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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/30/2009 11:08 AM

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Senator Lawson moved the following:

Senate Amendment (with title amendment)

Delete lines 1528 - 2362

and insert:

(b) Participation in ~~the~~ DROP.—

1. An eligible member may elect to participate in ~~the~~ DROP for a period not to exceed a maximum of 60 calendar months.

However, ~~or, with respect to~~ members who are instructional personnel employed by the Florida School for the Deaf and the Blind and authorized ~~who have received authorization~~ by the Board of Trustees of the Florida School for the Deaf and the Blind ~~to participate in the DROP beyond 60 months, or~~ who are



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13 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
14 grades K-12 and authorized ~~who have received authorization by~~
15 ~~the district school superintendent to participate in the DROP~~
16 ~~beyond 60 calendar months, or who are instructional personnel as~~
17 defined in s. 1012.01(2)(a) employed by a developmental research
18 school and authorized by the school's director, or if the school
19 has no director, by the school's principal, may participate in
20 DROP for up to 36 calendar months beyond the 60-month period. 96
21 ~~calendar months immediately following the date on which the~~
22 ~~member first reaches his or her normal retirement date or the~~
23 ~~date to which he or she is eligible to defer his or her election~~
24 ~~to participate as provided in subparagraph (a)2. However, a~~
25 ~~member who has reached normal retirement date prior to the~~
26 ~~effective date of the DROP shall be eligible to participate in~~
27 ~~the DROP for a period of time not to exceed 60 calendar months~~
28 ~~or, with respect to members who are instructional personnel~~
29 ~~employed by the Florida School for the Deaf and the Blind and~~
30 ~~who have received authorization by the Board of Trustees of the~~
31 ~~Florida School for the Deaf and the Blind to participate in the~~
32 ~~DROP beyond 60 months, or who are instructional personnel as~~
33 ~~defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have~~
34 ~~received authorization by the district school superintendent to~~
35 ~~participate in the DROP beyond 60 calendar months, 96 calendar~~
36 ~~months immediately following the effective date of the DROP,~~
37 ~~except a member of the Special Risk Class who has reached normal~~
38 ~~retirement date prior to the effective date of the DROP and~~
39 ~~whose total accrued value exceeds 75 percent of average final~~
40 ~~compensation as of his or her effective date of retirement shall~~
41 ~~be eligible to participate in the DROP for no more than 36~~



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42 ~~calendar months immediately following the effective date of the~~
43 ~~DROP.~~

44 2. Upon deciding to participate in ~~the~~ DROP, the member
45 shall submit, on forms required by the division:

46 a. A written election to participate in ~~the~~ DROP;

47 b. Selection of ~~the~~ DROP participation and termination
48 dates that, which satisfy the limitations stated in paragraph
49 (a) and subparagraph 1. The ~~Such~~ termination date must ~~shall~~ be
50 in a binding letter of resignation to ~~with~~ the employer,

51 establishing a deferred termination date. The member may change
52 the termination date within the limitations of subparagraph 1.,
53 but only with the written approval of the ~~his or her~~ employer;

54 c. A properly completed DROP application for service
55 retirement as provided in this section; and

56 d. Any other information required by the division.

57 3. The DROP participant is ~~shall be~~ a retiree under the
58 Florida Retirement System for all purposes, except for paragraph
59 (5) (f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
60 and 121.122. DROP participation is final and may not be canceled

61 by the participant after the first payment is credited during
62 the DROP participation period. However, participation in ~~the~~
63 DROP does not alter the participant's employment status, and the
64 member is ~~such employee shall~~ not be deemed retired from
65 employment until his or her deferred resignation is effective
66 and termination occurs as provided in s. 121.021(39).

67 4. Elected officers are ~~shall be~~ eligible to participate in
68 ~~the~~ DROP subject to the following:

69 a. An elected officer who reaches normal retirement date
70 during a term of office may defer the election to participate ~~in~~



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71 ~~the DROP~~ until the next succeeding term in that office. An ~~Such~~
72 elected officer who exercises this option may participate in ~~the~~
73 DROP for up to 60 calendar months or ~~a period of~~ no longer than
74 the ~~such~~ succeeding term of office, whichever is less.

75 b. An elected or a nonelected participant may run for a
76 term of office while participating in DROP and, if elected,
77 extend the DROP termination date accordingly; ~~except,~~ however,
78 if such additional term of office exceeds the 60-month
79 limitation established in subparagraph 1., and the officer does
80 not resign from office within such 60-month limitation, the
81 retirement and the participant's DROP is ~~shall be~~ null and void
82 as provided in sub-subparagraph (c)5.d.

83 c. An elected officer who is dually employed and elects to
84 participate in DROP must meet ~~shall be required to satisfy~~ the
85 definition of termination in s. 121.021(39) within the original
86 60-month period or maximum participation, ~~with respect to~~
87 ~~members who are instructional personnel employed by the Florida~~
88 ~~School for the Deaf and the Blind and who have received~~
89 ~~authorization by the Board of Trustees of the Florida School for~~
90 ~~the Deaf and the Blind to participate in the DROP beyond 60~~
91 ~~months, or who are instructional personnel as defined in s.~~
92 ~~1012.01(2) (a) - (d) in grades K-12 and who have received~~
93 ~~authorization by the district school superintendent to~~
94 ~~participate in the DROP beyond 60 months, the 96-month~~
95 ~~limitation~~ period as provided in subparagraph 1. for the
96 nonelected position and may continue employment as an elected
97 officer as provided in s. 121.053. The elected officer shall
98 ~~will~~ be enrolled as a renewed member in the Elected Officers'
99 Class or the Regular Class, as provided in ss. 121.053 and



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100 121.122, on the first day of the month after termination of
101 employment in the nonelected position and termination of DROP.
102 Distribution of ~~the~~ DROP benefits shall be made as provided in
103 paragraph (c).

