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Proposed Committee Substitute by the Policy and Steering
Committee on Ways and Means

1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.011, F.S.; deleting a provision
4 ensuring certain rights of members of the system;
5 providing for employee and employer contributions;
6 providing that the rights of members are of a
7 contractual nature; amending s. 121.021, F.S.;
8 redefining the terms "prior service," "termination,"
9 "benefit," and "payee"; amending s. 121.051, F.S.;
10 requiring that a local governmental entity or the
11 governing body of a charter school or charter
12 technical career center make certain elections
13 regarding benefits at the time the entity or governing
14 body joins the Florida Retirement System; providing
15 that employer-paid employee contributions are subject
16 to certain taxes; amending s. 121.0515, F.S.;
17 providing for employee contributions to be used, if
18 applicable, when purchasing credit for past service;
19 amending s. 121.052, F.S., relating to the membership
20 class of elected officers; conforming provisions to
21 changes made by the act; providing for a refund of
22 contributions under certain circumstances for an
23 officer who leaves office; providing that a member who
24 obtains a refund of contributions waives certain
25 rights under the Florida Retirement System; amending
26 s. 121.053, F.S.; clarifying the contributions
27 required for an member in the Elected Officers' Class



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28 who participates in the Deferred Retirement Option
29 Program; amending s. 121.055, F.S., relating to the
30 Senior Management Service Class; conforming provisions
31 to changes made by the act; providing for a refund of
32 contributions under certain circumstances for a member
33 who terminates employment; providing that a member who
34 obtains a refund of contributions waives certain
35 rights under the Florida Retirement System; requiring
36 employee and employer contributions for participants
37 in the Senior Management Service Optional Annuity
38 Program, effective January 1, 2011, and thereafter;
39 limiting the payment of benefits prior to a
40 participant's termination of employment; amending s.
41 121.071, F.S.; requiring employee and employer
42 contributions to the retirement system effective
43 January 1, 2011; providing for a refund of
44 contributions under certain circumstances following
45 termination of employment; prohibiting such refund if
46 an approved qualified domestic relations order is
47 filed against the participant's retirement account;
48 requiring repayment plus interest of an invalid
49 refund; amending s. 121.081, F.S.; providing
50 requirements for contributions for prior service
51 performed on or after January 1, 2011; amending s.
52 121.091, F.S.; providing for the refund of accumulated
53 contributions if a member's employment is terminated
54 for any reason other than death or retirement;
55 amending s. 121.121, F.S., relating to the purchase of
56 creditable service following an authorized leave of



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57 absence; requiring that service credit be purchased at
58 the employee and employer contribution rates in effect
59 during the leave of absence; amending s. 121.125,
60 F.S.; requiring that the employer make the required
61 employee and employer retirement contributions
62 following an employee's worker's compensation injury
63 or illness; requiring that a penalty be assessed
64 against an employer that fails to pay the required
65 contributions; amending s. 121.35, F.S., relating to
66 the optional retirement program for the State
67 University System; requiring employee and employer
68 contributions for participants in the optional
69 retirement program, effective January 1, 2011, and
70 thereafter; deleting certain requirements governing
71 employer contributions to conform to changes made by
72 the act; limiting the payment of benefits prior to a
73 participant's termination of employment; amending s.
74 121.4501, F.S.; requiring that participants in the
75 Public Employee Optional Retirement Program make
76 certain contributions to the program trust fund based
77 on the employee's membership class; redefining the
78 term "retiree" and defining the term "participant
79 contributions"; providing for contribution adjustments
80 as a result of errors or corrections; requiring an
81 employer to receive a credit for excess contributions
82 and to reimburse an employee for excess contributions,
83 subject to certain limitations; providing for a
84 participant to retain his or her prior plan choice
85 following a return to employment; excluding certain



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86 retirees from renewed membership in the Florida
87 Retirement System; limiting certain refunds of
88 contributions that exceed the amount that would have
89 accrued had the member remained in the defined benefit
90 program; providing certain requirements and
91 limitations with respect to contributions; clarifying
92 that participant and employer contributions are
93 earmarked for specified purposes; providing duties of
94 the third-party administrator; providing that a
95 participant is vested immediately with respect to
96 employee contributions paid by the participant;
97 providing for the forfeiture of nonvested employer
98 contributions and service credit under certain
99 circumstances; amending s. 121.4503, F.S.; providing
100 for the deposit of participant contributions into the
101 Florida Retirement System Contributions Clearing Trust
102 Fund; amending s. 121.571, F.S.; providing
103 requirements for submitting participant contributions;
104 amending s. 121.591, F.S.; limiting the payment of
105 benefits prior to a participant's termination of
106 employment; providing for the forfeiture of nonvested
107 accumulations upon payment of certain vested benefits;
108 providing that the distribution payment method
109 selected by the participant or beneficiary is
110 irrevocable at the time of distribution; prohibiting a
111 distribution of employee contributions if an qualified
112 domestic relations order is filed against the
113 participant's account; amending s. 121.70, F.S.;;
114 revising legislative intent; amending s. 121.71, F.S.;



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115 requiring that employee contributions be deducted from
116 the employee's monthly salary, beginning on a
117 specified date, and treated as employer contributions
118 under certain provisions of federal law; clarifying
119 that an employee may not receive such contributions
120 directly; specifying the required employee
121 contribution rates for the membership of each
122 membership class and subclass of the Florida
123 Retirement System; specifying the required employer
124 retirement contribution rates for each membership
125 class and subclass of the system in order to address
126 unfunded actuarial liabilities of the system;
127 requiring an assessment to be imposed if the employee
128 contributions remitted are less than the amount
129 required; providing for the employer to receive a
130 credit for excess contributions remitted; amending s.
131 121.72, F.S.; revising certain requirements governing
132 allocations to optional retirement program participant
133 accounts; amending s. 121.73, F.S.; requiring that
134 employers participating in the Florida Retirement
135 System contribute an amount equal to a percentage of
136 the payroll reported for each class or subclass of
137 membership; amending s. 121.74, F.S.; revising the
138 amount that employers are required to contribute for
139 administrative and educational expenses; amending s.
140 121.76, F.S.; providing that employer-paid employee
141 contributions are subject to certain taxes; amending
142 s. 121.78, F.S.; revising certain requirements for
143 administering the payment and distribution of



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144 contributions; requiring that certain fees be imposed
145 for delinquent payment; providing that an employer is
146 responsible for recovering any refund provided to an
147 employee in error; revising the terms of an authorized
148 waiver of delinquency; requiring an employer to
149 receive a credit for excess contributions and to
150 reimburse an employee for excess contributions,
151 subject to certain limitations; amending s. 1012.875,
152 F.S.; requiring employee and employer contributions
153 for participants in the State Community College System
154 Optional Retirement Program, effective January 1,
155 2011, and thereafter; providing that the act fulfills
156 an important state interest; providing an effective
157 date.

158

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

160

161 Section 1. Paragraph (d) of subsection (3) of section
162 121.011, Florida Statutes, is amended, and paragraph (h) is
163 added to that subsection, to read:

164 121.011 Florida Retirement System.—

165 (3) PRESERVATION OF RIGHTS.—

166 (d) ~~The rights of members of the retirement system~~
167 ~~established by this chapter shall not be impaired by virtue of~~
168 ~~the conversion of the Florida Retirement System to an employee~~
169 ~~noncontributory system.~~ As of July 1, 1974, the rights of
170 members of the retirement system established by this chapter are
171 declared to be of a contractual nature, entered into between the
172 member and the state, and such rights shall be legally



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173 enforceable as valid contract rights and shall not be abridged
174 in any way.

175 (h) Effective January 1, 2011, this system shall require
176 employee and employer contributions as provided in s. 121.071
177 and part III of this chapter. As of January 1, 2011, the rights
178 of members of the retirement system established by this chapter
179 are declared to be of a contractual nature, entered into between
180 the member and the state, and such rights shall be legally
181 enforceable as valid contract rights and shall not be abridged
182 in any way.

183 Section 2. Paragraph (a) of subsection (19) and subsections
184 (39), (55), and (59) of section 121.021, Florida Statutes, are
185 amended to read:

186 121.021 Definitions.—The following words and phrases as
187 used in this chapter have the respective meanings set forth
188 unless a different meaning is plainly required by the context:

189 (19) "Prior service" under this chapter means:

190 (a) Service for which the member had credit under one of
191 the existing systems and received a refund of his or her
192 contributions upon termination of employment. Prior service
193 shall also include that service ~~between December 1, 1970, and~~
194 ~~the date the system becomes noncontributory~~ for which the member
195 had credit under the Florida Retirement System and received a
196 refund of his or her contributions upon termination of
197 employment.

198 (39) (a) "Termination" occurs, except as provided in
199 paragraph (b), when a member ceases all employment relationships
200 with an employer, however:

201 1. For retirements effective before July 1, 2010, if a



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202 member is employed by any such employer within the next calendar
203 month, termination shall be deemed not to have occurred. A leave
204 of absence constitutes a continuation of the employment
205 relationship, except that a leave of absence without pay due to
206 disability may constitute termination if such member makes
207 application for and is approved for disability retirement in
208 accordance with s. 121.091(4). The department or state board may
209 require other evidence of termination as it deems necessary.

210 2. For retirements effective on or after July 1, 2010, if a
211 member is employed by any such employer within the next 6
212 calendar months, termination shall be deemed not to have
213 occurred. A leave of absence constitutes a continuation of the
214 employment relationship, except that a leave of absence without
215 pay due to disability may constitute termination if such member
216 makes application for and is approved for disability retirement
217 in accordance with s. 121.091(4). The department or state board
218 may require other evidence of termination as it deems necessary.

219 (b) "Termination" for a member electing to participate in
220 the Deferred Retirement Option Program occurs when the program
221 participant ceases all employment relationships with an employer
222 in accordance with s. 121.091(13), however:

223 1. For termination dates occurring before July 1, 2010, if
224 the participant is employed by any such employer within the next
225 calendar month, termination will be deemed not to have occurred,
226 except as provided in s. 121.091(13)(b)4.c. A leave of absence
227 shall constitute a continuation of the employment relationship.

