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HB 5063, Engrossed 1

2008 Legislature

1 A bill to be entitled
2 An act relating to retirement; amending s. 112.625, F.S.;
3 revising the definition of the term "statement value";
4 amending s. 121.021, F.S.; clarifying that the term
5 "compensation" for purposes of the benefit retirement
6 program or the Public Employee Optional Retirement Program
7 of the Florida Retirement System does not include fees or
8 salary payments made from a faculty practice plan
9 authorized by the Board of Governors of the State
10 University System for clinical faculty at a state
11 university having a faculty practice plan; amending s.
12 121.031, F.S.; revising requirements relating to the
13 actuarial study of the system; amending s. 121.051, F.S.;
14 requiring that a person appointed to a faculty position at
15 a state university having a faculty practice plan
16 participate in the optional retirement program of the
17 State University System rather than the Florida Retirement
18 System; providing definitions; amending s. 121.35, F.S.;
19 requiring the participating employee in the optional
20 retirement program to execute a contract, not just an
21 annuity contract, with a designated company in order for
22 employee contributions to be forwarded to the company and
23 for interest to accrue; defining the term "participant's
24 gross monthly compensation" for purposes of the optional
25 retirement program for the State University System;
26 creating s. 121.355, F.S.; authorizing certain former
27 participants in the Community College Optional Retirement
28 Program or the State University System Optional Retirement

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29 Program and present mandatory participants in the Florida
 30 Retirement System to receive a specified amount of service
 31 credit under certain conditions; amending s. 121.71, F.S.;
 32 revising the payroll contribution rates for the membership
 33 classes of the Florida Retirement System for the state
 34 fiscal years effective July 1, 2008, and July 1, 2009;
 35 providing a declaration of important state interest;
 36 providing an effective date.

37

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

39

40 Section 1. Subsection (7) of section 112.625, Florida
 41 Statutes, is amended to read:

42 112.625 Definitions.--As used in this act:

43 (7) "Statement value" means the value of assets in
 44 accordance with s. 302(c)(2) of the Employee Retirement Income
 45 Security Act of 1974 and as permitted under regulations
 46 prescribed by the Secretary of the Treasury as amended by Pub.
 47 L. No. 100-203, as such sections are in effect on August 16,
 48 2006. Assets for which a fair market value is not provided shall
 49 be excluded from the assets used in the determination of annual
 50 funding cost.

51 Section 2. Paragraph (b) of subsection (22) of section
 52 121.021, Florida Statutes, is amended to read:

53 121.021 Definitions.--The following words and phrases as
 54 used in this chapter have the respective meanings set forth
 55 unless a different meaning is plainly required by the context:

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

59 (b) Under no circumstances shall compensation for a member
 60 participating in the defined benefit retirement program or the
 61 Public Employee Optional Retirement Program of the Florida
 62 Retirement System include:

63 1. Fees paid professional persons for special or
 64 particular services or include salary payments made from a
 65 faculty practice plan authorized by the Board of Governors of
 66 the State University System for eligible clinical faculty at a
 67 college in a state university that has ~~with~~ a faculty practice
 68 plan; or

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

72 Section 3. Paragraph (a) of subsection (3) of section
 73 121.031, Florida Statutes, is amended to read:

74 121.031 Administration of system; appropriation; oaths;
 75 actuarial studies; public records.--

76 (3) The administrator shall cause an actuarial study of
 77 the system to be made at least annually and shall report the
 78 results of such study to the Legislature by December 31 prior to
 79 the next legislative session. The study shall, at a minimum,
 80 conform to the requirements of s. 112.63, with the following
 81 exceptions and additions:

82 (a) The valuation of plan assets shall be based on a 5-
 83 year averaging methodology such as that specified in the United

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84 States Department of Treasury Regulations, 26 C.F.R. s.
 85 1.412(c)(2)-1 in effect on August 16, 2006, or a similar
 86 accepted approach designed to attenuate fluctuations in asset
 87 values.