104 (c) Benefits payable under ~~the~~ DROP.—

105 1. Effective on ~~with~~ the date of DROP participation, the
106 member's initial normal monthly benefit, including creditable
107 service, optional form of payment, and average final
108 compensation, and the effective date of retirement are ~~shall be~~
109 fixed. The beneficiary established under the Florida Retirement
110 System is ~~shall be~~ the beneficiary eligible to receive any DROP
111 benefits payable if the DROP participant dies before completing
112 ~~prior to the completion of~~ the period of DROP participation. If
113 ~~In the event~~ a joint annuitant predeceases the member, the
114 member may name a beneficiary to receive accumulated DROP
115 benefits payable. The ~~Such~~ retirement benefit, the annual cost
116 of living adjustments provided in s. 121.101, and interest ~~shall~~
117 accrue monthly in the Florida Retirement System Trust Fund. The
118 ~~Such~~ interest accrues ~~shall accrue~~ at an effective annual rate
119 of 6.5 percent compounded monthly, on the prior month's
120 accumulated ending balance, up to the month of termination or
121 death, except as provided in s. 121.053(1)(b)5.

122 2. Each employee who elects to participate in ~~the~~ DROP may
123 ~~shall be allowed to~~ elect to receive a lump-sum payment for
124 accrued annual leave earned in accordance with agency policy
125 upon beginning participation in ~~the~~ DROP. The ~~Such~~ accumulated
126 leave payment certified to the division upon commencement of
127 DROP shall be included in the calculation of the member's
128 average final compensation. The employee electing the ~~such~~ lump-



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129 sum payment is ~~upon beginning participation in DROP~~ will not be
130 eligible to receive a second lump-sum payment upon termination,
131 except to the extent the employee has earned additional annual
132 leave which, combined with the original payment, does not exceed
133 the maximum lump-sum payment allowed by the employing agency's
134 policy or rules. An ~~Such~~ early lump-sum payment shall be based
135 on the hourly wage of the employee at the time he or she begins
136 participation in ~~the~~ DROP. If the member elects to wait and
137 receive a ~~such~~ lump-sum payment upon termination of DROP and
138 termination of employment with the employer, any accumulated
139 leave payment made at that time may not ~~cannot~~ be included in
140 the member's retirement benefit, which was determined and fixed
141 by law when the employee elected to participate in ~~the~~ DROP.

142 3. The effective date of DROP participation and the
143 effective date of retirement of a DROP participant shall be the
144 first day of the month selected by the member to begin
145 participation in ~~the~~ DROP, provided such date is properly
146 established, with the written confirmation of the employer, and
147 the approval of the division, on forms required by the division.

148 4. Normal retirement benefits and any interest ~~thereon~~
149 shall continue to accrue in ~~the~~ DROP until the established
150 termination date of ~~the~~ DROP, or until the participant
151 terminates employment or dies prior to such date, except as
152 provided in s. 121.053(1)(b)5. Although individual DROP accounts
153 shall not be established, a separate accounting of each
154 participant's accrued benefits under ~~the~~ DROP shall be
155 calculated and provided to participants.

156 5. At the conclusion of the participant's DROP, the
157 division shall distribute the participant's total accumulated



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158 DROP benefits, subject to the following ~~provisions~~:

159 a. The division shall receive verification by the
160 participant's employer or employers that the ~~such~~ participant
161 has terminated all employment relationships as provided in s.
162 121.021(39) ~~(b)~~.

163 b. The terminated DROP participant or, if deceased, the
164 ~~such~~ participant's named beneficiary, shall elect on forms
165 provided by the division to receive payment of the DROP benefits
166 in accordance with one of the options listed below. If ~~For~~ a
167 participant or beneficiary ~~who~~ fails to elect a method of
168 payment within 60 days after ~~of~~ termination of ~~the~~ DROP, the
169 division shall ~~will~~ pay a lump sum as provided in sub-sub-
170 subparagraph (I).

171 (I) Lump sum.—All accrued DROP benefits, plus interest,
172 less withholding taxes remitted to the Internal Revenue Service,
173 shall be paid to the DROP participant or surviving beneficiary.

174 (II) Direct rollover.—All accrued DROP benefits, plus
175 interest, shall be paid from ~~the~~ DROP directly to the custodian
176 of an eligible retirement plan as defined in s. 402(c)(8)(B) of
177 the Internal Revenue Code. However, in the case of an eligible
178 rollover distribution to the surviving spouse of a deceased
179 participant, an eligible retirement plan is an individual
180 retirement account or an individual retirement annuity as
181 described in s. 402(c)(9) of the Internal Revenue Code.

182 (III) Partial lump sum.—A portion of the accrued DROP
183 benefits shall be paid to ~~the~~ DROP participant or surviving
184 spouse, less withholding taxes remitted to the Internal Revenue
185 Service, and the remaining DROP benefits must ~~shall~~ be
186 transferred directly to the custodian of an eligible retirement



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187 plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code.
188 However, in the case of an eligible rollover distribution to the
189 surviving spouse of a deceased participant, an eligible
190 retirement plan is an individual retirement account or an
191 individual retirement annuity as described in s. 402(c)(9) of
192 the Internal Revenue Code. The proportions must ~~shall~~ be
193 specified by the DROP participant or surviving beneficiary.

194 c. The form of payment selected by the DROP participant or
195 surviving beneficiary must comply ~~complies~~ with the minimum
196 distribution requirements of the Internal Revenue Code.

197 d. A DROP participant who fails to terminate all employment
198 relationships as provided ~~defined~~ in s. 121.021(39) ~~(b)~~ shall be
199 deemed as not ~~to be~~ retired, and the DROP election is ~~shall be~~
200 null and void. Florida Retirement System membership shall be
201 reestablished retroactively to the date of the commencement of
202 ~~the~~ DROP, and each employer with whom the participant continues
203 employment must ~~shall be required to~~ pay to the Florida
204 Retirement System Trust Fund the difference between the DROP
205 contributions paid in paragraph (i) and the contributions
206 required for the applicable Florida Retirement System class of
207 membership during the period the member participated in ~~the~~
208 DROP, plus 6.5 percent interest compounded annually.

