administration~~ and the department ~~of~~

1929 ~~Management Services~~ shall adopt rules establishing procedures for

1930 application for retirement benefits and for the cancellation of

1931 such application when the required information or documents are

1932 not received. The state board ~~of Administration~~ and the

1933 department ~~of Management Services~~, as appropriate, are authorized

1934 to cash out a de minimis account of not more than \$5,000 of a

1935 participant who has been terminated from Florida Retirement

1936 System covered employment for a minimum of 6 calendar months. ~~A~~

1937 ~~de minimis account is an account containing employer~~

1938 ~~contributions and accumulated earnings of not more than \$5,000~~

1939 ~~made under the provisions of this chapter.~~ Such cash-out must

1940 ~~either~~ be a complete lump-sum liquidation of the account balance,

1941 subject to the provisions of the Internal Revenue Code, or a

1942 lump-sum direct rollover distribution paid directly to the

1943 custodian of an eligible retirement plan, as defined by the

11-00274-08

2008396\_\_

1944 Internal Revenue Code, on behalf of the participant. If any  
1945 financial instrument issued for the payment of retirement  
1946 benefits under this section is not presented for payment within  
1947 180 days after the last day of the month in which it was  
1948 originally issued, the third-party administrator or other duly  
1949 authorized agent of the state board of ~~Administration~~ shall  
1950 cancel the instrument and credit the amount of the instrument to  
1951 the suspense account of the Public Employee ~~Optional~~ Retirement  
1952 Investment Program Trust Fund authorized under s. 121.450(7) ~~s.~~  
1953 ~~121.4501(6)~~. Any ~~such~~ amounts transferred to the suspense account  
1954 are payable upon a proper application, not to include earnings  
1955 thereon, as provided in this section, within 10 years after the  
1956 last day of the month in which the instrument was originally  
1957 issued, after which time such amounts and any earnings are  
1958 ~~thereon shall be~~ forfeited. Any ~~such~~ forfeited amounts are assets  
1959 of the ~~Public Employee Optional Retirement Program~~ trust fund and  
1960 are not subject to the provisions of chapter 717.

1961 (1) NORMAL BENEFITS.--Under the Public Employee ~~Optional~~  
1962 Retirement Investment Program:

1963 (a) Benefits in the form of vested accumulations as  
1964 described in s. 121.4501(7) ~~are s. 121.4501(6)~~ shall be payable  
1965 ~~under this subsection~~ in accordance with the following terms and  
1966 conditions:

1967 1. ~~To the extent vested,~~ Benefits shall be paid payable  
1968 only to a participant.

1969 2. Benefits shall be paid by the third-party administrator  
1970 or designated approved providers in accordance with the law, the  
1971 contracts, and any applicable board rule or policy.

1972 3. ~~To receive benefits under this subsection,~~ The

11-00274-08

2008396\_\_

1973 participant must be terminated from all employment with all  
1974 Florida Retirement System employers, as provided in s.  
1975 121.021(39).

1976 4. Benefit payments may not be made until the participant  
1977 has been terminated for 3 calendar months, except that the state  
1978 board may authorize by rule for the distribution of up to 10  
1979 percent of the participant's account after being terminated for 1  
1980 calendar month if a participant has reached the normal retirement  
1981 requirements of the defined benefit plan, as provided in s.  
1982 121.021(29).

1983 5. If a member or former member of the Florida Retirement  
1984 System receives an invalid distribution ~~from the Public Employee~~  
1985 ~~Optional Retirement Program Trust Fund~~, such person must ~~shall~~  
1986 repay the full amount ~~invalid distribution to the trust fund~~  
1987 within 90 days after receipt of final notification by the state  
1988 board ~~of Administration~~ or the third-party administrator that the  
1989 distribution was invalid. If such person fails to repay the full  
1990 invalid distribution within 90 days after receipt of final  
1991 notification, the person may be deemed retired from the  
1992 investment ~~Public Employee Optional Retirement~~ program by the  
1993 state board ~~, as provided pursuant to s. 121.4501(2)(j)~~, and  
1994 shall be subject to the provisions of s. 121.122. If such person  
1995 is deemed retired ~~by the state board~~, any joint and several  
1996 liability set out in s. 121.091(9)(c)2. is ~~becomes~~ null and void,  
1997 and the state board, the department ~~of Management Services~~, or  
1998 the employing agency is not liable for gains on payroll  
1999 contributions that have not been deposited to the person's  
2000 account in the investment ~~Public Employee Optional Retirement~~  
2001 program, pending resolution of the invalid distribution. The

11-00274-08

2008396\_\_

2002 member or former member who has been deemed retired or who has  
2003 been determined by the board to have taken an invalid  
2004 distribution may appeal the agency decision through the complaint  
2005 process as provided under s. 121.4501(10)(f)3 ~~s. 121.4501(9)(f)3~~.  
2006 As used in this subparagraph, the term "invalid distribution"  
2007 means any distribution from an account in the investment Public  
2008 ~~Employee Optional Retirement~~ program which is taken in violation  
2009 of the provisions of this section, s. 121.091(9), or s. 121.4501.