88 Section 4. Paragraph (a) of subsection (1) of section
 89 121.051, Florida Statutes, is amended to read:

90 121.051 Participation in the system.--

91 (1) COMPULSORY PARTICIPATION.--

92 (a) The provisions of this law shall be compulsory as to
 93 all officers and employees, except elected officers who meet the
 94 requirements of s. 121.052(3), who are employed on or after
 95 December 1, 1970, of an employer other than those referred to in
 96 paragraph (2)(b), and each officer or employee, as a condition
 97 of employment, shall become a member of the system as of his or
 98 her date of employment, except that a person who is retired from
 99 any state retirement system and is reemployed on or after
 100 December 1, 1970, may ~~shall not be permitted to~~ renew his or her
 101 membership in any state retirement system except as provided in
 102 s. 121.091(4)(h) for a person who recovers from disability, and
 103 as provided in s. 121.091(9)(b)8. for a person who is elected to
 104 public office, and, effective July 1, 1991, as provided in s.
 105 121.122 for all other retirees. Officers and employees of the
 106 University Athletic Association, Inc., a nonprofit association
 107 connected with the University of Florida, employed on and after
 108 July 1, 1979, shall not participate in any state-supported
 109 retirement system.

110 1. Any person appointed on or after July 1, 1989, to a
 111 faculty position in a college at the J. Hillis Miller Health

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112 Center at the University of Florida or the Medical Center at the
 113 University of South Florida which has a faculty practice plan
 114 provided by rule adopted by the Board of Regents may ~~shall~~ not
 115 participate in the Florida Retirement System. Effective July 1,
 116 2008, any person appointed thereafter to a faculty position,
 117 including clinical faculty, in a college at a state university
 118 that has a faculty practice plan authorized by the Board of
 119 Governors may not participate in the Florida Retirement System.
 120 A faculty member so appointed shall participate in the optional
 121 retirement program for the State University System ~~on the basis~~
 122 ~~of his or her state funded compensation,~~ notwithstanding the
 123 provisions of s. 121.35(2) (a) .

124 2. For purposes of this subparagraph, the term "faculty
 125 position" is defined as a position assigned the principal
 126 responsibility of teaching, research, or public service
 127 activities or administrative responsibility directly related to
 128 the academic mission of the college. The term "clinical faculty"
 129 is defined as a faculty position appointment in conjunction with
 130 a professional position in a hospital or other clinical
 131 environment at a college. The term "faculty practice plan"
 132 includes professional services to patients, institutions, or
 133 other parties which are rendered by the clinical faculty employed
 134 by a college that has a faculty practice plan at a state
 135 university authorized by the Board of Governors.

136 Section 5. Paragraph (a) of subsection (4) of section
 137 121.35, Florida Statutes, is amended, and paragraph (g) is added
 138 to that subsection, to read:

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139 121.35 Optional retirement program for the State
 140 University System.--
 141 (4) CONTRIBUTIONS.--
 142 (a) Through June 30, 2001, each employer shall contribute
 143 on behalf of each participant in the optional retirement program
 144 an amount equal to the normal cost portion of the employer
 145 retirement contribution which would be required if the
 146 participant were a regular member of the Florida Retirement
 147 System defined benefit program, plus the portion of the
 148 contribution rate required in s. 112.363(8) that would otherwise
 149 be assigned to the Retiree Health Insurance Subsidy Trust Fund.
 150 Effective July 1, 2001, each employer shall contribute on behalf
 151 of each participant in the optional program an amount equal to
 152 10.43 percent of the participant's gross monthly compensation.
 153 The department shall deduct an amount approved by the
 154 Legislature to provide for the administration of this program.
 155 The payment of the contributions to the optional program which
 156 is required by this paragraph for each participant shall be made
 157 by the employer to the department, which shall forward the
 158 contributions to the designated company or companies contracting
 159 for payment of benefits for the participant under the program.
 160 However, such contributions paid on behalf of an employee
 161 described in paragraph (3)(c) shall not be forwarded to a
 162 company and shall not begin to accrue interest until the
 163 employee has executed a ~~an annuity~~ contract and notified the
 164 department.
 165 (g) Effective July 1, 2008, for purposes of paragraph (a)
 166 and notwithstanding s. 121.021(22)(b)1., the term "participant's

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167 gross monthly compensation" includes salary payments made to
168 eligible clinical faculty from a state university using funds
169 provided by a faculty practice plan authorized by the Board of
170 Governors of the State University System if:

171 1. There is not any employer contribution from the state
172 university to any other retirement program with respect to such
173 salary payments; and

174 2. The employer contribution on behalf of the participant
175 in the optional retirement program with respect to such salary
176 payments is made using funds provided by the faculty practice
177 plan.