209 6. The retirement benefits of any DROP participant who
210 terminates all employment relationships as provided in s.
211 121.021(39) but is reemployed in violation of the reemployment
212 provisions subsection (9) shall be suspended during those months
213 in which the retiree is in violation. Any retiree in violation
214 of this subparagraph and any employer that employs or appoints
215 such person without notifying the Division of Retirement to



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216 suspend retirement benefits are jointly and severally liable for
217 any benefits paid during the reemployment limitation period. To
218 avoid liability, the employer must have a written statement from
219 the retiree that he or she is not retired from a state-
220 administered retirement system. Any retirement benefits received
221 by a retiree while employed in violation of the reemployment
222 limitations must be repaid to the Florida Retirement System
223 Trust Fund, and his or her retirement benefits shall remain
224 suspended until payment is made. Benefits suspended beyond the
225 end of the retired retiree's first 6 calendar months shall apply
226 toward repayment of benefits received in violation of the
227 reemployment limitation.

228 ~~7.6.~~ The accrued benefits of any DROP participant, and any
229 contributions accumulated under the ~~such~~ program, are ~~shall~~ not
230 ~~be~~ subject to assignment, execution, attachment, or ~~to~~ any legal
231 process whatsoever, except for qualified domestic relations
232 orders by a court of competent jurisdiction, income deduction
233 orders as provided in s. 61.1301, and federal income tax levies.

234 ~~8.7.~~ DROP participants are ~~shall~~ not ~~be~~ eligible for
235 disability retirement benefits as provided in subsection (4).

236 (d) Death benefits under ~~the~~ DROP.—

237 1. Upon the death of a DROP participant, the named
238 beneficiary is ~~shall be~~ entitled to apply for and receive the
239 accrued benefits in ~~the~~ DROP as provided in sub-subparagraph
240 (c)5.b.

241 2. The normal retirement benefit accrued to ~~the~~ DROP during
242 the month of a participant's death is ~~shall be~~ the final monthly
243 benefit credited for such DROP participant.

244 3. Eligibility to participate in ~~the~~ DROP terminates upon



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245 death of the participant. If the participant dies on or after
246 the effective date of enrollment in ~~the~~ DROP, but before ~~prior~~
247 ~~to~~ the first monthly benefit is being credited to ~~the~~ DROP,
248 Florida Retirement System benefits are ~~shall be~~ paid in
249 accordance with subparagraph (7) (c)1. or subparagraph 2.

250 4. A DROP participant's ~~participants'~~ survivors are ~~shall~~
251 not ~~be~~ eligible to receive Florida Retirement System death
252 benefits as provided in paragraph (7) (d).

253 (e) Cost-of-living adjustment.—On each July 1, the
254 participant's ~~participants'~~ normal retirement benefit shall be
255 increased as provided in s. 121.101.

256 (f) Retiree health insurance subsidy.—DROP participants are
257 not eligible to apply for the retiree health insurance subsidy
258 payments as provided in s. 112.363 until such participants have
259 terminated employment and participation in ~~the~~ DROP.

260 (g) Renewed membership.—DROP participants are ~~shall~~ not ~~be~~
261 eligible for renewed membership in the Florida Retirement System
262 under ss. 121.053 and 121.122 until all employment relationships
263 are terminated ~~termination of employment is effectuated~~ as
264 provided in s. 121.021(39) ~~(b)~~.

265 (h) Employment limitation after DROP participation.— Upon
266 ~~satisfying the definition of~~ termination of all employment
267 relationships as provided in s. 121.021(39) ~~(b)~~, DROP
268 participants are ~~shall be~~ subject to the same ~~such~~ reemployment
269 limitations as other retirees. Reemployment restrictions
270 applicable to retirees as provided in subsection (9) do ~~shall~~
271 not apply to DROP participants until their employment and
272 participation in ~~the~~ DROP are terminated.

273 (i) Contributions.—



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274 1. All employers paying the salary of a DROP participant
275 filling a regularly established position shall contribute 8.0
276 percent of such participant's gross compensation for the period
277 of July 1, 2002, through June 30, 2003, and the percentage 11.56
278 ~~percent~~ of such compensation required by s. 121.71 thereafter,
279 which shall constitute the entire employer DROP contribution
280 with respect to such participant. Such contributions, payable to
281 the Florida Retirement System Trust Fund in the same manner as
282 required in s. 121.071, must ~~shall~~ be made as appropriate for
283 each pay period and are in addition to contributions required
284 for social security and the Retiree Health Insurance Subsidy
285 Trust Fund. Such employer, social security, and health insurance
286 subsidy contributions are not included in ~~the~~ DROP.

287 2. The employer shall, in addition to subparagraph 1., also
288 withhold one-half of the entire social security contribution
289 required for the participant. Contributions for social security
290 by each participant and each employer, in the amount required
291 for social security coverage as ~~now or hereafter~~ provided by the
292 federal Social Security Act, are ~~shall be~~ in addition to
293 contributions specified in subparagraph 1.

294 3. All employers paying the salary of a DROP participant
295 filling a regularly established position shall contribute the
296 percent of such participant's gross compensation required in s.
297 121.071(4), which ~~shall~~ constitute the employer's health
298 insurance subsidy contribution with respect to such participant.
299 Such contributions must ~~shall~~ be deposited by the administrator
300 in the Retiree Health Insurance Subsidy Trust Fund.

301 (j) Forfeiture of retirement benefits. ~~Nothing in~~ This
302 section does not ~~shall be construed to~~ remove DROP participants



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303 from the scope of s. 8(d), Art. II of the State Constitution, s.
304 112.3173, and paragraph (5)(f). DROP participants who commit a
305 specified felony offense while employed are ~~will be~~ subject to
306 forfeiture of all retirement benefits, including DROP benefits,
307 pursuant to those provisions of law.

308 (k) Administration of program.—The division shall adopt
309 ~~make such~~ rules as ~~are~~ necessary for the effective and efficient
310 administration of this subsection. The division is ~~shall~~ not be
311 required to advise members of the federal tax consequences of an
312 election related to the DROP but may advise members to seek
313 independent advice.