2010 (b) If a participant elects to receive his or her benefits  
2011 upon termination of employment, the participant must submit a  
2012 written application or an equivalent form to the third-party  
2013 administrator indicating his or her preferred distribution date  
2014 and selecting an authorized method of distribution as provided in  
2015 paragraph (c). The participant may defer receipt of benefits  
2016 until he or she chooses to make such application, subject to  
2017 federal requirements.

2018 (c) Upon receipt by the third-party administrator of a  
2019 properly executed application for distribution of benefits, the  
2020 total accumulated benefit shall be payable to the participant,  
2021 as:

- 2022 1. A lump-sum distribution to the participant;
- 2023 2. A lump-sum direct rollover distribution whereby all  
2024 accrued benefits, plus interest and investment earnings, are paid  
2025 from the participant's account directly to the custodian of an  
2026 eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
2027 Internal Revenue Code, on behalf of the participant; or
- 2028 3. Periodic distributions, as authorized by the state  
2029 board.

2030 (2) DISABILITY RETIREMENT BENEFITS.--Benefits provided

11-00274-08

2008396\_\_

2031 | under this subsection are payable in lieu of the benefits that  
2032 | ~~which~~ would otherwise be payable under the provisions of  
2033 | subsection (1). Such benefits must ~~shall~~ be funded entirely from  
2034 | employer contributions ~~made under s. 121.571~~, transferred  
2035 | participant funds accumulated pursuant to paragraph (a), and  
2036 | interest and earnings thereon. ~~Pursuant thereto:~~

2037 |       (a) Transfer of funds.--To qualify for ~~to receive~~ monthly  
2038 | disability benefits under this subsection:

2039 |           1. All moneys accumulated in the participant's ~~Public~~  
2040 | ~~Employee Optional Retirement Program~~ accounts, including vested  
2041 | and nonvested accumulations as described in s. 121.4501(7) ~~s.~~  
2042 | ~~121.4501(6)~~, must ~~shall~~ be transferred from such individual  
2043 | accounts to the division ~~of Retirement~~ for deposit in the  
2044 | disability account of the Florida Retirement System Trust Fund.  
2045 | Such moneys must ~~shall~~ be ~~separately~~ accounted for separately.  
2046 | Earnings must ~~shall~~ be credited on an annual basis for amounts  
2047 | held in the disability accounts ~~of the Florida Retirement System~~  
2048 | ~~Trust Fund~~ based on actual earnings of the ~~Florida Retirement~~  
2049 | ~~System~~ trust fund.

2050 |           2. If the participant has retained retirement credit ~~he or~~  
2051 | ~~she had~~ earned under the defined benefit program ~~of the Florida~~  
2052 | ~~Retirement System~~ as provided in s. 121.4501(3) ~~s.~~  
2053 | ~~121.4501(3)(b)~~, a sum representing the actuarial present value of  
2054 | such credit within the Florida Retirement System Trust Fund shall  
2055 | be reassigned by the division ~~of Retirement~~ from the defined  
2056 | benefit program to the disability program as implemented under  
2057 | this subsection and shall be deposited in the disability account  
2058 | of the ~~Florida Retirement System~~ trust fund. Such moneys must  
2059 | ~~shall~~ be ~~separately~~ accounted for separately.

11-00274-08

2008396\_\_

2060 (b) Disability retirement; entitlement.--

2061 1. A participant of the investment ~~Public Employee Optional~~  
2062 ~~Retirement~~ program who becomes totally and permanently disabled,  
2063 as defined in paragraph (d) ~~s. 121.091(4)(b)~~, after completing 8  
2064 years of creditable service, or a participant who becomes totally  
2065 and permanently disabled in the line of duty regardless of ~~his or~~  
2066 ~~her~~ length of service, is ~~shall be~~ entitled to a monthly  
2067 disability benefit ~~as provided herein~~.

2068 2. In order for service to apply toward the 8 years of  
2069 creditable service required ~~to vest~~ for regular disability  
2070 benefits, or toward the creditable service used in calculating a  
2071 service-based benefit as provided ~~for~~ under paragraph (g), the  
2072 service must be creditable service as described below:

2073 a. The participant's period of service under the investment  
2074 ~~Public Employee Optional Retirement~~ program shall ~~will~~ be  
2075 considered creditable service, except as provided in subparagraph  
2076 d.

2077 b. If the participant has elected to retain credit for his  
2078 or her service under the defined benefit program ~~of the Florida~~  
2079 ~~Retirement System~~ as provided under s. 121.4501(3) ~~s.~~  
2080 ~~121.4501(3)(b)~~, all such service shall ~~will~~ be considered  
2081 creditable service.