228 2. For termination dates occurring on or after July 1,
229 2010, if the participant becomes employed by any such employer
230 within the next 6 calendar months, termination will be deemed



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231 not to have occurred, except as provided in s.
232 121.091(13)(b)4.c. A leave of absence constitutes a continuation
233 of the employment relationship.

234 (c) Effective January 1, 2011, "termination" for a member
235 receiving a refund of employee contributions occurs when a
236 member ceases all employment relationships with an employer for
237 3 calendar months.

238 (55) "Benefit" means any pension payment, lump-sum or
239 periodic, to a member, retiree, or beneficiary, based ~~partially~~
240 ~~or entirely~~ on employer contributions and employee
241 contributions, if applicable.

242 (59) "Payee" means a retiree or beneficiary of a retiree
243 who has received or is receiving a retirement benefit payment.

244 Section 3. Paragraphs (b) and (d) of subsection (2) and
245 subsection (3) of section 121.051, Florida Statutes, are amended
246 to read:

247 121.051 Participation in the system.—

248 (2) OPTIONAL PARTICIPATION.—

249 (b)1. The governing body of any municipality, metropolitan
250 planning organization, or special district in the state may
251 elect to participate in the system upon proper application to
252 the administrator and may cover all or any of its units as
253 approved by the Secretary of Health and Human Services and the
254 administrator. The department shall adopt rules establishing
255 provisions for the submission of documents necessary for such
256 application. Prior to being approved for participation in the
257 Florida Retirement System, the governing body of any such
258 municipality, metropolitan planning organization, or special
259 district that has a local retirement system shall submit to the



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260 administrator a certified financial statement showing the
261 condition of the local retirement system as of a date within 3
262 months prior to the proposed effective date of membership in the
263 Florida Retirement System. The statement must be certified by a
264 recognized accounting firm that is independent of the local
265 retirement system. All required documents necessary for
266 extending Florida Retirement System coverage must be received by
267 the department for consideration at least 15 days prior to the
268 proposed effective date of coverage. If the municipality,
269 metropolitan planning organization, or special district does not
270 comply with this requirement, the department may require that
271 the effective date of coverage be changed.

272 2. Any city, metropolitan planning organization, or special
273 district that has an existing retirement system covering the
274 employees in the units that are to be brought under the Florida
275 Retirement System may participate only after holding a
276 referendum in which all employees in the affected units have the
277 right to participate. Only those employees electing coverage
278 under the Florida Retirement System by affirmative vote in said
279 referendum shall be eligible for coverage under this chapter,
280 and those not participating or electing not to be covered by the
281 Florida Retirement System shall remain in their present systems
282 and shall not be eligible for coverage under this chapter. After
283 the referendum is held, all future employees shall be compulsory
284 members of the Florida Retirement System.

285 3. At the time of joining the Florida Retirement System,
286 the governing body of any city, metropolitan planning
287 organization, or special district complying with subparagraph 1.
288 may elect to provide, or not provide, benefits based on past



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289 service of officers and employees as described in s. 121.081(1).
290 However, if such employer elects to provide past service
291 benefits, such benefits must be provided for all officers and
292 employees of its covered group.

293 4. Once this election is made and approved it may not be
294 revoked, except pursuant to subparagraphs 5. and 6., and all
295 present officers and employees electing coverage under this
296 chapter and all future officers and employees shall be
297 compulsory members of the Florida Retirement System.

298 5. Subject to the conditions set forth in subparagraph 6.,
299 the governing body of any hospital licensed under chapter 395
300 which is governed by the board of a special district as defined
301 in s. 189.403(1) or by the board of trustees of a public health
302 trust created under s. 154.07, hereinafter referred to as
303 "hospital district," and which participates in the system, may
304 elect to cease participation in the system with regard to future
305 employees in accordance with the following procedure:

306 a. No more than 30 days and at least 7 days before adopting
307 a resolution to partially withdraw from the Florida Retirement
308 System and establish an alternative retirement plan for future
309 employees, a public hearing must be held on the proposed
310 withdrawal and proposed alternative plan.

311 b. From 7 to 15 days before such hearing, notice of intent
312 to withdraw, specifying the time and place of the hearing, must
313 be provided in writing to employees of the hospital district
314 proposing partial withdrawal and must be published in a
315 newspaper of general circulation in the area affected, as
316 provided by ss. 50.011-50.031. Proof of publication of such
317 notice shall be submitted to the Department of Management



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318 Services.

319 c. The governing body of any hospital district seeking to
320 partially withdraw from the system must, before such hearing,
321 have an actuarial report prepared and certified by an enrolled
322 actuary, as defined in s. 112.625(3), illustrating the cost to
323 the hospital district of providing, through the retirement plan
324 that the hospital district is to adopt, benefits for new
325 employees comparable to those provided under the Florida
326 Retirement System.

327 d. Upon meeting all applicable requirements of this
328 subparagraph, and subject to the conditions set forth in
329 subparagraph 6., partial withdrawal from the system and adoption
330 of the alternative retirement plan may be accomplished by
331 resolution duly adopted by the hospital district board. The
332 hospital district board must provide written notice of such
333 withdrawal to the division by mailing a copy of the resolution
334 to the division, postmarked no later than December 15, 1995. The
335 withdrawal shall take effect January 1, 1996.

336 6. Following the adoption of a resolution under sub-
337 subparagraph 5.d., all employees of the withdrawing hospital
338 district who were participants in the Florida Retirement System
339 prior to January 1, 1996, shall remain as participants in the
340 system for as long as they are employees of the hospital
341 district, and all rights, duties, and obligations between the
342 hospital district, the system, and the employees shall remain in
343 full force and effect. Any employee who is hired or appointed on
344 or after January 1, 1996, may not participate in the Florida
345 Retirement System, and the withdrawing hospital district shall
346 have no obligation to the system with respect to such employees.



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347 (d) The governing body of a charter school or a charter
348 technical career center may elect to participate in the system
349 upon proper application to the administrator and shall cover its
350 units as approved by the Secretary of Health and Human Services
351 and the administrator. At the time of joining the Florida
352 Retirement System, the governing body of the charter school may
353 elect to provide, or not provide, benefits based on past service
354 of officers and employees as described in s. 121.081(1). Once
355 this election is made and approved, it may not be revoked, and
356 all present officers and employees selecting coverage under this
357 chapter and all future officers and employees shall be
358 compulsory members of the Florida Retirement System.

359 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
360 shall be provided for all officers and employees who become
361 members under the provisions of subsection (1) or subsection
362 (2). Any modification of the present agreement with the Social
363 Security Administration, or referendum required under the Social
364 Security Act, for the purpose of providing social security
365 coverage for any member shall be requested by the state agency
366 in compliance with the applicable provisions of the Social
367 Security Act governing such coverage. However, retroactive
368 social security coverage for service prior to December 1, 1970,
369 with the employer shall not be provided for any member who was
370 not covered under the agreement as of November 30, 1970. The
371 employer-paid employee contributions specified in s. 121.71(2)
372 are subject to taxes imposed under the Federal Insurance
373 Contributions Act, 26 U.S.C. ss. 3101-3128.

374 Section 4. Paragraph (b) of subsection (5) of section
375 121.0515, Florida Statutes, is amended to read:



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376 121.0515 Special risk membership.—

377 (5) CREDIT FOR PAST SERVICE.—A special risk member may
378 purchase retirement credit in the Special Risk Class based upon
379 past service, and may upgrade retirement credit for such past
380 service, to the extent of 2 percent of the member's average
381 monthly compensation as specified in s. 121.091(1)(a) for such
382 service as follows:

383 (b) Contributions for upgrading the additional special risk
384 credit pursuant to this subsection shall be equal to the
385 difference in the employer and, if applicable, employee
386 contributions paid and the special risk percentage rate of gross
387 salary in effect at the time of purchase for the period being
388 claimed, plus interest thereon at the rate of 4 percent a year
389 compounded annually from the date of such service until July 1,
390 1975, and 6.5 percent a year thereafter until the date of
391 payment. This past service may be purchased by the member or by
392 the employer on behalf of the member.

393 Section 5. Paragraphs (a) and (d) of subsection (4) and
394 paragraph (b) of subsection (7) of section 121.052, Florida
395 Statutes, are amended, present paragraph (c) of subsection (7)
396 of that section is redesignated as paragraph (d), and a new
397 paragraph (c) is added to that subsection, to read:

398 121.052 Membership class of elected officers.—

399 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED
400 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

401 (a) Any duly elected officer whose term of office was
402 shortened by legislative or judicial apportionment pursuant to
403 the provisions of s. 16, Art. III of the State Constitution may,
404 after the term of office to which he or she was elected is



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405 completed, pay into the System Trust Fund the amount of
406 contributions that would have been made by the officer or the
407 officer's employer on his or her behalf, plus 4 percent interest
408 compounded annually from the date he or she left office until
409 July 1, 1975, and 6.5 percent interest compounded annually
410 thereafter, and may receive service credit for the length of
411 time the officer would have served if such term had not been
412 shortened by apportionment.

413 (d)1. Any justice or judge, or any retired justice or judge
414 who retired before July 1, 1993, who has attained the age of 70
415 years and who is prevented under s. 8, Art. V of the State
416 Constitution from completing his or her term of office because
417 of age may elect to purchase credit for all or a portion of the
418 months he or she would have served during the remainder of the
419 term of office, but he or she may claim those months only after
420 the date the service would have occurred. The justice or judge
421 must pay into the System Trust Fund the amount of contributions
422 that would have been made by the employer on his or her behalf
423 for the period of time being claimed, plus 6.5 percent interest
424 thereon compounded each June 30 from the date he or she left
425 office, in order to receive service credit in this class for the
426 period of time being claimed. After the date the service would
427 have occurred, and upon payment of the required contributions,
428 the retirement benefit of a retired justice or judge will be
429 adjusted prospectively to include this additional creditable
430 service; however, such adjustment may be made only once.