314 (14) PAYMENT OF BENEFITS.—This subsection applies to the
315 payment of benefits to a payee (retiree or beneficiary) under
316 the Florida Retirement System:

317 (a) Federal income tax shall be withheld in accordance with
318 federal law, unless the payee elects otherwise on Form W-4P. The
319 division shall prepare and distribute to each recipient of
320 monthly retirement benefits an appropriate income tax form that
321 reflects the recipient's income and federal income tax withheld
322 for the calendar year just ended.

323 (b) Subject to approval by the division in accordance with
324 rule 60S-4.015, Florida Administrative Code, a payee receiving
325 retirement benefits under the ~~Florida Retirement~~ system may also
326 have the following payments deducted from his or her monthly
327 benefit:

328 1. Premiums for life and health-related insurance policies
329 from approved companies.

330 2. Life insurance premiums for the State Group Life
331 Insurance Plan, if authorized in writing by the payee and by the



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332 department ~~of Management Services~~.

333 3. Repayment of overpayments from the Florida Retirement
334 System Trust Fund, the State Employees' Health Insurance Trust
335 Fund, or the State Employees' Life Insurance Trust Fund, upon
336 notification of the payee.

337 4. Payments to an alternate payee for alimony or, child
338 support pursuant to an income deduction order under s. 61.1301,
339 or division of marital assets pursuant to a qualified domestic
340 relations order under s. 222.21 ~~or an income deduction order~~
341 ~~under s. 61.1301~~.

342 5. Payments to the Internal Revenue Service for federal
343 income tax levies, upon notification of the division by the
344 Internal Revenue Service.

345 (c) A payee must ~~shall~~ notify the division of any change in
346 his or her address. The division may suspend benefit payments to
347 a payee if correspondence sent to the payee's mailing address is
348 returned due to an incorrect address. Benefit payments shall be
349 resumed upon notification to the division of the payee's new
350 address.

351 (d) A payee whose retirement benefits are reduced by the
352 application of maximum benefit limits under s. 415(b) of the
353 Internal Revenue Code, as specified in s. 121.30(5), shall have
354 the portion of his or her calculated benefit in the Florida
355 Retirement System defined benefit plan which exceeds such
356 federal limitation paid through the Florida Retirement System
357 Preservation of Benefits Plan, as provided in s. 121.1001.

358 (e) The Division of Retirement may issue retirement
359 benefits payable for division of marital assets pursuant to a
360 qualified domestic relations order directly to the alternate



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361 payee, any court order to the contrary notwithstanding, in order
362 to meet Internal Revenue Code requirements.

363 (f)~~(e)~~ A Ne benefit may not be reduced for the purpose of
364 preserving the member's eligibility for a federal program.

365 (g)~~(f)~~ The division shall adopt rules establishing
366 procedures for determining that ~~the~~ persons to whom benefits are
367 being paid are still living. The division shall suspend the
368 benefits being paid to any payee if ~~when~~ it is unable to contact
369 such payee and to confirm that he or she is still living.

370 Section 10. Section 121.1115, Florida Statutes, is amended
371 to read:

372 121.1115 Purchase of retirement credit for out-of-state or
373 ~~and~~ federal service.—Effective January 1, 1995, a member ~~of the~~
374 ~~Florida Retirement System~~ may purchase creditable service for
375 periods of public employment in another state and receive
376 creditable service for such periods of employment. Service with
377 the Federal Government, including any active military service,
378 may be claimed. Upon completion of each year of service earned
379 under the Florida Retirement System, a member may purchase up to
380 1 year of retirement credit for his or her out-of-state service,
381 subject to the following provisions:

382 (1) LIMITATIONS AND CONDITIONS.—To receive credit for the
383 out-of-state service:

384 (a) The out-of-state service ~~being claimed~~ must have been:

385 1. Performed in a position of employment with the state or
386 a political subdivision thereof or with the Federal Government;

387 2. Covered by a retirement or pension plan provided by the
388 state or political subdivision, or by the Federal Government, as
389 appropriate; and



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390 3. Performed prior to a period of membership in the Florida
391 Retirement System.

392 (b) The member must have completed a minimum of 6 years of
393 creditable service under the Florida Retirement System,
394 excluding out-of-state service and in-state service claimed and
395 purchased under s. 121.1122.

396 (c) Not more than 5 years of creditable service may be
397 claimed for creditable service aggregated under ~~the provisions~~
398 ~~of~~ this section and s. 121.1122.

399 (d) The out-of-state service credit ~~claimed under this~~
400 ~~section~~ shall be credited only as service in the Regular Class
401 ~~of membership~~, and any benefit or pension based thereon ~~is shall~~
402 ~~be~~ subject to the limitations and restrictions of s. 112.65.

403 (e) The member is not eligible for and may not receive a
404 pension or benefit from a retirement or pension plan based on or
405 including the out-of-state service. Eligibility for or the
406 receipt of contributions to a retirement plan made by the
407 employer on behalf of the employee is considered a benefit.

408 (f) (e) A member shall be eligible To receive service credit
409 for out-of-state service performed after leaving the Florida
410 Retirement System, the member must complete only upon return to
411 membership and completion of at least 1 year of creditable
412 service in the Florida Retirement System following the out-of-
413 state service.

414 (2) COST.—For each year claimed, the member must pay into
415 the Florida Retirement System Trust Fund an amount equal to 20
416 percent of the member's annual compensation for the first full
417 work year of creditable service earned under the Florida
418 Retirement System, but not less than \$12,000, plus interest at



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419 6.5 percent compounded annually from the date of first annual
420 salary earned until full payment is made. The employer may pay
421 all or a portion of the cost of this service credit.

422 Section 11. Subsection (2) of section 121.1122, Florida
423 Statutes, is amended to read:

424 121.1122 Purchase of retirement credit for in-state public
425 service and in-state service in accredited nonpublic schools and
426 colleges, including charter schools and charter technical career
427 centers.—Effective January 1, 1998, a member of the Florida
428 Retirement System may purchase creditable service for periods of
429 certain public or nonpublic employment performed in this state,
430 as provided in this section.