2082 c. If the participant has elected to transfer to his or her  
2083 participant accounts a sum representing the present value of his  
2084 or her retirement credit under the defined benefit program as  
2085 provided under s. 121.4501(3) ~~s. 121.4501(3)(e)~~, the period of  
2086 service under the defined benefit program represented in the  
2087 present value amounts transferred shall ~~will~~ be considered  
2088 creditable service ~~for purposes of vesting for disability~~



11-00274-08

2008396\_\_

2089 | ~~benefits~~, except as provided in subparagraph d.

2090 |       d. Whenever a participant has terminated employment and has  
2091 | taken distribution of his or her funds as provided in subsection  
2092 | (1), all creditable service represented by such distributed funds  
2093 | is forfeited for purposes of this subsection.

2094 |       (c) Disability retirement effective date.--The effective  
2095 | retirement date for a participant who applies and is approved for  
2096 | disability retirement shall be established as provided under s.  
2097 | 121.091(4)(a)2. and 3.

2098 |       (d) Total and permanent disability.--A participant shall be  
2099 | considered totally and permanently disabled if, in the opinion of  
2100 | the division, he or she is prevented, by reason of a medically  
2101 | determinable physical or mental impairment, from rendering useful  
2102 | and efficient service as an officer or employee.

2103 |       (e) Proof of disability.--~~The division~~, Before approving  
2104 | payment of any disability retirement benefit, the division shall  
2105 | require proof that the participant is totally and permanently  
2106 | disabled ~~in the same manner as provided for members of the~~  
2107 | ~~defined benefit program of the Florida Retirement System~~ under s.  
2108 | 121.091(4)(c).

2109 |       (f) Disability retirement benefit.--Upon the disability  
2110 | retirement of a participant under this subsection, the  
2111 | participant shall receive a monthly benefit that begins accruing  
2112 | ~~shall begin to accrue~~ on the first day of the month of disability  
2113 | retirement, as approved by the division, and is ~~shall be~~ payable  
2114 | on the last day of that month and each month thereafter during  
2115 | his or her lifetime and continued disability. All disability  
2116 | benefits must ~~payable to such member shall~~ be paid out of the  
2117 | disability account of the Florida Retirement System Trust Fund

11-00274-08

2008396\_\_

2118 established under this subsection.

2119 (g) Computation of disability retirement benefit.--The  
2120 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~  
2121 ~~same manner~~ as provided ~~for members of the defined benefit~~  
2122 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).  
2123 ~~For such purpose,~~ Creditable service under both the defined  
2124 benefit program and the investment ~~Public Employee Optional~~  
2125 ~~Retirement program of the Florida Retirement System~~ shall be  
2126 applicable as provided under paragraph (b).

2127 (h) Reapplication.--A participant whose initial application  
2128 for disability retirement is ~~has been~~ denied may reapply for  
2129 disability benefits ~~in the same manner, and under the same~~  
2130 ~~conditions,~~ as provided ~~for members of the defined benefit~~  
2131 ~~program of the Florida Retirement System~~ under s. 121.091(4)(g).

2132 (i) Membership.--Upon approval of a participant's ~~an~~  
2133 application for disability benefits ~~under this subsection,~~ the  
2134 applicant shall be transferred to the defined benefit program ~~of~~  
2135 ~~the Florida Retirement System,~~ effective upon his or her  
2136 disability retirement effective date.

2137 (j) Option to cancel.--A ~~Any~~ participant whose application  
2138 for disability benefits is approved may cancel the ~~his or her~~  
2139 application if ~~for disability benefits,~~ provided that the  
2140 cancellation request is received by the division before a  
2141 disability retirement warrant has been deposited, cashed, or  
2142 received by direct deposit. Upon ~~such~~ cancellation:

2143 1. The participant's transfer to the defined benefit  
2144 program under paragraph (i) shall be nullified;

2145 2. The participant shall be retroactively reinstated in the  
2146 investment ~~Public Employee Optional Retirement~~ program without

11-00274-08

2008396\_\_

2147 hiatus;

2148 3. All funds transferred to the Florida Retirement System  
2149 Trust Fund under paragraph (a) must ~~shall~~ be returned to the  
2150 participant accounts from which the ~~such~~ funds were drawn; and

2151 4. The participant may elect to receive the benefit payable  
2152 under ~~the provisions of~~ subsection (1) in lieu of disability  
2153 benefits ~~as provided under this subsection.~~

2154 (k) Recovery from disability.--

2155 1. The division may require periodic reexaminations at the  
2156 expense of the disability program account of the Florida  
2157 Retirement System Trust Fund. Except as ~~otherwise~~ provided in  
2158 subparagraph 2., ~~the requirements, procedures, and restrictions~~  
2159 ~~relating to the conduct and review of such reexaminations,~~  
2160 ~~discontinuation or termination of benefits, reentry into~~  
2161 ~~employment, disability retirement after reentry into covered~~  
2162 ~~employment, and all other~~ matters relating to recovery from  
2163 disability shall be ~~the same as~~ provided ~~are set forth~~ under s.  
2164 121.091(4)(h).