431 2. Any justice or judge who does not seek election to a
432 subsequent term of office because he or she would be prevented
433 under s. 8, Art. V of the State Constitution from completing



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434 such term of office upon attaining the age of 70 years may elect
435 to purchase service credit for service as a temporary judge as
436 assigned by the court if the temporary assignment follows
437 immediately the last full term of office served and the purchase
438 is limited to the number of months of service needed to vest
439 retirement benefits. To receive retirement credit for such
440 temporary service beyond termination, the justice or judge must
441 pay into the System Trust Fund the amount of contributions that
442 would have been made by the justice or judge and the employer on
443 his or her behalf had he or she continued in office for the
444 period of time being claimed, plus 6.5 percent interest thereon
445 compounded each June 30 from the date he or she left office.

446 (7) CONTRIBUTIONS.—

447 (b) The employer paying the salary of a member of the
448 Elected Officers' Class shall contribute an amount as specified
449 in this subsection or s. 121.71, as appropriate, which shall
450 constitute the ~~entire~~ employer retirement contribution with
451 respect to such member. The employer shall also withhold one-
452 half of the entire contribution of the member required for
453 social security coverage. Effective January 1, 2011, each member
454 of the Elected Officers' Class shall pay retirement
455 contributions as specified in s. 121.71.

456 (c) If a member of the Elected Officer' Class ceases to
457 fill an office covered by this class for 3 consecutive calendar
458 months for any reason other than retirement, the member shall be
459 entitled to a full refund of the contributions he or she has
460 made prior or subsequent to participation in the noncontributory
461 plan, subject to the restrictions otherwise provided in this
462 chapter. The refund shall not include any interest earnings on



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463 the contributions for a participant of the defined benefit
464 program. Employer contributions made on behalf of the member are
465 not refundable. By obtaining a refund of contributions, a member
466 waives all rights under the Florida Retirement System, including
467 the health insurance subsidy, to the service credit represented
468 by the refunded contributions, except the right to purchase his
469 or her prior service credit in accordance with s. 121.081(2).

470 Section 6. Paragraph (a) of subsection (7) of section
471 121.053, Florida Statutes, is amended to read:

472 121.053 Participation in the Elected Officers' Class for
473 retired members.-

474 (7) A member who is elected or appointed to an elective
475 office and who is participating in the Deferred Retirement
476 Option Program is not subject to termination as defined in s.
477 121.021, or reemployment limitations as provided in s.
478 121.091(9), until the end of his or her current term of office
479 or, if the officer is consecutively elected or reelected to an
480 elective office eligible for coverage under the Florida
481 Retirement System, until he or she no longer holds an elective
482 office, as follows:

483 (a) At the end of the 60-month DROP period:

484 1. The officer's DROP account may not accrue additional
485 monthly benefits, but does continue to earn interest as provided
486 in s. 121.091(13). However, an officer whose DROP participation
487 begins on or after July 1, 2010, may not continue to earn such
488 interest.

489 2. Retirement contributions are not required of the officer
490 or the employer of the elected officer and additional retirement
491 credit may not be earned under the Florida Retirement System.



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492 Section 7. Paragraph (j) of subsection (1), paragraph (b)
493 of subsection (3), and paragraphs (d) and (e) of subsection (6)
494 of section 121.055, Florida Statutes, are amended, present
495 paragraph (c) of subsection (3) of that section is redesignated
496 as paragraph (d), and a new paragraph (c) is added to that
497 subsection, to read:

498 121.055 Senior Management Service Class.—There is hereby
499 established a separate class of membership within the Florida
500 Retirement System to be known as the "Senior Management Service
501 Class," which shall become effective February 1, 1987.

502 (1)

503 (j) Except as may otherwise be provided, any member of the
504 Senior Management Service Class may purchase additional
505 retirement credit in such class for creditable service within
506 the purview of the Senior Management Service Class retroactive
507 to February 1, 1987, and may upgrade retirement credit for such
508 service, to the extent of 2 percent of the member's average
509 monthly compensation as specified in paragraph (4) (d) for such
510 service. Contributions for upgrading the additional Senior
511 Management Service credit pursuant to this paragraph shall be
512 equal to the difference in the employer and, if applicable,
513 employee contributions paid and the Senior Management Service
514 Class contribution rate as a percentage of gross salary in
515 effect for the period being claimed, plus interest thereon at
516 the rate of 6.5 percent a year, compounded annually until the
517 date of payment. This service credit may be purchased by the
518 employer on behalf of the member.

519 (3)

520 (b) The employer paying the salary of a member of the



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521 Senior Management Service Class shall contribute an amount as
522 specified in this section or s. 121.71, as appropriate, which
523 shall constitute the entire employer retirement contribution
524 with respect to such member. The employer shall also withhold
525 one-half of the entire contribution of the member required for
526 social security coverage. Effective January 1, 2011, each
527 employee shall pay retirement contributions as specified in s.
528 121.71.

529 (c) Upon termination of employment for 3 consecutive
530 calendar months for any reason other than retirement, a member
531 shall be entitled to a full refund of the contributions he or
532 she has made prior or subsequent to participation in the
533 noncontributory plan, subject to the restrictions otherwise
534 provided in this chapter. The refund shall not include any
535 interest earnings on the contributions for a participant of the
536 defined benefit program. Employer contributions made on behalf
537 of the member are not refundable. By obtaining a refund of
538 contributions, a member waives all rights under the Florida
539 Retirement System, including the health insurance subsidy, to
540 the service credit represented by the refunded contributions,
541 except the right to purchase his or her prior service credit in
542 accordance with s. 121.081(2).

543 (6)

544 (d) *Contributions.*—

545 1.a. Through June 30, 2001, each employer shall contribute
546 on behalf of each participant in the Senior Management Service
547 Optional Annuity Program an amount equal to the normal cost
548 portion of the employer retirement contribution which would be
549 required if the participant were a Senior Management Service



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550 Class member of the Florida Retirement System defined benefit
551 program, plus the portion of the contribution rate required in
552 s. 112.363(8) that would otherwise be assigned to the Retiree
553 Health Insurance Subsidy Trust Fund. For the period Effective
554 July 1, 2001, through December 31, 2010, each employer shall
555 contribute on behalf of each participant in the optional program
556 an amount equal to 12.49 percent of the participant's gross
557 monthly compensation.

558 b. Effective January 1, 2011, each member participating in
559 the Senior Management Service Optional Annuity Program shall
560 contribute an amount equal to the employee contribution required
561 in s. 121.71(3). Effective January 1, 2011, each employer shall
562 contribute on behalf of each participant in the optional program
563 an amount equal to the difference between 12.49 percent of the
564 participant's gross monthly compensation and the amount equal to
565 the employee's required contribution based on the employee's
566 gross monthly compensation.

567
568 The department shall deduct an amount approved by the
569 Legislature to provide for the administration of this program.
570 The payment of the contributions to the optional program which
571 is required by this subparagraph for each participant shall be
572 made by the employer to the department, which shall forward the
573 contributions to the designated company or companies contracting
574 for payment of benefits for the participant under the program.

575 2. Each employer shall contribute on behalf of each
576 participant in the Senior Management Service Optional Annuity
577 Program an amount equal to the unfunded actuarial accrued
578 liability portion of the employer contribution which would be



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579 required for members of the Senior Management Service Class in
580 the Florida Retirement System. This contribution shall be paid
581 to the department for transfer to the Florida Retirement System
582 Trust Fund.

583 3. An Optional Annuity Program Trust Fund shall be
584 established in the State Treasury and administered by the
585 department to make payments to provider companies on behalf of
586 the optional annuity program participants, and to transfer the
587 unfunded liability portion of the state optional annuity program
588 contributions to the Florida Retirement System Trust Fund.

589 4. Contributions required for social security by each
590 employer and each participant, in the amount required for social
591 security coverage as now or hereafter may be provided by the
592 federal Social Security Act shall be maintained for each
593 participant in the Senior Management Service retirement program
594 and shall be in addition to the retirement contributions
595 specified in this paragraph.

596 5. Each participant in the Senior Management Service
597 Optional Annuity Program may contribute by way of salary
598 reduction or deduction a percentage amount of the participant's
599 gross compensation not to exceed the percentage amount
600 contributed by the employer to the optional annuity program.
601 Payment of the participant's contributions shall be made by the
602 employer to the department, which shall forward the
603 contributions to the designated company or companies contracting
604 for payment of benefits for the participant under the program.

605 (e) *Benefits.*—

606 1. Benefits under the Senior Management Service Optional
607 Annuity Program are payable only to participants in the program,



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608 or their beneficiaries as designated by the participant in the
609 contract with the provider company, and must be paid by the
610 designated company in accordance with the terms of the annuity
611 contract applicable to the participant. A participant must be
612 terminated from all employment relationships with Florida
613 Retirement System employers as provided in s. 121.021(39) to
614 begin receiving the employer-funded benefit. Benefits funded by
615 employer contributions are payable under the terms of the
616 contract to the participant, his or her beneficiary, or his or
617 her estate, in addition to:

618 a. A lump-sum payment to the beneficiary upon the death of
619 the participant;

620 b. A cash-out of a de minimis account upon the request of a
621 former participant who has been terminated for a minimum of 6
622 calendar months from the employment that entitled him or her to
623 optional annuity program participation. Such cash-out must be a
624 complete liquidation of the account balance with that company
625 and is subject to the Internal Revenue Code;

626 c. A mandatory distribution of a de minimis account of a
627 former participant who has been terminated for a minimum of 6
628 calendar months from the employment that entitled him or her to
629 optional annuity program participation as authorized by the
630 department; or

631 d. A lump-sum direct rollover distribution whereby all
632 accrued benefits, plus interest and investment earnings, are
633 paid from the participant's account directly to the custodian of
634 an eligible retirement plan, as defined in s. 402(c)(8)(B) of
635 the Internal Revenue Code, on behalf of the participant.

636 2. Benefits are not payable under the Senior Management



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637 Service Optional Annuity Program prior to termination of
638 employment for employee hardships, unforeseeable emergencies,
639 loans, medical expenses, educational expenses, purchase of a
640 principal residence, payments necessary to prevent eviction or
641 foreclosure on an employee's principal residence, or for any
642 other reason.