431 (2) LIMITATIONS AND CONDITIONS.—

432 (a) A member is not eligible to receive credit for in-state
433 service under this section until he or she has completed 6 years
434 of creditable service under the Florida Retirement System,
435 excluding service purchased under this section and out-of-state
436 service claimed and purchased under s. 121.1115.

437 (b) A member may not purchase and receive credit for more
438 than 5 years of creditable service aggregated under ~~the~~
439 ~~provisions of~~ this section and s. 121.1115.

440 (c) Service credit claimed under this section shall be
441 credited only as service in the Regular Class ~~of membership~~ and
442 ~~is shall be~~ subject to ~~the provisions of~~ s. 112.65.

443 (d) Service credit may not be purchased under this section
444 if the member is eligible to receive or is receiving a pension
445 or benefit from a retirement or pension plan based on or
446 including the service. Eligibility for or the receipt of
447 contributions to a retirement plan made by the employer on



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448 behalf of the employee is considered a benefit.

449 (e)~~(d)~~ A member is ~~shall be~~ eligible to receive service
450 credit for in-state service performed after leaving the Florida
451 Retirement System only after ~~upon returning to membership and~~
452 completing at least 1 year of creditable service in the Florida
453 Retirement System following the in-state service.

454 (f)~~(e)~~ The service claimed must have been service covered
455 by a retirement or pension plan provided by the employer.

456 Section 12. Section 121.122, Florida Statutes, is amended
457 to read:

458 121.122 Renewed membership in system.-

459 (1) Except as provided in s. 121.053, effective July 1,
460 1991, any retiree of a state-administered retirement system who
461 is initially reemployed ~~employed~~ in a regularly established
462 position with a covered employer shall be enrolled as a
463 compulsory member of the Regular Class of the Florida Retirement
464 System or, effective July 1, 1997, any retiree of a state-
465 administered retirement system who is initially reemployed
466 ~~employed~~ in a position included in the Senior Management Service
467 Class shall be enrolled as a compulsory member of the Senior
468 Management Service Class of the Florida Retirement System as
469 provided in s. 121.055, and shall be entitled to receive an
470 additional retirement benefit, subject to the following
471 conditions:

472 ~~(1)~~(a) Such member must ~~shall~~ resatisfy the age and service
473 requirements as provided in this chapter for initial membership
474 under the system, unless such member elects to participate in
475 the Senior Management Service Optional Annuity Program in lieu
476 of the Senior Management Service Class, as provided in s.



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477 121.055(6).

478 (b) Such member is shall not ~~be~~ entitled to disability
479 benefits as provided in s. 121.091(4).

480 (c) Such member must meet the reemployment after retirement
481 limitations as provided in s. 121.091(9), as applicable.

482 (2) Upon renewed membership or reemployment of a retiree,
483 the employer of such member shall pay the applicable employer
484 contributions as required by ss. 121.71, 121.74, 121.76, and
485 112.363 ~~121.055(3) and 121.071(1)(a) and (4).~~

486 (3) Such member is shall be entitled to purchase additional
487 retirement credit in the Regular Class or the Senior Management
488 Service Class, as applicable, for any postretirement service
489 performed in a regularly established position as follows:

490 (a) For regular class service prior to July 1, 1991, by
491 paying the Regular Class applicable employee and employer
492 contributions for the period being claimed, plus 4 percent
493 interest compounded annually from first year of service claimed
494 until July 1, 1975, and 6.5 percent interest compounded
495 thereafter, until full payment is made to the Florida Retirement
496 System Trust Fund; or

497 (b) For Senior Management Service Class prior to June 1,
498 1997, as provided in s. 121.055(1)(j).

499
500 The contribution for postretirement service between July 1,
501 1985, and July 1, 1991, for which the reemployed retiree
502 contribution was paid, shall be the difference between such
503 contribution and the total applicable contribution for the
504 period being claimed, plus interest. The employer of such member
505 may pay the applicable employer contribution in lieu of the



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506 member. If a member does not wish to claim credit for all of the
507 postretirement service for which he or she is eligible, the
508 service the member claims must be the most recent service.

509 (4) No creditable service for which credit was received, or
510 which remained unclaimed, at retirement may be claimed or
511 applied toward service credit earned following renewed
512 membership. However, service earned as an elected officer with
513 renewed membership in the Elected Officers' Class may be used in
514 conjunction with creditable service earned under this section,
515 provided the applicable vesting requirements and other existing
516 statutory conditions required by this chapter are met.

517 (5) Notwithstanding any other limitations provided in this
518 section, a participant of the State University System Optional
519 Retirement Program, the State Community College Optional
520 Retirement Program, or the Senior Management Service Optional
521 Annuity Program who terminated employment and commenced
522 receiving a distribution ~~an annuity~~ under ~~the provisions of the~~
523 optional program, who initially renews membership ~~in the Regular~~
524 ~~Class~~ as required by this section upon reemployment after
525 retirement, and who had previously earned creditable Florida
526 Retirement System service that was not included in any
527 retirement benefit may include such previous service toward
528 vesting and service credit in the second career benefit provided
529 under renewed membership.

530 (6) A ~~Any~~ renewed member who is not receiving the maximum
531 health insurance subsidy provided in s. 112.363 is ~~shall be~~
532 entitled to earn additional credit toward the maximum health
533 insurance subsidy. Any additional subsidy due because of such
534 additional credit may ~~shall~~ be received only at the time of



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535 payment of the second career retirement benefit. ~~In no case~~
536 ~~shall~~ The total health insurance subsidy received by a retiree
537 receiving benefits from initial and renewed membership may not
538 exceed the maximum allowed in s. 112.363.

