

By Senator Fasano

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1                   A bill to be entitled  
 2           An act relating to the optional retirement program in  
 3           the State University System; amending s. 121.35, F.S.;  
 4           revising provisions relating to provider contracts  
 5           that provide benefits to program participants;  
 6           increasing the number of companies that may provide  
 7           contracts from five to seven; providing an effective  
 8           date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

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 12           Section 1. Subsection (1), paragraph (a) of subsection (4),  
 13           paragraph (a) of subsection (5), and paragraphs (a), (b), and  
 14           (c) of subsection (6) of section 121.35, Florida Statutes, are  
 15           amended to read:

16           121.35 Optional retirement program for the State University  
 17           System.—

18           (1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.—The department  
 19           ~~of Management Services~~ shall establish an optional retirement  
 20           program under which contracts providing retirement and death  
 21           benefits may be purchased for eligible members of the State  
 22           University System who elect to participate in the program. The  
 23           benefits to be provided for or on behalf of participants in such  
 24           ~~optional retirement~~ program shall be provided through individual  
 25           contracts or individual certificates issued for group annuity  
 26           contracts or other contracts, which may be fixed, variable, or a  
 27           combination thereof; or for other contracts, in accordance with  
 28           s. 403(b) of the Internal Revenue Code. Any individual contract  
 29           or certificate must ~~shall~~ state the annuity plan on its face

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30 page, and ~~shall~~ include, but not be limited to, a statement of  
31 ownership, the contract benefits, annuity income options,  
32 limitations, expense charges, and surrender charges, if any. The  
33 state shall contribute, as provided in this section, toward the  
34 purchase of such optional benefits.

35 (4) CONTRIBUTIONS.—

36 (a) ~~Through June 30, 2001, each employer shall contribute~~  
37 ~~on behalf of each participant in the optional retirement program~~  
38 ~~an amount equal to the normal cost portion of the employer~~  
39 ~~retirement contribution which would be required if the~~  
40 ~~participant were a regular member of the Florida Retirement~~  
41 ~~System defined benefit program, plus the portion of the~~  
42 ~~contribution rate required in s. 112.363(8) that would otherwise~~  
43 ~~be assigned to the Retiree Health Insurance Subsidy Trust Fund.~~  
44 Effective July 1, 2001, each employer shall contribute on behalf  
45 of each participant in the optional program ~~an amount equal to~~  
46 10.43 percent of the participant's gross monthly compensation.  
47 The department shall deduct an amount approved by the  
48 Legislature to provide for the administration of the ~~this~~  
49 program. Contributions shall be paid ~~The payment of the~~  
50 ~~contributions to the optional program which is required by this~~  
51 ~~paragraph for each participant shall be made~~ by the employer to  
52 the department, which shall forward the contributions to the  
53 designated company or companies contracting for payment of  
54 benefits for the participant under the program. However, ~~such~~  
55 contributions paid on behalf of an employee described in  
56 paragraph (3) (c) may ~~shall~~ not be forwarded to a company and do  
57 ~~shall~~ not begin to accrue interest until the employee has  
58 executed a contract with one of the designated companies and

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59 notified the department.

60 (5) BENEFITS.—

61 (a) Benefits are ~~shall be~~ payable under the optional  
62 retirement program only to vested participants in the program,  
63 or their beneficiaries, as designated by the participant in the  
64 contract with a provider company, and ~~such benefits~~ shall be  
65 paid only by the designated company in accordance with s. 403(b)  
66 of the Internal Revenue Code and ~~in accordance with~~ the terms of  
67 the annuity contract or other contracts applicable to the  
68 participant. Benefits shall accrue in individual accounts that  
69 are participant-directed, portable, and funded by employer  
70 contributions and the earnings thereon. The participant must be  
71 terminated from all employment with all Florida Retirement  
72 System employers, as provided in s. 121.021(39), to begin  
73 receiving the employer-funded benefit. Benefits funded by  
74 employer contributions are ~~shall be~~ payable in accordance with  
75 the following terms and conditions:

76 1. Benefits are ~~shall be~~ payable only to a participant, to  
77 his or her beneficiaries, or to his or her estate, as designated  
78 by the participant.

79 2. Benefits must ~~shall~~ be paid by the provider company or  
80 companies in accordance with ~~the~~ law, the provisions of the  
81 contract, and any applicable board rule or policy.

82 3. In the event of a participant's death, moneys  
83 accumulated by, or on behalf of, the participant, less  
84 withholding taxes remitted to the Internal Revenue Service, if  
85 any, must ~~shall~~ be distributed to the participant's designated  
86 beneficiary or beneficiaries, or to the participant's estate, as  
87 if the participant retired on the date of death and<sup>7</sup> as provided

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88 in paragraph (c). No other death benefits are ~~shall be~~ available  
89 for survivors of participants ~~under the optional retirement~~  
90 ~~program~~ except for ~~such~~ benefits, or coverage for such benefits  
91 which, ~~as~~ are separately provided ~~afforded~~ by the employer, at  
92 the employer's discretion.

93 (6) ADMINISTRATION OF PROGRAM.—

94 (a) The optional retirement program authorized by this  
95 section shall be administered by the department. The department  
96 shall adopt rules establishing the responsibilities of the  
97 institutions in the State University System in administering the  
98 optional retirement program. ~~The Board of Regents shall, no more~~  
99 ~~than 90 days after July 1, 1983, submit to the department its~~  
100 ~~recommendations for the contracts to be offered by the companies~~  
101 ~~chosen by the department. Effective July 1, 2001, the State~~  
102 ~~Board of Education shall submit to the department its~~  
103 ~~recommendations for the contracts to be offered by the companies~~  
104 ~~chosen by the department. Effective July 1, 2007, the Board of~~  
105 ~~Governors of the State University System shall submit~~  
106 ~~recommendations on contracts~~ to be offered by the department  
107 within 90 days after request by the department. The  
108 recommendations of the board shall include the following:

109 1. The nature and extent of the rights and benefits in  
110 relation to the required contributions; and

111 2. The suitability of the rights and benefits to the needs  
112 of the participants and the interests of the institutions in the  
113 recruitment and retention of eligible employees.

114 (b) After receiving and considering the recommendations of  
115 the Board of Governors of the State University System, the  
116 department shall designate up to seven ~~no more than five~~

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117 companies from which contracts may be purchased under the  
118 program and shall approve the form and content of the ~~optional~~  
119 ~~retirement program~~ contracts. Any domestic company that was ~~has~~  
120 ~~been~~ designated as of July 1, 2005, shall be included in the  
121 seven ~~five~~ companies until expiration of its existing contract  
122 with the department. The domestic company may assign its  
123 contract with the department to an affiliated qualified company  
124 that is wholly owned by the domestic company's parent company  
125 and has assumed 100 percent of the responsibility for the  
126 contracts purchased from the domestic company.

127 (c) ~~Effective July 1, 1997,~~ The State Board of  
128 Administration shall review and make recommendations to the  
129 department on the acceptability of all investment products  
130 proposed by provider companies of the optional retirement  
131 program before they are offered through annuity contracts or  
132 other contracts to the participants and may advise the  
133 department of any changes necessary to ensure that the optional  
134 retirement program offers an acceptable mix of investment  
135 products. The department shall make the final determination as  
136 to whether an investment product will be approved for the  
137 program.

138 Section 2. This act shall take effect July 1, 2009.