643 ~~3.2.~~ The benefits payable to any person under the Senior
644 Management Service Optional Annuity Program, and any
645 contribution accumulated under such program, are not subject to
646 assignment, execution, or attachment or to any legal process
647 whatsoever.

648 ~~4.3.~~ Except as provided in subparagraph ~~5. 4.~~, a
649 participant who terminates employment and receives a
650 distribution, including a rollover or trustee-to-trustee
651 transfer, funded by employer contributions shall be deemed to be
652 retired from a state-administered retirement system if the
653 participant is subsequently employed with an employer that
654 participates in the Florida Retirement System.

655 ~~5.4.~~ A participant who receives optional annuity program
656 benefits funded by employer contributions as a mandatory
657 distribution of a de minimis account authorized by the
658 department is not considered a retiree.

659
660 As used in this paragraph, a "de minimis account" means an
661 account with a provider company containing employer
662 contributions and accumulated earnings of not more than \$5,000
663 made under this chapter.

664 Section 8. Subsections (2) and (5) and paragraph (c) of
665 subsection (6) of section 121.071, Florida Statutes, are



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666 amended, present paragraph (d) of subsection (6) of that section
667 is redesignated as paragraph (e), and a new paragraph (d) is
668 added to that subsection, to read:

669 121.071 Contributions.—Contributions to the system shall be
670 made as follows:

671 (2) (a) Effective January 1, 1975, or October 1, 1975, as
672 applicable, and through December 31, 2010, each employer shall
673 accomplish the contribution required by subsection (1) by a
674 procedure in which no employee's gross salary shall be reduced.
675 Effective January 1, 2011, each employee and employer shall pay
676 retirement contributions as specified in s. 121.71.

677 (b) Upon termination of employment for 3 calendar months
678 for any reason other than retirement, a member shall be entitled
679 to a full refund of the contributions he or she has made prior
680 or subsequent to participation in the noncontributory plan,
681 subject to the restrictions otherwise provided in this chapter.
682 The refund shall not include any interest earnings on the
683 contributions for a participant of the defined benefit program.
684 Employer contributions made on behalf of the member are not
685 refundable. A member may not receive a refund of employee
686 contributions if an approved qualified domestic relations order
687 is filed against his or her retirement account.

688 (5) Contributions made in accordance with subsections (1),
689 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
690 into the system trust funds in accordance with rules adopted by
691 the administrator pursuant to chapter 120, except as may be
692 otherwise specified herein. Effective July 1, 2002,
693 contributions paid under subsections (1) and (4) and
694 accompanying payroll data are due and payable no later than the



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695 5th working day of the month immediately following the month
696 during which the payroll period ended.

697 (6)

698 (c) By obtaining a refund of contributions, a member waives
699 all rights under the Florida Retirement System, including the
700 health insurance subsidy, to the service credit represented by
701 the refunded contributions, except the right to purchase his or
702 her prior service credit in accordance with s. 121.081(2).

703 (d) If a member or former member of the defined benefit
704 program receives an invalid refund from the Florida Retirement
705 System Trust Fund, such person must repay the full amount of the
706 invalid refund, plus interest at 6.5 percent compounded annually
707 on each June 30 from the date of refund until full payment is
708 made to the trust fund.

709 Section 9. Paragraphs (b) and (c) of subsection (1) and
710 subsection (2) of section 121.081, Florida Statutes, are amended
711 to read:

712 121.081 Past service; prior service; contributions.—
713 Conditions under which past service or prior service may be
714 claimed and credited are:

715 (1)

716 (b) Past service earned after January 1, 1975, may be
717 claimed by officers or employees of a municipality, metropolitan
718 planning organization, charter school, charter technical career
719 center, or special district who become a covered group under
720 this system. The governing body of a covered group may elect to
721 provide benefits for past service earned after January 1, 1975,
722 in accordance with this chapter, and the cost for such past
723 service is established by applying the following formula: The



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724 employer shall contribute an amount equal to the employer
725 contribution rate in effect at the time the service was earned,
726 and, if applicable, the employee contribution rate, multiplied
727 by the employee's gross salary for each year of past service
728 claimed, plus 6.5-percent interest thereon, compounded annually,
729 figured on each year of past service, with interest compounded
730 from date of annual salary earned until date of payment.

731 (c) Should the employer not elect to provide past service
732 on the date of joining the Florida Retirement System for the
733 member, ~~then~~ the member may claim and pay for the service as
734 provided in same, ~~based on~~ paragraphs (a) and (b).

735 (2) Prior service, as defined in s. 121.021(19), may be
736 claimed as creditable service under the Florida Retirement
737 System after a member has been reemployed for 1 complete year of
738 creditable service ~~within a period of 12 consecutive months,~~
739 except as provided in paragraph (c). Service performed as a
740 participant of the optional retirement program for the State
741 University System under s. 121.35 or the Senior Management
742 Service Optional Annuity Program under s. 121.055 may be used to
743 satisfy the reemployment requirement of 1 complete year of
744 creditable service. The member shall not be permitted to make
745 any contributions for prior service until after completion of
746 the 1 year of creditable service. If a member does not wish to
747 claim credit for all of his or her prior service, the service
748 the member claims must be the most recent period of service. The
749 required contributions for claiming the various types of prior
750 service are:

751 (a) For prior service performed prior to the date the
752 system becomes noncontributory for the member and for which the



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753 member had credit under one of the existing retirement systems
754 and received a refund of contributions upon termination of
755 employment, the member shall contribute 4 percent of all salary
756 received during the period being claimed, plus 4-percent
757 interest compounded annually from date of refund until July 1,
758 1975, and 6.5-percent interest compounded annually thereafter,
759 until full payment is made to the Retirement Trust Fund, and
760 shall receive credit in the Regular Class. A member who elected
761 to transfer to the Florida Retirement System from an existing
762 system may receive credit for prior service under the existing
763 system if he or she was eligible under the existing system to
764 claim the prior service at the time of the transfer.
765 Contributions for such prior service shall be determined by the
766 applicable provisions of the system under which the prior
767 service is claimed and shall be paid by the member, with
768 matching contributions paid by the employer at the time the
769 service was performed. Effective July 1, 1978, the account of a
770 person who terminated under s. 238.05(3) may not be charged
771 interest for contributions that remained on deposit in the
772 Annuity Savings Trust Fund established under chapter 238, upon
773 retirement under this chapter or chapter 238.

774 (b) For prior service performed prior to the date the
775 system becomes noncontributory for the member and for which the
776 member had credit under the Florida Retirement System and
777 received a refund of contributions upon termination of
778 employment, the member shall contribute at the rate that was
779 required of him or her during the period of service being
780 claimed, on all salary received during such period, plus 4-
781 percent interest compounded annually from date of refund until



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782 July 1, 1975, and 6.5-percent interest compounded annually
783 thereafter, until the full payment is made to the Retirement
784 Trust Fund, and shall receive credit in the membership class in
785 which the member participated during the period claimed.

786 (c) For prior service as defined in s. 121.021(19) (b) and
787 (c) during which no contributions were made because the member
788 did not participate in a retirement system, the member shall
789 contribute 14.38 percent of all salary received during such
790 period or 14.38 percent of \$100 per month during such period,
791 whichever is greater, plus 4-percent interest compounded
792 annually from the first year of service claimed until July 1,
793 1975, and 6.5-percent interest compounded annually thereafter,
794 until full payment is made to the Retirement Trust Fund, and
795 shall receive credit in the Regular Class.

796 (d) In order to claim credit for prior service as defined
797 in s. 121.021(19) (d) for which no retirement contributions were
798 paid during the period of such service, the member shall
799 contribute the total employee and employer contributions which
800 were required to be made to the Highway Patrol Pension Trust
801 Fund, as provided in chapter 321, during the period claimed,
802 plus 4-percent interest compounded annually from the first year
803 of service until July 1, 1975, and 6.5-percent interest
804 compounded annually thereafter, until full payment is made to
805 the Retirement Trust Fund. However, any governmental entity
806 which employed such member may elect to pay up to 50 percent of
807 the contributions and interest required to purchase this prior
808 service credit. The service shall be credited in accordance with
809 the provisions of the Highway Patrol Pension Plan in effect
810 during the period claimed unless the member terminated and



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811 withdrew his or her retirement contributions and was thereafter
812 enrolled in the State and County Officers and Employees'
813 Retirement System or the Florida Retirement System, in which
814 case the service shall be credited as Regular Class service.

815 (e) For service performed under the Florida Retirement
816 System after December 1, 1970, that was never reported to the
817 division or the department due to error, retirement credit may
818 be claimed by a member of the Florida Retirement System. The
819 department shall adopt rules establishing criteria for claiming
820 such credit and detailing the documentation required to
821 substantiate the error.

822 (f) For prior service performed on or after January 1,
823 2011, for which the member had credit under the Florida
824 Retirement System and received a refund of contributions upon
825 termination of employment for 3 calendar months, the member
826 shall contribute at the rate that was required of him or her
827 during the period of service being claimed, plus 6.5 percent
828 interest, compounded annually on each June 30 from date of
829 refund until the full payment is made to the Florida Retirement
830 System Trust Fund, and shall receive credit in the membership
831 class in which the member participated during the period
832 claimed.

833 (g)-(f) The employer may not ~~be required to~~ make
834 contributions for prior service credit for any member, except
835 that the employer shall pay the employer portion of
836 contributions for any legislator who elects to withdraw from the
837 Florida Retirement System and later rejoins the system and pays
838 any employee contributions required in accordance with s.
839 121.052 (3) (d) .