2165 2. Upon recovery from disability, the ~~any~~ recipient of  
2166 disability retirement benefits under this subsection shall be  
2167 transferred back to the investment program ~~a compulsory member of~~  
2168 ~~the Public Employee Optional Retirement Program of the Florida~~  
2169 ~~Retirement System.~~ The net difference between the recipient's  
2170 original account balance transferred to the Florida Retirement  
2171 System Trust Fund, including earnings, ~~under paragraph (a)~~ and  
2172 total disability benefits paid to such recipient, if any, shall  
2173 be determined as provided in sub-subparagraph a.

2174 a. An amount equal to the total benefits paid shall be  
2175 subtracted from that portion of the transferred account balance

11-00274-08

2008396\_\_

2176 consisting of vested accumulations as described under s.  
2177 121.4501(7) ~~s. 121.4501(6)~~, if any, and an amount equal to the  
2178 remainder of benefit amounts paid, if any, shall ~~then~~ be  
2179 subtracted from any remaining ~~portion consisting of~~ nonvested  
2180 accumulations ~~as described under s. 121.4501(6)~~.

2181 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~  
2182 be retained within the disability account of the Florida  
2183 Retirement System Trust Fund. Any remaining account balance shall  
2184 be transferred to the third-party administrator for disposition  
2185 as provided under sub-subparagraph c. or sub-subparagraph d., as  
2186 appropriate.

2187 c. If the recipient returns to covered employment,  
2188 transferred amounts must ~~shall~~ be deposited in individual  
2189 accounts under the investment ~~Public Employee Optional Retirement~~  
2190 program, as directed by the participant. Vested and nonvested  
2191 amounts shall be separately accounted for as provided in s.  
2192 121.4501(7) ~~s. 121.4501(6)~~.

2193 d. If the recipient fails to return to covered employment  
2194 upon recovery from disability:

2195 (I) Any remaining vested amount must ~~shall~~ be deposited in  
2196 individual accounts under the investment ~~Public Employee Optional~~  
2197 ~~Retirement~~ program, as directed by the participant, and is ~~shall~~  
2198 ~~be~~ payable as provided in subsection (1).

2199 (II) Any remaining nonvested amount must ~~shall~~ be held in a  
2200 suspense account and is ~~shall be~~ forfeitable after 5 years as  
2201 provided in s. 121.4501(7) ~~s. 121.4501(6)~~.

2202 3. If present value was reassigned from the defined benefit  
2203 program to the disability program ~~of the Florida Retirement~~  
2204 ~~System~~ as provided under subparagraph (a)2., the full present

11-00274-08

2008396\_\_

2205 value amount must ~~shall~~ be returned to the defined benefit  
2206 account within the Florida Retirement System Trust Fund and the  
2207 recipient's affected individual's associated retirement credit  
2208 under the defined benefit program must ~~shall~~ be reinstated in  
2209 full. Any benefit based upon such credit must ~~shall~~ be calculated  
2210 as provided in s. 121.091(4) (h)1.

2211 (l) Nonadmissible causes of disability.--A participant is  
2212 ~~shall not be~~ entitled to ~~receive~~ a disability retirement benefit  
2213 if the disability results from any injury or disease ~~sustained or~~  
2214 ~~inflicted~~ as described in s. 121.091(4) (i).

2215 (m) Disability retirement of justice or judge by order of  
2216 Supreme Court.--

2217 1. If a participant is a justice of the Supreme Court,  
2218 judge of a district court of appeal, circuit judge, or judge of a  
2219 county court who has served for 6 years or more as an elected  
2220 constitutional judicial officer, including service as a judicial  
2221 officer in any court abolished pursuant to Art. V of the State  
2222 Constitution, and who is retired for disability ~~by order of the~~  
2223 ~~Supreme Court upon recommendation of the Judicial Qualifications~~  
2224 ~~Commission~~ pursuant to s. 12, ~~the provisions of~~ Art. V of the  
2225 State Constitution, the participant's Option 1 monthly disability  
2226 benefit amount as provided in s. 121.091(6) (a)1. shall be two-  
2227 thirds of his or her monthly compensation as of the participant's  
2228 disability retirement date. The ~~Such a~~ participant may  
2229 alternatively elect to receive an actuarially adjusted disability  
2230 retirement benefit under any other option as provided in s.  
2231 121.091(6) (a), or ~~to~~ receive the normal benefit payable under ~~the~~  
2232 ~~Public Employee Optional Retirement Program as set forth in~~  
2233 subsection (1).