539 Section 13. Section 121.136, Florida Statutes, is amended
540 to read:

541 121.136 Annual benefit statement to members.—Each year
542 ~~Beginning January 1, 1993, and each January thereafter,~~ the
543 department shall provide each active member of the Florida
544 Retirement System with 5 or more years of creditable service an
545 annual statement of benefits that provides. ~~Such statement~~
546 ~~should provide~~ the member with basic data about the member's
547 retirement account. At a minimum ~~Minimally,~~ it must ~~shall~~
548 include the member's retirement plan, accrued service credit ~~the~~
549 ~~amount of funds on deposit in the retirement account,~~ and an
550 estimate of retirement benefits.

551 Section 14. Section 121.1905, Florida Statutes, is amended
552 to read:

553 121.1905 Division of Retirement; creation.—

554 ~~(1)~~ There is created the Division of Retirement within the
555 Department of Management Services.

556 ~~(2) The mission of the Division of Retirement is to provide~~
557 ~~quality and cost-effective retirement services as measured by~~
558 ~~member satisfaction and by comparison with administrative costs~~
559 ~~of comparable retirement systems.~~

560 Section 15. Paragraph (a) of subsection (2) of section
561 121.23, Florida Statutes, is amended to read:

562 121.23 Disability retirement and special risk membership
563 applications; Retirement Commission; powers and duties; judicial



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564 review.—The provisions of this section apply to all proceedings
565 in which the administrator has made a written final decision on
566 the merits respecting applications for disability retirement,
567 reexamination of retired members receiving disability benefits,
568 applications for special risk membership, and reexamination of
569 special risk members in the Florida Retirement System. The
570 jurisdiction of the State Retirement Commission under this
571 section shall be limited to written final decisions of the
572 administrator on the merits.

573 (2) A member shall be entitled to a hearing before the
574 State Retirement Commission pursuant to ss. 120.569 and
575 120.57(1) on the merits of any written adverse decision of the
576 administrator, if he or she files with the commission a written
577 request for such hearing within 21 days after receipt of such
578 written decision from the administrator. For the purpose of such
579 hearings, the commission shall be an "agency head" as defined by
580 s. 120.52.

581 (a) The commission may ~~shall have the authority to~~ issue
582 orders as a result of the ~~a~~ hearing that are ~~shall be~~ binding on
583 all parties to the dispute and. ~~The commission~~ may order any
584 action that it deems appropriate. Any disability retirement
585 order of the commission that ~~issued pursuant to this subsection~~
586 ~~which~~ sustains the application of the member may include an
587 amount, to be determined by the commission, for reasonable
588 attorney's fees and taxable costs, which shall be calculated in
589 accordance with the statewide uniform guidelines for taxation of
590 costs in civil actions. The amount of the attorney's fees ~~fee~~
591 may not exceed 50 percent of the initial yearly benefit awarded
592 under s. 121.091(4). In cases involving disability retirement,



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593 the ~~State Retirement~~ commission shall require the member to
594 present substantial competent medical evidence that meets the
595 requirements of s. 121.091(4)(c)2. and 3., and may require
596 vocational evidence, before awarding disability retirement
597 benefits.

598 Section 16. Paragraph (a) of subsection (1) of section
599 121.24, Florida Statutes, is amended to read:

600 121.24 Conduct of commission business; legal and other
601 assistance; compensation.—

602 (1) The commission shall conduct its business within the
603 following guidelines:

604 (a) For purposes of hearing appeals under s. 121.23, the
605 commission may meet in panels ~~consisting of no not~~ fewer than
606 three members. ~~For the purpose of meeting in these panels, a~~
607 ~~quorum shall be not fewer than two members. For all other~~
608 ~~purposes,~~ A quorum shall consist of three members. The
609 concurring vote of a majority of the members present ~~is shall be~~
610 required to reach a decision, issue orders, and conduct the
611 business of the commission.

612 Section 17. Paragraph (h) of subsection (3) and paragraphs
613 (a) and (e) of subsection (5) of section 121.35, Florida
614 Statutes, are amended, and paragraph (g) is added to subsection
615 (5) of that section, to read:

616 121.35 Optional retirement program for the State University
617 System.—

618 (3) ELECTION OF OPTIONAL PROGRAM.—

619 (h) A participant in the optional retirement program may
620 not participate in more than one state-administered retirement
621 system, plan, or class simultaneously. Except as provided in s.



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622 121.052(6)(d), a participant who is or becomes dually employed
623 in two or more positions covered by the Florida Retirement
624 System, one of which is eligible for the optional program and
625 one of which is not, may remain a member of the optional program
626 and contributions shall be paid as required only on the salary
627 earned in the position eligible for the optional program during
628 the such period of dual employment; or, within 90 days after
629 becoming dually employed, he or she may elect membership in the
630 Regular Class of the Florida Retirement System in lieu of the
631 optional program and contributions shall be paid as required on
632 the total salary received for all employment. At retirement, the
633 average final compensation used to calculate any benefits for
634 which the member becomes eligible under the Florida Retirement
635 System must ~~shall~~ be based on all salary reported for both
636 positions during such period of dual employment. If the ~~When~~
637 ~~such~~ member ceases to be dually employed, he or she may, within
638 90 days, elect to remain in the Florida Retirement System class
639 for which he or she is eligible or to again become a participant
640 in the optional retirement program. Failure to elect membership
641 in the optional program within 90 days shall result in
642 compulsory membership in the Florida Retirement System, except
643 that a member filling a faculty position at ~~under~~ a college that
644 has a faculty practice plan at the University of Florida, at ~~or~~
645 the Medical Center at the University of South Florida, or other
646 state university shall again participate in the optional
647 retirement program as required in s. 121.051(1)(a).

648 (5) BENEFITS.—

649 (a) Benefits are ~~shall be~~ payable under the optional
650 retirement program only to vested participants in the program,



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651 or their beneficiaries as designated by the participant in the
652 contract with a provider company, and such benefits shall be
653 paid only by the designated company in accordance with s. 403(b)
654 of the Internal Revenue Code and ~~in accordance with~~ the terms of
655 the annuity contract or contracts applicable to the participant.
656 Benefits ~~shall~~ accrue in individual accounts that are
657 participant-directed, portable, and funded by employer
658 contributions and the earnings thereon. The participant must be
659 terminated from all employment relationships with all Florida
660 Retirement System employers, as provided in s. 121.021(39), to
661 begin receiving the employer-funded benefit. Benefits funded by
662 employer contributions are ~~shall be~~ payable in accordance with
663 the following terms and conditions:

664 1. Benefits shall be paid ~~payable~~ only to a participant, to
665 his or her beneficiaries, or to his or her estate, as designated
666 by the participant.