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840 Section 10. Paragraphs (a) and (c) of subsection (5) of
841 section 121.091, Florida Statutes, are amended to read:

842 121.091 Benefits payable under the system.—Benefits may not
843 be paid under this section unless the member has terminated
844 employment as provided in s. 121.021(39) (a) or begun
845 participation in the Deferred Retirement Option Program as
846 provided in subsection (13), and a proper application has been
847 filed in the manner prescribed by the department. The department
848 may cancel an application for retirement benefits when the
849 member or beneficiary fails to timely provide the information
850 and documents required by this chapter and the department's
851 rules. The department shall adopt rules establishing procedures
852 for application for retirement benefits and for the cancellation
853 of such application when the required information or documents
854 are not received.

855 (5) TERMINATION BENEFITS.—A member whose employment is
856 terminated prior to retirement retains membership rights to
857 previously earned member-noncontributory service credit, and to
858 member-contributory service credit, if the member leaves the
859 member contributions on deposit in his or her retirement
860 account. If a terminated member receives a refund of member
861 contributions, such member may reinstate membership rights to
862 the previously earned service credit represented by the refund
863 by completing 1 year of creditable service and repaying the
864 refunded member contributions, plus interest.

865 (a) A member whose employment is terminated for any reason
866 other than death or retirement prior to becoming vested is
867 entitled to the return of his or her accumulated contributions
868 as of the date of termination. Effective January 1, 2011, a



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869 member is eligible for the return of his or her employee
870 contributions after being terminated for 3 calendar months.

871 (c) In lieu of the deferred monthly benefit provided in
872 paragraph (b), the terminated member may elect to receive a
873 lump-sum amount equal to his or her accumulated contributions as
874 of the date of termination. Effective January 1, 2011, a member
875 is eligible for the return of his or her employee contributions
876 after being terminated for 3 calendar months.

877 Section 11. Subsection (1) of section 121.121, Florida
878 Statutes, is amended to read:

879 121.121 Authorized leaves of absence.-

880 (1) A member may purchase creditable service for up to 2
881 work years of authorized leaves of absence, including any leaves
882 of absence covered under the Family Medical Leave Act, if:

883 (a) The member has completed a minimum of 6 years of
884 creditable service, excluding periods for which a leave of
885 absence was authorized;

886 (b) The leave of absence is authorized in writing by the
887 employer of the member and approved by the administrator;

888 (c) The member returns to active employment performing
889 service with a Florida Retirement System employer in a regularly
890 established position immediately upon termination of the leave
891 of absence and remains on the employer's payroll for 1 calendar
892 month, except that a member who retires on disability while on a
893 medical leave of absence shall not be required to return to
894 employment. A member whose work year is less than 12 months and
895 whose leave of absence terminates between school years is
896 eligible to receive credit for the leave of absence as long as
897 he or she returns to the employment of his or her employer at



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898 the beginning of the next school year and remains on the
899 employer's payroll for 1 calendar month; and

900 (d) The member makes the required contributions for service
901 credit during the leave of absence, which shall be 8 percent
902 until January 1, 1975, and 9 percent thereafter of his or her
903 rate of monthly compensation in effect immediately prior to the
904 commencement of such leave for each month of such period, plus 4
905 percent interest until July 1, 1975, and 6.5 percent interest
906 thereafter on such contributions, compounded annually each June
907 30 from the due date of the contribution to date of payment.
908 Effective July 1, 1980, any leave of absence purchased pursuant
909 to this section shall be at the contribution rates specified in
910 s. 121.071 or s. 121.71 in effect at the time the leave is
911 granted for the class of membership from which the leave of
912 absence was granted; however, any member who purchased leave-of-
913 absence credit prior to July 1, 1980, for a leave of absence
914 from a position in a class other than the regular membership
915 class, may pay the appropriate additional contributions plus
916 compound interest thereon and receive creditable service for
917 such leave of absence in the membership class from which the
918 member was granted the leave of absence. Effective January 1,
919 2011, any leave of absence purchased pursuant to this section
920 shall be at the employee and employer contribution rates
921 specified in s. 121.71 in effect during the leave for the class
922 of membership from which the leave of absence was granted.

923 Section 12. Section 121.125, Florida Statutes, is amended
924 to read:

925 121.125 Credit for workers' compensation payment periods.—A
926 member of the retirement system created by this chapter who has



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927 been eligible or becomes eligible to receive workers'
928 compensation payments for an injury or illness occurring during
929 his or her employment while a member of any state retirement
930 system shall, upon return to active employment with a covered
931 employer for 1 calendar month or upon approval for disability
932 retirement in accordance with s. 121.091(4), receive full
933 retirement credit for the period prior to such return to active
934 employment or disability retirement for which the workers'
935 compensation payments were received. However, no member may
936 receive retirement credit for any such period occurring after
937 the earlier of the date of maximum medical improvement as
938 defined in s. 440.02 or the date termination has occurred as
939 defined in s. 121.021(39). The employer of record at the time of
940 the worker's compensation injury or illness shall make the
941 required employee and employer retirement contributions based on
942 the member's rate of monthly compensation immediately prior to
943 his or her receiving workers' compensation payments for
944 retirement credit received by the member. The employer of record
945 at the time of the worker's compensation injury or illness shall
946 be assessed by the division a penalty of 1 percent of the
947 contributions on all contributions not paid on the first payroll
948 report after the member becomes eligible to receive credit. This
949 delinquent assessment may not be waived.

950 Section 13. Subsections (4) and (5) of section 121.35,
951 Florida Statutes, are amended to read:

952 121.35 Optional retirement program for the State University
953 System.—

954 (4) CONTRIBUTIONS.—

955 (a) 1. Through June 30, 2001, each employer shall contribute



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956 on behalf of each participant in the optional retirement program
957 an amount equal to the normal cost portion of the employer
958 retirement contribution which would be required if the
959 participant were a regular member of the Florida Retirement
960 System defined benefit program, plus the portion of the
961 contribution rate required in s. 112.363(8) that would otherwise
962 be assigned to the Retiree Health Insurance Subsidy Trust Fund.
963 For the period Effective July 1, 2001, through December 31,
964 2010, each employer shall contribute on behalf of each
965 participant in the optional program an amount equal to 10.43
966 percent of the participant's gross monthly compensation.

967 2. Effective January 1, 2011, each member participating in
968 the State University System Optional Retirement Program shall
969 contribute an amount equal to the employee contribution required
970 in s. 121.71(3). Effective January 1, 2011, each employer shall
971 contribute on behalf of each participant in the optional program
972 an amount equal to the difference between 10.43 percent of the
973 participant's gross monthly compensation and the amount equal to
974 the employee's required contribution based on the employee's
975 gross monthly compensation.

976
977 The department shall deduct an amount approved by the
978 Legislature to provide for the administration of this program.
979 The payment of the contributions to the optional program which
980 is required by this paragraph for each participant shall be made
981 by the employer to the department, which shall forward the
982 contributions to the designated company or companies contracting
983 for payment of benefits for the participant under the program.
984 However, such contributions paid on behalf of an employee



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985 described in paragraph (3)(c) shall not be forwarded to a
986 company and shall not begin to accrue interest until the
987 employee has executed a contract and notified the department.

988 (b) Each employer shall contribute on behalf of each
989 participant in the optional retirement program an amount equal
990 to the unfunded actuarial accrued liability portion of the
991 employer contribution which would be required for members of the
992 Florida Retirement System. This contribution shall be paid to
993 the department for transfer to the Florida Retirement System
994 Trust Fund.

995 (c) An Optional Retirement Program Trust Fund shall be
996 established in the State Treasury and administered by the
997 department to make payments to the provider companies on behalf
998 of the optional retirement program participants, and to transfer
999 the unfunded liability portion of the state optional retirement
1000 program contributions to the Florida Retirement System Trust
1001 Fund.

1002 (d) Contributions required for social security by each
1003 employer and each participant, in the amount required for social
1004 security coverage as now or hereafter may be provided by the
1005 federal Social Security Act, shall be maintained for each
1006 participant in the optional retirement program and shall be in
1007 addition to the retirement contributions specified in this
1008 subsection.

1009 ~~(e) Each participant in the optional retirement program who~~
1010 ~~has executed a contract may contribute by way of salary~~
1011 ~~reduction or deduction a percentage amount of the participant's~~
1012 ~~gross compensation not to exceed the percentage amount~~
1013 ~~contributed by the employer to the optional program, but in no~~



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1014 ~~ease may such contribution exceed federal limitations. Payment~~
1015 ~~of the participant's contributions shall be made by the~~
1016 ~~financial officer of the employer to the division which shall~~
1017 ~~forward the contributions to the designated company or companies~~
1018 ~~contracting for payment of benefits for the participant under~~
1019 ~~the program. A participant may not make, through salary~~
1020 ~~reduction, any voluntary employee contributions to any other~~
1021 ~~plan under s. 403(b) of the Internal Revenue Code, with the~~
1022 ~~exception of a custodial account under s. 403(b)(7) of the~~
1023 ~~Internal Revenue Code, until he or she has made an employee~~
1024 ~~contribution to his or her optional program equal to the~~
1025 ~~employer contribution. A participant is responsible for~~
1026 ~~monitoring his or her individual tax-deferred income to ensure~~
1027 ~~he or she does not exceed the maximum deferral amounts permitted~~
1028 ~~under the Internal Revenue Code.~~

1029 ~~(f) The Optional Retirement Trust Fund may accept for~~
1030 ~~deposit into participant contracts contributions in the form of~~
1031 ~~rollovers or direct trustee-to-trustee transfers by or on behalf~~
1032 ~~of participants who are reasonably determined by the department~~
1033 ~~to be eligible for rollover or transfer to the optional~~
1034 ~~retirement program pursuant to the Internal Revenue Code, if~~
1035 ~~such contributions are made in accordance with rules adopted by~~
1036 ~~the department. Such contributions shall be accounted for in~~
1037 ~~accordance with any applicable requirements of the Internal~~
1038 ~~Revenue Code and rules of the department.~~

1039 ~~(e)(g)~~ Effective July 1, 2008, for purposes of paragraph
1040 (a) and notwithstanding s. 121.021(22)(b)1., the term
1041 "participant's gross monthly compensation" includes salary
1042 payments made to eligible clinical faculty from a state



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1043 university using funds provided by a faculty practice plan
1044 authorized by the Board of Governors of the State University
1045 System if:

1046 1. There is not any employer contribution from the state
1047 university to any other retirement program with respect to such
1048 salary payments; and

1049 2. The employer contribution on behalf of the participant
1050 in the optional retirement program with respect to such salary
1051 payments is made using funds provided by the faculty practice
1052 plan.