11-00274-08

2008396\_\_

2234           2. If any justice or judge who is a participant of the  
2235 investment ~~Public Employee Optional Retirement~~ program of the  
2236 ~~Florida Retirement System~~ is retired for disability by order of  
2237 the ~~Supreme Court~~ upon recommendation of the ~~Judicial~~  
2238 ~~Qualifications Commission~~ pursuant to s. 12, the provisions of  
2239 Art. V of the State Constitution and elects to receive a monthly  
2240 disability benefit under the provisions of this paragraph:

2241           a. Any present value amount that was transferred to his or  
2242 her program account and all employer contributions made to such  
2243 account on his or her behalf, plus interest and earnings thereon,  
2244 must ~~shall~~ be transferred to and deposited in the disability  
2245 account of the Florida Retirement System Trust Fund; and

2246           b. The monthly disability benefits payable under this  
2247 paragraph ~~for any affected justice or judge retired from the~~  
2248 ~~Florida Retirement System pursuant to Art. V of the State~~  
2249 ~~Constitution~~ shall be paid from the disability account of the  
2250 Florida Retirement System Trust Fund.

2251           (n) Death of retiree or beneficiary.--Upon the death of a  
2252 disabled retiree or beneficiary of the retiree ~~thereof~~ who is  
2253 receiving monthly disability benefits under this subsection, the  
2254 monthly benefits shall be paid through the last day of the month  
2255 of death and shall terminate, or be adjusted, if applicable, as  
2256 of that date in accordance with the optional form of benefit  
2257 selected at the time of retirement. The department ~~of Management~~  
2258 ~~Services~~ may adopt rules necessary to administer this paragraph.

2259           (3) DEATH BENEFITS.--Under the Public Employee ~~Optional~~  
2260 Retirement Investment Program:

2261           (a) Survivor benefits are ~~shall be~~ payable in accordance  
2262 with the following terms and conditions:

11-00274-08

2008396\_\_

2263 1. To the extent vested, benefits are ~~shall be~~ payable only  
2264 to a participant's beneficiary or beneficiaries as designated by  
2265 the participant as provided in s. 121.4501(21) ~~s. 121.4501(20)~~.

2266 2. Benefits must ~~shall~~ be paid by the third-party  
2267 administrator or designated approved providers in accordance with  
2268 the law, the contracts, and any applicable board rule or policy.

2269 3. To receive benefits under this subsection, the  
2270 participant must be deceased.

2271 (b) In the event of a participant's death, all vested  
2272 accumulations as described in s. 121.4501(7) ~~s. 121.4501(6)~~, less  
2273 withholding taxes remitted to the Internal Revenue Service, shall  
2274 be distributed, as provided in paragraph (c) or as described in  
2275 s. 121.4501(21) ~~s. 121.4501(20)~~, as if the participant retired on  
2276 the date of death. No other death benefits are ~~shall be~~ available  
2277 for survivors of participants ~~under the Public Employee Optional~~  
2278 ~~Retirement Program~~, except for ~~such~~ benefits, or coverage for  
2279 ~~such~~ benefits, as are otherwise provided by law or ~~are~~ separately  
2280 provided ~~afforded~~ by the employer, at the employer's discretion.

2281 (c) Upon receipt by the third-party administrator of a  
2282 properly executed application for distribution of benefits, the  
2283 total accumulated benefit are ~~shall be~~ payable by the third-party  
2284 administrator to the participant's surviving beneficiary or  
2285 beneficiaries, as:

2286 1. A lump-sum distribution payable to the beneficiary or  
2287 beneficiaries, or to the deceased participant's estate;

2288 2. An eligible rollover distribution on behalf of the  
2289 surviving spouse of a deceased participant, whereby all accrued  
2290 benefits, plus interest and investment earnings, are paid from  
2291 the deceased participant's account directly to the custodian of

11-00274-08

2008396\_\_

2292 an eligible retirement plan, as described in s. 402(c)(8)(B) of  
2293 the Internal Revenue Code, on behalf of the surviving spouse; or

2294 3. A partial lump-sum payment whereby a portion of the  
2295 accrued benefit is paid to the deceased participant's surviving  
2296 spouse or other designated beneficiaries, less withholding taxes  
2297 remitted to the Internal Revenue Service, and the remaining  
2298 amount is transferred directly to the custodian of an eligible  
2299 retirement plan, as described in s. 402(c)(8)(B) of the Internal  
2300 Revenue Code, on behalf of the surviving spouse. The proportions  
2301 must be specified by the participant or the surviving  
2302 beneficiary.

2303

2304 This paragraph does not abrogate other applicable provisions of  
2305 state or federal law providing for payment of death benefits.