178 Section 6. Section 121.355, Florida Statutes, is created
179 to read:

180 121.355 Community College Optional Retirement Program and
181 State University System Optional Retirement Program member
182 transfer.--Effective January 1, 2009, through December 31, 2009,
183 an employee who is a former participant in the Community College
184 Optional Retirement Program or the State University System
185 Optional Retirement Program and present mandatory participant in
186 the Florida Retirement System defined benefit plan may receive
187 service credit equal to his or her years of service under the
188 Community College Optional Retirement Program or the State
189 University System Optional Retirement Program under the
190 following conditions:

191 (1) The cost for such credit shall be an amount
192 representing the actuarial accrued liability for the affected
193 period of service. The cost shall be calculated using the
194 discount rate and other relevant actuarial assumptions that were

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195 used to value the Florida Retirement System defined benefit plan
196 liabilities in the most recent actuarial valuation. The
197 calculation shall include any service already maintained under
198 the defined benefit plan in addition to the years under the
199 Community College Optional Retirement Program or the State
200 University System Optional Retirement Program. The actuarial
201 accrued liability of any service already maintained under the
202 defined benefit plan shall be applied as a credit to total cost
203 resulting from the calculation. The division shall ensure that
204 the transfer sum is prepared using a formula and methodology
205 certified by an enrolled actuary.

206 (2) The employee must transfer from his or her Community
207 College Optional Retirement Program account or State University
208 System Optional Retirement Program account, subject to the terms
209 of the applicable optional retirement program contract, and from
210 other employee moneys as necessary, a sum representing the
211 actuarial accrued liability immediately following the time of
212 such movement, determined assuming that attained service equals
213 the sum of service in the defined benefit program and service in
214 the Community College Optional Retirement Program or State
215 University System Optional Retirement Program.

216 (3) The employee may not receive service credit for a
217 period of mandatory participation in the State University
218 Optional Retirement Program or for a period for which a
219 distribution was received from the Community College Optional
220 Retirement Program or State University System Optional
221 Retirement Program.

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222 Section 7. Subsection (3) of section 121.71, Florida
 223 Statutes, is amended to read:

224 121.71 Uniform rates; process; calculations; levy.--

225 (3) Required employer retirement contribution rates for
 226 each membership class and subclass of the Florida Retirement
 227 System for both retirement plans are as follows:

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2008</u> 2007	Percentage of Gross Compensation, Effective July 1, <u>2009</u> 2008
Regular Class	8.69%	<u>9.60%</u> 9.59%
Special Risk Class	19.76%	<u>22.03%</u> 22.01%
Special Risk Administrative Support Class	11.39%	<u>11.98%</u> 11.90%
Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys,	13.32%	<u>14.56%</u> 14.99%

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233	Public Defenders		
	Elected Officers'	18.40%	<u>20.37%</u> 20.46%
	Class -		
234	Justices, Judges		
	Elected Officers'	15.37%	<u>17.06%</u> 17.15%
	Class -		
235	County Elected Officers		
	Senior Management	11.96%	<u>13.36%</u> 13.35%
	Class		
236	DROP	9.80%	<u>10.96%</u> 10.89%

238 Section 8. The Legislature finds that a proper and
 239 legitimate state purpose is served when employees and retirees
 240 of the state and its political subdivisions, and the dependents,
 241 survivors, and beneficiaries of such employees and retirees, are
 242 extended the basic protections afforded by governmental
 243 retirement systems. These persons must be provided benefits that
 244 are fair and adequate and that are managed, administered, and
 245 funded in an actuarially sound manner, as required by Section
 246 14, Article X of the State Constitution, and part VII of chapter
 247 112, Florida Statutes. Therefore, the Legislature determines and
 248 declares that this act fulfills an important state interest.

249 Section 9. This act shall take effect July 1, 2008.