1053 (5) BENEFITS.—

1054 (a) Benefits are payable under the optional retirement
1055 program only to vested participants in the program, or their
1056 beneficiaries as designated by the participant in the contract
1057 with a provider company, and such benefits shall be paid only by
1058 the designated company in accordance with s. 403(b) of the
1059 Internal Revenue Code and the terms of the annuity contract or
1060 contracts applicable to the participant. Benefits accrue in
1061 individual accounts that are participant-directed, portable, and
1062 funded by employer contributions and the earnings thereon. The
1063 participant must be terminated from all employment relationships
1064 with all Florida Retirement System employers, as provided in s.
1065 121.021(39), to begin receiving the employer-funded benefit.
1066 Benefits funded by employer contributions are payable in
1067 accordance with the following terms and conditions:

1068 1. Benefits shall be paid only to a participant, to his or
1069 her beneficiaries, or to his or her estate, as designated by the
1070 participant.

1071 2. Benefits shall be paid by the provider company or



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1072 companies in accordance with the law, the provisions of the
1073 contract, and any applicable department rule or policy.

1074 3. In the event of a participant's death, moneys
1075 accumulated by, or on behalf of, the participant, less
1076 withholding taxes remitted to the Internal Revenue Service, if
1077 any, shall be distributed to the participant's designated
1078 beneficiary or beneficiaries, or to the participant's estate, as
1079 if the participant retired on the date of death, as provided in
1080 paragraph (d) ~~(e)~~. No other death benefits are available to
1081 survivors of participants under the optional retirement program
1082 except for such benefits, or coverage for such benefits, as are
1083 separately afforded by the employer, at the employer's
1084 discretion.

1085 (b) Benefits are not payable under the optional retirement
1086 program prior to termination of employment for employee
1087 hardships, unforeseeable emergencies, loans, medical expenses,
1088 educational expenses, purchase of a principal residence,
1089 payments necessary to prevent eviction or foreclosure on an
1090 employee's principal residence, or for any other reason

1091 (c) ~~(b)~~ Upon receipt by the provider company of a properly
1092 executed application for distribution of benefits, the total
1093 accumulated benefit shall be payable to the participant, as:

- 1094 1. A lump-sum distribution to the participant;
1095 2. A lump-sum direct rollover distribution whereby all
1096 accrued benefits, plus interest and investment earnings, are
1097 paid from the participant's account directly to an eligible
1098 retirement plan, as defined in s. 402(c)(8)(B) of the Internal
1099 Revenue Code, on behalf of the participant;
1100 3. Periodic distributions;



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1101 4. A partial lump-sum payment whereby a portion of the
1102 accrued benefit is paid to the participant and the remaining
1103 amount is transferred to an eligible retirement plan, as defined
1104 in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of
1105 the participant; or

1106 5. Such other distribution options as are provided for in
1107 the participant's optional retirement program contract.

1108 ~~(d)~~ ~~(e)~~ Survivor benefits shall be payable as:

1109 1. A lump-sum distribution payable to the beneficiaries or
1110 to the deceased participant's estate;

1111 2. An eligible rollover distribution on behalf of the
1112 surviving spouse of a deceased participant, whereby all accrued
1113 benefits, plus interest and investment earnings, are paid from
1114 the deceased participant's account directly to an eligible
1115 retirement plan, as described in s. 402(c)(8)(B) of the Internal
1116 Revenue Code, on behalf of the surviving spouse;

1117 3. Such other distribution options as are provided for in
1118 the participant's optional retirement program contract; or

1119 4. A partial lump-sum payment whereby a portion of the
1120 accrued benefit is paid to the deceased participant's surviving
1121 spouse or other designated beneficiaries, less withholding taxes
1122 remitted to the Internal Revenue Service, if any, and the
1123 remaining amount is transferred directly to an eligible
1124 retirement plan, as described in s. 402(c)(8)(B) of the Internal
1125 Revenue Code, on behalf of the surviving spouse. The proportions
1126 must be specified by the participant or the surviving
1127 beneficiary.

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1129 This paragraph does not abrogate other applicable provisions of



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1130 state or federal law providing payment of death benefits.

1131 ~~(e)-(d)~~ The benefits payable to any person under the
1132 optional retirement program, and any contribution accumulated
1133 under such program, shall not be subject to assignment,
1134 execution, or attachment or to any legal process whatsoever.

1135 ~~(f)-(e)~~ A participant who chooses to receive his or her
1136 benefits upon termination as defined in s. 121.021 must notify
1137 the provider company of the date he or she wishes benefits
1138 funded by employer contributions to begin. Benefits may be
1139 deferred until the participant chooses to make such application.

1140 ~~(g)-(f)~~ Benefits funded by the participant's personal
1141 contributions may be paid out at any time and in any form within
1142 the limits provided in the contract between the participant and
1143 his or her provider company. The participant shall notify the
1144 provider company regarding the date and provisions under which
1145 he or she wants to receive the employee-funded portion of the
1146 plan.

1147 ~~(h)-(g)~~ For purposes of this section, "retiree" means a
1148 former participant of the optional retirement program who has
1149 terminated employment and has taken a distribution as provided
1150 in this subsection, except for a mandatory distribution of a de
1151 minimis account authorized by the department.

1152 Section 14. Subsection (1), paragraph (j) of subsection
1153 (2), paragraph (c) of subsection (3), subsections (4), (5), (6),
1154 (7), paragraph (b) of subsection (8), subsection (11), paragraph
1155 (c) of subsection (13), and paragraph (b) of subsection (21) of
1156 section 121.4501, Florida Statutes, are amended, and paragraph
1157 (n) is added to subsection (2) of that section, to read:

1158 121.4501 Public Employee Optional Retirement Program.—



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1159 (1) The Trustees of the State Board of Administration shall
1160 establish an optional defined contribution retirement program
1161 for members of the Florida Retirement System under which
1162 retirement benefits will be provided for eligible employees who
1163 elect to participate in the program. The benefits to be provided
1164 for or on behalf of participants in such optional retirement
1165 program shall be provided through employee-directed investments,
1166 in accordance with s. 401(a) of the Internal Revenue Code and
1167 its related regulations. Participants and ~~The~~ employers shall
1168 contribute, as provided in this section, ss. 121.571, and 121.71
1169 to the Public Employee Optional Retirement Program Trust Fund
1170 toward the funding of such optional benefits.

1171 (2) DEFINITIONS.—As used in this part, the term:

1172 (j) "Retiree" means a former participant of the Florida
1173 Retirement System Public Employee Optional Retirement Program
1174 who has terminated employment and has taken any ~~a~~ distribution
1175 of vested participant or employer contributions as provided in
1176 s. 121.591, except for a mandatory distribution of a de minimis
1177 account authorized by the state board.

1178 (n) "Participant contributions" mean the sum of all amounts
1179 deducted from the salary of a participant by his or her employer
1180 in accordance with s. 121.71(2) and credited to his or her
1181 individual account in the Public Employee Optional Retirement
1182 Program, plus any earnings on such amounts and any contributions
1183 specified in paragraph (5) (e).

1184 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.—

1185 (c)1. Notwithstanding paragraph (b), each eligible employee
1186 who elects to participate in the Public Employee Optional
1187 Retirement Program and establishes one or more individual



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1188 participant accounts under the optional program may elect to
1189 transfer to the optional program a sum representing the present
1190 value of the employee's accumulated benefit obligation under the
1191 defined benefit retirement program of the Florida Retirement
1192 System. Upon such transfer, all service credit previously earned
1193 under the defined benefit program of the Florida Retirement
1194 System shall be nullified for purposes of entitlement to a
1195 future benefit under the defined benefit program of the Florida
1196 Retirement System. A participant is precluded from transferring
1197 the accumulated benefit obligation balance from the defined
1198 benefit program upon the expiration of the period afforded to
1199 enroll in the optional program.

1200 2. For purposes of this subsection, the present value of
1201 the member's accumulated benefit obligation is based upon the
1202 member's estimated creditable service and estimated average
1203 final compensation under the defined benefit program, subject to
1204 recomputation under subparagraph 3. For state employees
1205 enrolling under subparagraph (4)(a)1., initial estimates will be
1206 based upon creditable service and average final compensation as
1207 of midnight on June 30, 2002; for district school board
1208 employees enrolling under subparagraph (4)(b)1., initial
1209 estimates will be based upon creditable service and average
1210 final compensation as of midnight on September 30, 2002; and for
1211 local government employees enrolling under subparagraph
1212 (4)(c)1., initial estimates will be based upon creditable
1213 service and average final compensation as of midnight on
1214 December 31, 2002. The dates respectively specified above shall
1215 be construed as the "estimate date" for these employees. The
1216 actuarial present value of the employee's accumulated benefit



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1217 obligation shall be based on the following:

1218 a. The discount rate and other relevant actuarial
1219 assumptions used to value the Florida Retirement System Trust
1220 Fund at the time the amount to be transferred is determined,
1221 consistent with the factors provided in sub-subparagraphs b. and
1222 c.

1223 b. A benefit commencement age, based on the member's
1224 estimated creditable service as of the estimate date. The
1225 benefit commencement age shall be the younger of the following,
1226 but shall not be younger than the member's age as of the
1227 estimate date:

1228 (I) Age 62; or

1229 (II) The age the member would attain if the member
1230 completed 30 years of service with an employer, assuming the
1231 member worked continuously from the estimate date, and
1232 disregarding any vesting requirement that would otherwise apply
1233 under the defined benefit program of the Florida Retirement
1234 System.