2306 (4) LIMITATION ON LEGAL PROCESS.--The benefits payable to  
2307 any person under the Public Employee ~~Optional~~ Retirement  
2308 Investment Program, and any contributions accumulated under such  
2309 program, are not subject to assignment, execution, attachment, or  
2310 any legal process, except for qualified domestic relations orders  
2311 by a court of competent jurisdiction, income deduction orders as  
2312 provided in s. 61.1301, and federal income tax levies.

2313 Section 15. Section 121.5911, Florida Statutes, is amended  
2314 to read:

2315 121.5911 Disability retirement program; qualified status;  
2316 rulemaking authority.--It is the intent of the Legislature that  
2317 the disability retirement program for participants of the Public  
2318 Employee ~~Optional~~ Retirement Investment Program ~~as created in~~  
2319 ~~this act must~~ meet all applicable requirements of federal law for  
2320 a qualified plan. The department ~~of Management Services~~ shall



11-00274-08

2008396\_\_

2321 seek a private letter ruling from the Internal Revenue Service on  
2322 the disability retirement program ~~for participants of the Public~~  
2323 ~~Employee Optional Retirement Program~~. Consistent with the private  
2324 letter ruling, the department of ~~Management Services~~ shall adopt  
2325 ~~any necessary~~ rules necessary ~~required~~ to maintain the qualified  
2326 status of the disability retirement program and the Florida  
2327 Retirement System defined benefit plan.

2328 Section 16. Section 121.70, Florida Statutes, is amended to  
2329 read:

2330 121.70 Legislative purpose and intent.--

2331 (1) This part provides for a uniform system for funding  
2332 benefits provided under the Florida Retirement System defined  
2333 benefit program established under part I of this chapter  
2334 (referred to in this part as the defined benefit program) and  
2335 under the Public Employee ~~Optional Retirement~~ Investment Program  
2336 established under part II of this chapter (referred to in this  
2337 part as the defined contribution ~~optional retirement~~ program).  
2338 The Legislature recognizes and declares that the Florida  
2339 Retirement System is a single retirement system, consisting of  
2340 two retirement plans and other nonintegrated programs. Employers  
2341 participating in the Florida Retirement System collectively shall  
2342 be responsible for making contributions to support the benefits  
2343 provided ~~afforded~~ under both programs ~~plans~~. ~~The As provided in~~  
2344 ~~this part,~~ employers ~~participating in the Florida Retirement~~  
2345 ~~System~~ shall make contributions based upon uniform contribution  
2346 rates determined as a percentage of the total payroll for each  
2347 class or subclass of Florida Retirement System membership,  
2348 irrespective of which retirement program ~~the plan~~ individual  
2349 employee is enrolled in ~~employees may elect~~. This shall be known

11-00274-08

2008396\_\_

2350 as a uniform or blended contribution rate system.

2351 (2) In establishing a uniform contribution rate system, it  
2352 is the intent of the Legislature to:

2353 (a) Provide greater stability and certainty in financial  
2354 planning and budgeting for Florida Retirement System employers by  
2355 eliminating the fiscal instability that would be caused by dual  
2356 rates ~~coupled with employee-selected plan participation; and~~

2357 (b) Provide greater fiscal equity and uniformity for system  
2358 employers by effectively distributing the financial burden and  
2359 benefit of short-term system deficits and surpluses,  
2360 respectively, in proportion to total system payroll. ~~;~~ and

2361 ~~(c) Allow employees to make their retirement plan selection  
2362 decisions free of circumstances that may cause employers to favor  
2363 one plan choice over another.~~

2364 Section 17. Subsection (1) of section 121.71, Florida  
2365 Statutes, is amended to read:

2366 121.71 Uniform rates; process; calculations; levy.--

2367 (1) In conducting the system actuarial study required under  
2368 s. 121.031, the actuary shall follow all requirements specified  
2369 ~~thereunder~~ to determine, by Florida Retirement System employee  
2370 membership class, the dollar contribution amounts necessary for  
2371 the forthcoming fiscal year for the defined benefit program. In  
2372 addition, the actuary shall determine, by Florida Retirement  
2373 System membership class, based on an estimate for the forthcoming  
2374 fiscal year of the gross compensation of employees participating  
2375 in the defined contribution ~~optional retirement~~ program, the  
2376 dollar contribution amounts necessary to make the allocations  
2377 required under ss. 121.72 and 121.73. For each employee  
2378 membership class and subclass, the actuarial study must ~~shall~~

11-00274-08

2008396\_\_

2379 | establish a uniform rate necessary to fund the benefit  
2380 | obligations under both Florida Retirement System retirement  
2381 | plans, by dividing the sum of total dollars required by the  
2382 | estimated gross compensation of members in both plans.