667 2. Benefits shall be paid by the provider company or
668 companies in accordance with the law, the provisions of the
669 contract, and any applicable department ~~board~~ rule or policy.

670 3. In the event of a participant's death, moneys
671 accumulated by, or on behalf of, the participant, less
672 withholding taxes remitted to the Internal Revenue Service, if
673 any, shall be distributed to the participant's designated
674 beneficiary or beneficiaries, or to the participant's estate, as
675 if the participant retired on the date of death, as provided in
676 paragraph (c). No other death benefits are ~~shall be~~ available to
677 ~~for~~ survivors of participants under the optional retirement
678 program except for such benefits, or coverage for such benefits,
679 as are separately afforded by the employer, at the employer's



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680 discretion.

681 (e) A participant who chooses to receive his or her
682 benefits upon termination as defined in s. 121.021(39) ~~must of~~
683 ~~employment shall have responsibility to~~ notify the provider
684 company of the date ~~on which~~ he or she wishes benefits funded by
685 employer contributions to begin. Benefits may be deferred until
686 ~~such time as~~ the participant chooses to make such application.

687 (g) For purposes of this section, "retiree" means a former
688 participant of the optional retirement program who has
689 terminated employment and has taken a distribution as provided
690 in this subsection, except for a mandatory distribution of a de
691 minimis account authorized by the department.

692 Section 18. Paragraphs (a) and (b) of subsection (1) of
693 section 121.591, Florida Statutes, is amended to read:

694 121.591 Benefits payable under the Public Employee Optional
695 Retirement Program of the Florida Retirement System.—Benefits
696 may not be paid under this section unless the member has
697 terminated employment as provided in s. 121.021(39)(a) or is
698 deceased and a proper application has been filed in the manner
699 prescribed by the state board or the department. The state board
700 or department, as appropriate, may cancel an application for
701 retirement benefits when the member or beneficiary fails to
702 timely provide the information and documents required by this
703 chapter and the rules of the state board and department. In
704 accordance with their respective responsibilities as provided
705 herein, the State Board of Administration and the Department of
706 Management Services shall adopt rules establishing procedures
707 for application for retirement benefits and for the cancellation
708 of such application when the required information or documents



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709 are not received. The State Board of Administration and the
710 Department of Management Services, as appropriate, are
711 authorized to cash out a de minimis account of a participant who
712 has been terminated from Florida Retirement System covered
713 employment for a minimum of 6 calendar months. A de minimis
714 account is an account containing employer contributions and
715 accumulated earnings of not more than \$5,000 made under the
716 provisions of this chapter. Such cash-out must either be a
717 complete lump-sum liquidation of the account balance, subject to
718 the provisions of the Internal Revenue Code, or a lump-sum
719 direct rollover distribution paid directly to the custodian of
720 an eligible retirement plan, as defined by the Internal Revenue
721 Code, on behalf of the participant. If any financial instrument
722 issued for the payment of retirement benefits under this section
723 is not presented for payment within 180 days after the last day
724 of the month in which it was originally issued, the third-party
725 administrator or other duly authorized agent of the State Board
726 of Administration shall cancel the instrument and credit the
727 amount of the instrument to the suspense account of the Public
728 Employee Optional Retirement Program Trust Fund authorized under
729 s. 121.4501(6). Any such amounts transferred to the suspense
730 account are payable upon a proper application, not to include
731 earnings thereon, as provided in this section, within 10 years
732 after the last day of the month in which the instrument was
733 originally issued, after which time such amounts and any
734 earnings thereon shall be forfeited. Any such forfeited amounts
735 are assets of the Public Employee Optional Retirement Program
736 Trust Fund and are not subject to the provisions of chapter 717.

737 (1) NORMAL BENEFITS.—Under the Public Employee Optional



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738 Retirement Program:

739 (a) Benefits in the form of vested accumulations as
740 described in s. 121.4501(6) shall be payable under this
741 subsection in accordance with the following terms and
742 conditions:

743 1. To the extent vested, benefits shall be payable only to
744 a participant.

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

748 3. To receive benefits under this subsection, the
749 participant must be terminated from all employment with all
750 Florida Retirement System employers, as provided in s.
751 121.021(39).

752 4. Benefit payments may not be made until the participant
753 has been terminated for 3 calendar months, except that the board
754 may authorize by rule for the distribution of up to 10 percent
755 of the participant's account after being terminated for 1
756 calendar month if a participant has reached the normal
757 retirement requirements of the defined benefit plan, as provided
758 in s. 121.021(29).

759 5. If a member or former member of the Florida Retirement
760 System receives an invalid distribution from the Public Employee
761 Optional Retirement Program Trust Fund, such person shall repay
762 the full invalid distribution to the trust fund within 90 days
763 after receipt of final notification by the State Board of
764 Administration or the third-party administrator that the
765 distribution was invalid. If such person fails to repay the full
766 invalid distribution within 90 days after receipt of final



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767 notification, the person may be deemed retired from the Public
768 Employee Optional Retirement Program by the state board, as
769 provided pursuant to s. 121.4501(2)(j), and shall be subject to
770 the provisions of s. 121.122. If such person is deemed retired
771 by the state board, any joint and several liability set out in
772 s. 121.091(9)(d)2. ~~s. 121.091(9)(e)2.~~ becomes null and void, and
773 the state board, the Department of Management Services, or the
774 employing agency is not liable for gains on payroll
775 contributions that have not been deposited to the person's
776 account in the Public Employee Optional Retirement Program,
777 pending resolution of the invalid distribution. The member or
778 former member who has been deemed retired or who has been
779 determined by the board to have taken an invalid distribution
780 may appeal the agency decision through the complaint process as
781 provided under s. 121.4501(9)(f)3. As used in this subparagraph,
782 the term "invalid distribution" means any distribution from an
783 account in the Public Employee Optional Retirement Program which
784 is taken in violation of the provisions of this section, s.
785 121.091(9), or s. 121.4501.