1235 c. For members of the Special Risk Class and for members of
1236 the Special Risk Administrative Support Class entitled to retain
1237 special risk normal retirement date, the benefit commencement
1238 age shall be the younger of the following, but shall not be
1239 younger than the member's age as of the estimate date:

1240 (I) Age 55; or

1241 (II) The age the member would attain if the member
1242 completed 25 years of service with an employer, assuming the
1243 member worked continuously from the estimate date, and
1244 disregarding any vesting requirement that would otherwise apply
1245 under the defined benefit program of the Florida Retirement



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System.

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

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

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

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



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1275 allocation plan.

1276 4. If contribution adjustments are made as a result of
1277 employer errors or corrections, including plan corrections,
1278 following recomputation of the amount transferred under
1279 subparagraph 2., the participant is entitled to the additional
1280 contributions or is responsible for returning any excess
1281 contributions resulting from the correction, provided that any
1282 return of such erroneous excess pretax contribution by the
1283 program shall be made within 1 year after the making of such
1284 erroneous contributions or such other period as may be allowed
1285 by applicable Internal Revenue Service guidance. The present
1286 value of the member's accumulated benefit obligation shall not
1287 be recalculated.

1288 5.4. As directed by the participant, the board shall
1289 transfer or cause to be transferred the appropriate amounts to
1290 the designated accounts. The board shall establish transfer
1291 procedures by rule, but the actual transfer shall not be later
1292 than 30 days after the effective date of the member's
1293 participation in the optional program unless the major financial
1294 markets for securities available for a transfer are seriously
1295 disrupted by an unforeseen event which also causes the
1296 suspension of trading on any national securities exchange in the
1297 country where the securities were issued. In that event, such
1298 30-day period of time may be extended by a resolution of the
1299 trustees. Transfers are not commissionable or subject to other
1300 fees and may be in the form of securities or cash as determined
1301 by the state board. Such securities shall be valued as of the
1302 date of receipt in the participant's account.

1303 6.5. If the board or the division receives notification



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1304 from the United States Internal Revenue Service that this
1305 paragraph or any portion of this paragraph will cause the
1306 retirement system, or a portion thereof, to be disqualified for
1307 tax purposes under the Internal Revenue Code, then the portion
1308 that will cause the disqualification does not apply. Upon such
1309 notice, the state board and the division shall notify the
1310 presiding officers of the Legislature.

1311 (4) PARTICIPATION; ENROLLMENT.—

1312 (a)1. With respect to an eligible employee who is employed
1313 in a regularly established position on June 1, 2002, by a state
1314 employer:

1315 a. Any such employee may elect to participate in the Public
1316 Employee Optional Retirement Program in lieu of retaining his or
1317 her membership in the defined benefit program of the Florida
1318 Retirement System. The election must be made in writing or by
1319 electronic means and must be filed with the third-party
1320 administrator by August 31, 2002, or, in the case of an active
1321 employee who is on a leave of absence on April 1, 2002, by the
1322 last business day of the 5th month following the month the leave
1323 of absence concludes. This election is irrevocable, except as
1324 provided in paragraph (g) ~~(e)~~. Upon making such election, the
1325 employee shall be enrolled as a participant of the Public
1326 Employee Optional Retirement Program, the employee's membership
1327 in the Florida Retirement System shall be governed by the
1328 provisions of this part, and the employee's membership in the
1329 defined benefit program of the Florida Retirement System shall
1330 terminate. The employee's enrollment in the Public Employee
1331 Optional Retirement Program shall be effective the first day of
1332 the month for which a full month's participant and employer



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1333 contribution is made to the optional program.

1334 b. Any such employee who fails to elect to participate in
1335 the Public Employee Optional Retirement Program within the
1336 prescribed time period is deemed to have elected to retain
1337 membership in the defined benefit program of the Florida
1338 Retirement System, and the employee's option to elect to
1339 participate in the optional program is forfeited.

1340 2. With respect to employees who become eligible to
1341 participate in the Public Employee Optional Retirement Program
1342 by reason of employment in a regularly established position with
1343 a state employer commencing after April 1, 2002:

1344 a. Any such employee shall, by default, be enrolled in the
1345 defined benefit retirement program of the Florida Retirement
1346 System at the commencement of employment, and may, by the last
1347 business day of the 5th month following the employee's month of
1348 hire, elect to participate in the Public Employee Optional
1349 Retirement Program. The employee's election must be made in
1350 writing or by electronic means and must be filed with the third-
1351 party administrator. The election to participate in the optional
1352 program is irrevocable, except as provided in paragraph (g) ~~(e)~~.

1353 b. If the employee files such election within the
1354 prescribed time period, enrollment in the optional program shall
1355 be effective on the first day of employment. The participant and
1356 employer retirement contributions paid through the month of the
1357 employee plan change shall be transferred to the optional
1358 program, and, effective the first day of the next month, the
1359 participant and employer shall pay the applicable contributions
1360 based on the employee membership class in the optional program.

1361 c. Any such employee who fails to elect to participate in



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1362 the Public Employee Optional Retirement Program within the
1363 prescribed time period is deemed to have elected to retain
1364 membership in the defined benefit program of the Florida
1365 Retirement System, and the employee's option to elect to
1366 participate in the optional program is forfeited.

1367 3. With respect to employees who become eligible to
1368 participate in the Public Employee Optional Retirement Program
1369 pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), any such
1370 employee may elect to participate in the Public Employee
1371 Optional Retirement Program in lieu of retaining his or her
1372 participation in the State Community College System Optional
1373 Retirement Program or the State University System Optional
1374 Retirement Program. The election must be made in writing or by
1375 electronic means and must be filed with the third-party
1376 administrator. This election is irrevocable, except as provided
1377 in paragraph (g) ~~(e)~~. Upon making such election, the employee
1378 shall be enrolled as a participant of the Public Employee
1379 Optional Retirement Program, the employee's membership in the
1380 Florida Retirement System shall be governed by the provisions of
1381 this part, and the employee's participation in the State
1382 Community College System Optional Retirement Program or the
1383 State University System Optional Retirement Program shall
1384 terminate. The employee's enrollment in the Public Employee
1385 Optional Retirement Program shall be effective the first day of
1386 the month for which a full month's participant and employer
1387 contribution is made to the optional program.

1388 4. For purposes of this paragraph, "state employer" means
1389 any agency, board, branch, commission, community college,
1390 department, institution, institution of higher education, or



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1391 water management district of the state, which participates in
1392 the Florida Retirement System for the benefit of certain
1393 employees.

1394 (b)1. With respect to an eligible employee who is employed
1395 in a regularly established position on September 1, 2002, by a
1396 district school board employer:

1397 a. Any such employee may elect to participate in the Public
1398 Employee Optional Retirement Program in lieu of retaining his or
1399 her membership in the defined benefit program of the Florida
1400 Retirement System. The election must be made in writing or by
1401 electronic means and must be filed with the third-party
1402 administrator by November 30, or, in the case of an active
1403 employee who is on a leave of absence on July 1, 2002, by the
1404 last business day of the 5th month following the month the leave
1405 of absence concludes. This election is irrevocable, except as
1406 provided in paragraph (g) ~~(e)~~. Upon making such election, the
1407 employee shall be enrolled as a participant of the Public
1408 Employee Optional Retirement Program, the employee's membership
1409 in the Florida Retirement System shall be governed by the
1410 provisions of this part, and the employee's membership in the
1411 defined benefit program of the Florida Retirement System shall
1412 terminate. The employee's enrollment in the Public Employee
1413 Optional Retirement Program shall be effective the first day of
1414 the month for which a full month's participant and employer
1415 contribution is made to the optional program.

1416 b. Any such employee who fails to elect to participate in
1417 the Public Employee Optional Retirement Program within the
1418 prescribed time period is deemed to have elected to retain
1419 membership in the defined benefit program of the Florida



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1420 Retirement System, and the employee's option to elect to
1421 participate in the optional program is forfeited.

1422 2. With respect to employees who become eligible to
1423 participate in the Public Employee Optional Retirement Program
1424 by reason of employment in a regularly established position with
1425 a district school board employer commencing after July 1, 2002:

1426 a. Any such employee shall, by default, be enrolled in the
1427 defined benefit retirement program of the Florida Retirement
1428 System at the commencement of employment, and may, by the last
1429 business day of the 5th month following the employee's month of
1430 hire, elect to participate in the Public Employee Optional
1431 Retirement Program. The employee's election must be made in
1432 writing or by electronic means and must be filed with the third-
1433 party administrator. The election to participate in the optional
1434 program is irrevocable, except as provided in paragraph (g) ~~(e)~~.

1435 b. If the employee files such election within the
1436 prescribed time period, enrollment in the optional program shall
1437 be effective on the first day of employment. The participant and
1438 employer retirement contributions paid through the month of the
1439 employee plan change shall be transferred to the optional
1440 program, and, effective the first day of the next month, the
1441 participant and employer shall pay the applicable contributions
1442 based on the employee membership class in the optional program.

1443 c. Any such employee who fails to elect to participate in
1444 the Public Employee Optional Retirement Program within the
1445 prescribed time period is deemed to have elected to retain
1446 membership in the defined benefit program of the Florida
1447 Retirement System, and the employee's option to elect to
1448 participate in the optional program is forfeited.



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1449 3. For purposes of this paragraph, "district school board
1450 employer" means any district school board that participates in
1451 the Florida Retirement System for the benefit of certain
1452 employees, or a charter school or charter technical career
1453 center that participates in the Florida Retirement System as
1454 provided in s. 121.051(2)(d).

1455 (c)1. With respect to an eligible employee who is employed
1456 in a regularly established position on December 1, 2002, by a
1457 local employer:

1458 a. Any such employee may elect to participate in the Public
1459 Employee Optional Retirement Program in lieu of retaining his or
1460 her membership in the defined benefit program of the Florida
1461 Retirement System. The election must be made in writing or by
1462 electronic means and must be filed with the third-party
1463 administrator by February 28, 2003, or, in the case of an active
1464 employee who is on a leave of absence on October 1, 2002, by the
1465 last business day of the 5th month following the month the leave
1466 of absence concludes. This election is irrevocable, except as
1467 provided in paragraph (g) ~~(e)~~. Upon making such election, the
1468 employee shall be enrolled as a participant of the Public
1469 Employee Optional Retirement Program, the employee's membership
1470 in the Florida Retirement System shall be governed by the
1471 provisions of this part, and the employee's membership in the
1472 defined benefit program of the Florida Retirement System shall
1473 terminate. The employee's enrollment in the Public Employee
1474 Optional Retirement Program shall be effective the first day of
1475 the month for which a full month's participant and employer
1476 contribution is made to the optional program.