2383 |       Section 18. Section 121.72, Florida Statutes, is amended to  
2384 | read:

2385 |       121.72 Allocations to ~~optional retirement program~~  
2386 | participant accounts; percentage amounts.--

2387 |       (1) The allocations established in subsection (4) shall  
2388 | fund retirement benefits under the defined contribution ~~optional~~  
2389 | ~~retirement~~ program and shall be transferred monthly by the  
2390 | Division of Retirement from the Florida Retirement System  
2391 | Contributions Clearing Trust Fund to the third-party  
2392 | administrator for deposit in each participating employee's  
2393 | individual account based on the membership class of the  
2394 | participant.

2395 |       (2) The allocations are stated as a percentage of each  
2396 | defined contribution ~~optional retirement~~ program participant's  
2397 | gross compensation for the calendar month. A change in a  
2398 | contribution percentage is effective the first day of the month  
2399 | for which a full month's employer contribution may be made on or  
2400 | after the beginning date of the change. Contribution percentages  
2401 | may be modified by general law.

2402 |       (3) Employer and participant contributions to participant  
2403 | accounts shall be accounted for separately. Participant  
2404 | contributions may be made only if expressly authorized by law.  
2405 | Interest and investment earnings on contributions shall accrue on  
2406 | a tax-deferred basis until proceeds are distributed.

2407 |       (4) Effective July 1, 2002, allocations from the Florida

11-00274-08

2008396\_\_

2408 Retirement System Contributions Clearing Trust Fund to defined  
 2409 contribution ~~optional retirement~~ program participant accounts  
 2410 shall be as follows:

2411

Membership Class	Percentage of Gross Compensation
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2412

Regular Class	9.00%
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2413

Special Risk Class	20.00%
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2414

Special Risk Administrative Support Class	11.35%
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2415

Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
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2416

Elected Officers' Class - Justices, Judges	18.90%
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2417

Elected Officers' Class - County Elected Officers	16.20%
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2418

Senior Management Service Class	10.95%
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2419

11-00274-08

2008396\_\_

2420 Section 19. Section 121.73, Florida Statutes, is amended to  
 2421 read:

2422 121.73 Allocations for ~~optional retirement program~~  
 2423 participant disability coverage; percentage amounts.--

2424 (1) The allocations established in subsection (3) shall be  
 2425 used to provide disability coverage for participants in the  
 2426 defined contribution ~~optional retirement~~ program and shall be  
 2427 transferred monthly by the Division of Retirement from the  
 2428 Florida Retirement System Contributions Clearing Trust Fund to  
 2429 the disability account of the Florida Retirement System Trust  
 2430 Fund.

2431 (2) The allocations are stated as a percentage of each  
 2432 defined contribution ~~optional retirement~~ program participant's  
 2433 gross compensation for the calendar month. A change in a  
 2434 contribution percentage is effective the first day of the month  
 2435 for which a full month's employer contribution may be made on or  
 2436 after the beginning date of the change. Contribution percentages  
 2437 may be modified by general law.

2438 (3) Effective July 1, 2002, allocations from the Florida  
 2439 Retirement System ~~FRS~~ Contribution Clearing Fund to provide  
 2440 disability coverage for participants in the defined contribution  
 2441 ~~optional retirement~~ program, and to offset the costs of  
 2442 administering said coverage, shall be as follows:

2443

Membership Class	Percentage of Gross Compensation
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2444

Regular Class	0.25%
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2445

11-00274-08

2008396\_\_

2446	Special Risk Class	1.33%
2447	Special Risk Administrative Support Class	0.45%
2448	Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
2449	Elected Officers' Class - Justices, Judges	0.73%
2450	Elected Officers' Class - County Elected Officers	0.41%
2451	Senior Management Service Class	0.26%
2452	Section 20. Section 121.74, Florida Statutes, is amended to	
2453	read:	
2454	121.74 Administrative and educational expenses.--In	
2455	addition to contributions required under s. 121.71, employers	
2456	participating in the Florida Retirement System shall contribute	
2457	an amount equal to 0.05 percent of the payroll reported for each	
2458	class or subclass of Florida Retirement System membership, which	
2459	amount shall be transferred by the Division of Retirement from	
2460	the Florida Retirement System Contributions Clearing Trust Fund	

11-00274-08

2008396\_\_

2461 to the State Board of Administration's Administrative Trust Fund  
2462 to offset the costs of administering the defined contribution  
2463 ~~optional retirement~~ program and the costs of providing  
2464 educational services to participants in the defined benefit  
2465 program and the defined contribution ~~optional retirement~~ program.  
2466 Approval of the Trustees of the State Board of Administration is  
2467 required prior to the expenditure of these funds. Payments for  
2468 third-party administrative or educational expenses shall be made  
2469 only pursuant to the terms of the approved contracts for such  
2470 services.