786 (b) If a participant elects to receive his or her benefits
787 upon termination of employment as defined in s. 121.021(39), the
788 participant must submit a written application or an equivalent
789 form to the third-party administrator indicating his or her
790 preferred distribution date and selecting an authorized method
791 of distribution as provided in paragraph (c). The participant
792 may defer receipt of benefits until he or she chooses to make
793 such application, subject to federal requirements.

794 Section 19. Subsection (1) of section 238.183, Florida
795 Statutes, is amended to read:



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796 238.183 Developmental research school and Florida School
797 for the Deaf and the Blind instructional personnel; reemployment
798 after retirement.—

799 (1) Notwithstanding any other law, instructional personnel,
800 as defined in s. 1012.01(2), employed by a developmental
801 research school or the Florida School for the Deaf and the Blind
802 are eligible for reemployment after retirement in the same
803 manner as classroom teachers who are employed by the district
804 school boards, as described in ss. 121.091(9)(b)~~3~~ and
805 238.181(2)(c).

806 Section 20. Paragraph (g) of subsection (3) and subsection
807 (8) of section 1012.33, Florida Statutes, are amended to read:
808 1012.33 Contracts with instructional staff, supervisors,
809 and school principals.—

810 (3)

811 (g) Beginning July 1, 2001, for each employee who enters
812 into a written contract, pursuant to this section, in a school
813 district in which the employee was not employed as of June 30,
814 2001, or was employed as of June 30, 2001, but has since broken
815 employment with that district for 1 school year or more, for
816 purposes of pay, a district school board must recognize and
817 accept each year of full-time public school teaching service
818 earned in the State of Florida or outside the state and for
819 which the employee received a satisfactory performance
820 evaluation. Instructional personnel employed pursuant to s.
821 121.091(9)(b)~~3~~ are exempt from the provisions of this
822 paragraph.

823 (8) Notwithstanding any other provision of law, a retired
824 ~~any member who has retired~~ may interrupt retirement and be



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825 reemployed in any public school. A ~~Any~~ member ~~so~~ reemployed by
826 the same district from which he or she retired may be employed
827 on a probationary contractual basis as provided in subsection
828 (1); ~~however, no regular retirement employee shall be eligible~~
829 ~~to renew membership under a retirement system created by chapter~~
830 ~~121 or chapter 238.~~

831 Section 21. Sections 121.093, 121.094, and 121.45, Florida
832 Statutes, are repealed.

833 Section 22. The Legislature finds that a proper and
834 legitimate state purpose is served when employees and retirees
835 of the state and its political subdivisions, as well as the
836 dependents, survivors, and beneficiaries of such employees and
837 retirees, are extended the basic protections afforded by
838 governmental retirement systems that provide fair and adequate
839 benefits and that are managed, administered, and funded in an
840 actuarially sound manner as required by s. 14, Art. X of the
841 State Constitution and part VII of chapter 112, Florida
842 Statutes. Therefore, the Legislature determines and declares
843 that the amendment of s. 121.091, Florida Statutes, by this act
844 fulfills an important state interest.

845 Section 23. This act shall take effect July 1, 2009.

846
847 ===== T I T L E A M E N D M E N T =====

848 And the title is amended as follows:

849 Delete lines 55 - 105

850 and insert:

851 clarifying that DROP participation may not be
852 canceled; clarifying maximum DROP participation;
853 providing for the suspension of DROP benefits to a



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854 participant who is reemployed; deleting obsolete
855 provisions; revising employer contribution
856 requirements; authorizing the Division of Retirement
857 to issue benefits pursuant to a qualified domestic
858 relations order directly to the alternate payee;
859 amending s. 121.1115, F.S.; revising provisions
860 relating to receiving retirement credit for out-of-
861 state service; providing that a member is not eligible
862 for and may not receive a benefit based on such
863 service; amending s. 121.1122, F.S.; revising
864 provisions relating to receiving retirement credit for
865 in-state service; providing that certain members are
866 not eligible to purchase service credit; amending s.
867 121.122, F.S.; providing that certain retirees
868 initially reemployed on or after a specified date are
869 ineligible for renewed membership in the system;
870 revising conditions under which a retiree is entitled
871 to certain additional retirement benefits; amending s.
872 121.136, F.S.; revising provisions relating to the
873 annual statement of benefits provided to certain
874 active members of the system; amending s. 121.1905,
875 F.S.; deleting a provision describing the mission of
876 the Division of Retirement; amending s. 121.23, F.S.;
877 requiring the State Retirement Commission to use
878 certain requirements used by the Secretary of
879 Management Services before approving a disability
880 retirement benefit; amending s. 121.24, F.S.;
881 requiring a quorum of three members for all appeal
882 hearings held by the commission; amending s. 121.35,



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883 F.S.; revising a compulsory membership exception for
884 certain members failing to elect membership in the
885 optional retirement program; providing a cross-
886 reference; defining the term "retiree" for purposes of
887 the State University System Optional Retirement
888 Program; amending ss. 121.591 and 238.183, F.S.;
889 providing and conforming cross-references; amending s.
890 1012.33, F.S.; deleting a provision preventing persons
891 who have retired from the public school system from
892 renewing membership in the Florida Retirement System
893 or Teachers' Retirement System upon reemployment by
894 the school system; repealing s. 121.093, F.S.,
895 relating to instructional personnel reemployment after
896 retirement from a developmental research school or the
897 Florida School for the Deaf and the Blind; repealing
898 s. 121.094, F.S., relating to instructional personnel
899 reemployment after retirement from a charter school;
900 repealing s. 121.45, F.S., relating to interstate
901 compacts relating to pension portability; providing a
902 declaration of important state interest; providing an
903 effective date.