2471 Section 21. Section 121.77, Florida Statutes, is amended to  
2472 read:

2473 121.77 Deductions from participant accounts.--The State  
2474 Board of Administration may authorize the third-party  
2475 administrator to deduct reasonable fees and apply appropriate  
2476 charges to defined contribution ~~optional retirement~~ program  
2477 participant accounts. In no event may ~~shall~~ administrative and  
2478 educational expenses exceed the portion of employer contributions  
2479 earmarked for such expenses under this part, except for  
2480 reasonable administrative charges assessed against participant  
2481 accounts of persons for whom no employer contributions are made  
2482 during the calendar quarter. Investment management fees shall be  
2483 deducted from participant accounts, pursuant to the terms of the  
2484 contract between the provider and the board.

2485 Section 22. Subsection (3) of section 121.78, Florida  
2486 Statutes, is amended to read:

2487 121.78 Payment and distribution of contributions.--

2488 (3) (a) Employer contributions and accompanying payroll data  
2489 received after the 5th working day of the month shall be

11-00274-08

2008396\_\_

2490 considered late. The employer shall be assessed by the Division  
2491 of Retirement a penalty of 1 percent of the contributions due for  
2492 each calendar month or part thereof that the contributions or  
2493 accompanying payroll data are late. Proceeds from the 1-percent  
2494 assessment against contributions made on behalf of participants  
2495 of the defined benefit program must ~~shall~~ be deposited in the  
2496 Florida Retirement System Trust Fund, and proceeds from the 1-  
2497 percent assessment against contributions made on behalf of  
2498 participants of the defined contribution ~~optional retirement~~  
2499 program shall be transferred to the third-party administrator for  
2500 deposit into participant accounts, as provided in paragraph (b).

2501 (b) If contributions made by an employer on behalf of  
2502 participants of the defined contribution ~~optional retirement~~  
2503 program or accompanying payroll data are not received within the  
2504 calendar month they are due, including, but not limited to,  
2505 contribution adjustments as a result of employer errors or  
2506 corrections, and if that delinquency results in market losses to  
2507 participants, the employer shall reimburse each participant's  
2508 account for market losses resulting from the late contributions.  
2509 If a participant has terminated employment and taken a  
2510 distribution, the participant is responsible for returning any  
2511 excess contributions erroneously provided by employers, adjusted  
2512 for any investment gain or loss incurred during the period such  
2513 excess contributions were in the participant's ~~Public Employee~~  
2514 ~~Optional Retirement Program~~ account. The State Board of  
2515 Administration or its designated agent shall communicate to  
2516 terminated participants any obligation to repay such excess  
2517 contribution amounts. However, the State Board of Administration,  
2518 its designated agents, the Public Employee ~~Optional~~ Retirement



11-00274-08

2008396\_\_

2519 Investment Program Trust Fund, the Department of Management  
2520 Services, or the Florida Retirement System Trust Fund may ~~shall~~  
2521 not incur any loss or gain as a result of an employer's  
2522 correction of such excess contributions. The third-party  
2523 administrator, hired by the state board pursuant to s.  
2524 121.4501(9) ~~s. 121.4501(8)~~, shall calculate the market losses for  
2525 each affected participant. When contributions made on behalf of  
2526 participants of the defined contribution ~~optional retirement~~  
2527 program or accompanying payroll data are not received within the  
2528 calendar month due, the employer shall also pay the cost of the  
2529 third-party administrator's calculation and reconciliation  
2530 adjustments resulting from the late contributions. The third-  
2531 party administrator shall notify the employer of the results of  
2532 the calculations and the total amount due from the employer for  
2533 such losses and the costs of calculation and reconciliation. The  
2534 employer shall remit to the division the amount due within 10  
2535 working days after the date of the penalty notice sent by the  
2536 division. The Division of Retirement shall transfer said amount  
2537 to the third-party administrator, who shall deposit proceeds from  
2538 the 1-percent assessment and from individual market losses into  
2539 participant accounts, as appropriate. The board is authorized to  
2540 adopt rules to implement the provisions regarding late  
2541 contributions, late submission of payroll data, the process for  
2542 reimbursing participant accounts for resultant market losses, and  
2543 the penalties charged to the employers.

2544 (c) Delinquency fees may be waived by the Division of  
2545 Retirement, with regard to defined benefit program contributions,  
2546 and by the State Board of Administration, with regard to defined  
2547 contribution ~~optional retirement~~ program contributions, only

11-00274-08

2008396\_\_

2548 | when, in the opinion of the division or the board, as  
2549 | appropriate, exceptional circumstances beyond the employer's  
2550 | control prevented remittance by the prescribed due date  
2551 | notwithstanding the employer's good faith efforts to effect  
2552 | delivery. Such a waiver of delinquency may be granted an employer  
2553 | only one time each state fiscal year.

2554 |       Section 23. The Division of Statutory Revision is directed  
2555 | to redesignate the title of part II of chapter 121, Florida  
2556 | Statutes, as "Public Employee Retirement Investment Program."

2557 |       Section 24. This act shall take effect July 1, 2008.