1477 b. Any such employee who fails to elect to participate in



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1478 the Public Employee Optional Retirement Program within the
1479 prescribed time period is deemed to have elected to retain
1480 membership in the defined benefit program of the Florida
1481 Retirement System, and the employee's option to elect to
1482 participate in the optional program is forfeited.

1483 2. With respect to employees who become eligible to
1484 participate in the Public Employee Optional Retirement Program
1485 by reason of employment in a regularly established position with
1486 a local employer commencing after October 1, 2002:

1487 a. Any such employee shall, by default, be enrolled in the
1488 defined benefit retirement program of the Florida Retirement
1489 System at the commencement of employment, and may, by the last
1490 business day of the 5th month following the employee's month of
1491 hire, elect to participate in the Public Employee Optional
1492 Retirement Program. The employee's election must be made in
1493 writing or by electronic means and must be filed with the third-
1494 party administrator. The election to participate in the optional
1495 program is irrevocable, except as provided in paragraph (g) ~~(e)~~.

1496 b. If the employee files such election within the
1497 prescribed time period, enrollment in the optional program shall
1498 be effective on the first day of employment. The participant and
1499 employer retirement contributions paid through the month of the
1500 employee plan change shall be transferred to the optional
1501 program, and, effective the first day of the next month, the
1502 participant and employer shall pay the applicable contributions
1503 based on the employee membership class in the optional program.

1504 c. Any such employee who fails to elect to participate in
1505 the Public Employee Optional Retirement Program within the
1506 prescribed time period is deemed to have elected to retain



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1507 membership in the defined benefit program of the Florida
1508 Retirement System, and the employee's option to elect to
1509 participate in the optional program is forfeited.

1510 3. For purposes of this paragraph, "local employer" means
1511 any employer not included in paragraph (a) or paragraph (b).

1512 (d) Contributions available for self-direction by a
1513 participant who has not selected one or more specific investment
1514 products shall be allocated as prescribed by the board. The
1515 third-party administrator shall notify any such participant at
1516 least quarterly that the participant should take an affirmative
1517 action to make an asset allocation among the optional program
1518 products.

1519 (e) On or after January 1, 2011, a participant of the
1520 defined benefit program who obtains a refund of employee
1521 contributions retains his or her prior plan choice upon return
1522 to employment in a regularly established position with an FRS-
1523 participating employer.

1524 (f) A participant of the Public Employee Optional
1525 Retirement Program who terminates FRS-covered employment and
1526 takes a distribution of any contributions from his Public
1527 Employee Optional Retirement Program account is considered a
1528 retiree. Upon reemployment in a regularly established position
1529 with an FRS-covered employer, the participant returns as a new
1530 hire and, if applicable, has the opportunity to participate in
1531 the Florida Retirement System. A retiree who is initially
1532 reemployed on or after July 1, 2010, is not eligible for renewed
1533 membership.

1534 (g)(e) After the period during which an eligible employee
1535 had the choice to elect the defined benefit program or the



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1536 Public Employee Optional Retirement Program, or the month
1537 following the receipt of the eligible employee's plan election,
1538 if sooner, the employee shall have one opportunity, at the
1539 employee's discretion, to choose to move from the defined
1540 benefit program to the Public Employee Optional Retirement
1541 Program or from the Public Employee Optional Retirement Program
1542 to the defined benefit program. Eligible employees may elect to
1543 move between Florida Retirement System programs only if they are
1544 earning service credit in an employer-employee relationship
1545 consistent with the requirements under s. 121.021(17)(b),
1546 excluding leaves of absence without pay. Effective July 1, 2005,
1547 such elections shall be effective on the first day of the month
1548 following the receipt of the election by the third-party
1549 administrator and are not subject to the requirements regarding
1550 an employer-employee relationship or receipt of contributions
1551 for the eligible employee in the effective month, except that
1552 the employee must meet the conditions of the previous sentence
1553 when the election is received by the third-party administrator.
1554 This paragraph shall be contingent upon approval from the
1555 Internal Revenue Service for including the choice described
1556 herein within the programs offered by the Florida Retirement
1557 System.

1558 1. If the employee chooses to move to the Public Employee
1559 Optional Retirement Program, the applicable provisions of this
1560 section shall govern the transfer.

1561 2. If the employee chooses to move to the defined benefit
1562 program, the employee must transfer from his or her Public
1563 Employee Optional Retirement Program account and from other
1564 employee moneys as necessary, a sum representing the present



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1565 value of that employee's accumulated benefit obligation
1566 immediately following the time of such movement, determined
1567 assuming that attained service equals the sum of service in the
1568 defined benefit program and service in the Public Employee
1569 Optional Retirement Program. Benefit commencement occurs on the
1570 first date the employee would become eligible for unreduced
1571 benefits, using the discount rate and other relevant actuarial
1572 assumptions that were used to value the Florida Retirement
1573 System defined benefit plan liabilities in the most recent
1574 actuarial valuation. For any employee who, at the time of the
1575 second election, already maintains an accrued benefit amount in
1576 the defined benefit plan, the then-present value of such accrued
1577 benefit shall be deemed part of the required transfer amount
1578 described in this subparagraph. The division shall ensure that
1579 the transfer sum is prepared using a formula and methodology
1580 certified by an enrolled actuary. A refund is not permitted of
1581 any member contributions or additional member payments made
1582 which exceed the employee contributions that would have accrued
1583 had the member remained in the defined benefit program and not
1584 transferred to the Public Employee Optional Retirement Program.

1585 3. Notwithstanding subparagraph 2., an employee who chooses
1586 to move to the defined benefit program and who became eligible
1587 to participate in the Public Employee Optional Retirement
1588 Program by reason of employment in a regularly established
1589 position with a state employer after June 1, 2002; a district
1590 school board employer after September 1, 2002; or a local
1591 employer after December 1, 2002, must transfer from his or her
1592 Public Employee Optional Retirement Program account and, from
1593 other employee moneys as necessary, a sum representing that



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1594 employee's actuarial accrued liability. A refund is not
1595 permitted of any member contributions or additional member
1596 payments made which exceed the employee contributions that would
1597 have accrued had the member remained in the defined benefit
1598 program and not transferred to the Public Employee Optional
1599 Retirement Program.

1600 4. Employees' ability to transfer from the Florida
1601 Retirement System defined benefit program to the Public Employee
1602 Optional Retirement Program pursuant to paragraphs (a)-(d), and
1603 the ability for current employees to have an option to later
1604 transfer back into the defined benefit program under
1605 subparagraph 2., shall be deemed a significant system amendment.
1606 Pursuant to s. 121.031(4), any such resulting unfunded liability
1607 arising from actual original transfers from the defined benefit
1608 program to the optional program shall be amortized within 30
1609 plan years as a separate unfunded actuarial base independent of
1610 the reserve stabilization mechanism defined in s. 121.031(3)(f).
1611 For the first 25 years, no direct amortization payment shall be
1612 calculated for this base. During this 25-year period, such
1613 separate base shall be used to offset the impact of employees
1614 exercising their second program election under this paragraph.
1615 It is the legislative intent that the actuarial funded status of
1616 the Florida Retirement System defined benefit plan is neither
1617 beneficially nor adversely impacted by such second program
1618 elections in any significant manner, after due recognition of
1619 the separate unfunded actuarial base. Following this initial 25-
1620 year period, any remaining balance of the original separate base
1621 shall be amortized over the remaining 5 years of the required
1622 30-year amortization period.



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(5) CONTRIBUTIONS.—

(a) The participant and ~~Each~~ employer shall make the required contributions to contribute on behalf of each participant in the Public Employee Optional Retirement Program based on a percentage of the employee's gross monthly compensation, as provided in part III of this chapter.

(b) Participant contributions shall be paid on a pretax basis, as provided in s. 401 of the Internal Revenue Code. In no case may such contribution exceed federal limitations. A participant is responsible for monitoring his or her individual contributions to ensure that he or she does not exceed the maximum deferral amounts permitted under the Internal Revenue Code.

(c) The state board, acting as plan fiduciary, shall ensure that all plan assets are held in a trust, pursuant to s. 401 of the Internal Revenue Code. The fiduciary shall ensure that said contributions are allocated as follows:

1. The participant and employer contribution portion earmarked for participant accounts shall be used to purchase interests in the appropriate investment vehicles for the accounts of each participant as specified by the participant, or in accordance with paragraph (4) (d).

2. The employer contribution portion earmarked for administrative and educational expenses shall be transferred to the board.

3. The employer contribution portion earmarked for disability benefits shall be transferred to the department.

(d) ~~(b)~~ The third-party administrator is ~~Employers are~~ responsible for monitoring and notifying employers of the



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1652 ~~participants regarding~~ maximum contribution levels permitted for
1653 participants under the Internal Revenue Code. If a participant
1654 contributes to any other tax-deferred plan, he or she is
1655 responsible for ensuring that total contributions made to the
1656 optional program and to any other such plan do not exceed
1657 federally permitted maximums.

1658 (e)~~(e)~~ The Public Employee Optional Retirement Program may
1659 accept for deposit into participant accounts contributions in
1660 the form of rollovers or direct trustee-to-trustee transfers by
1661 or on behalf of participants, reasonably determined by the board
1662 to be eligible for rollover or transfer to the optional
1663 retirement program pursuant to the Internal Revenue Code, if
1664 such contributions are made in accordance with rules as may be
1665 adopted by the board. Such contributions shall be accounted for
1666 in accordance with any applicable Internal Revenue Code
1667 requirements and rules of the board.

1668 (6) VESTING REQUIREMENTS.—

1669 (a) With respect to employee contributions paid by the
1670 participant to the Public Employee Optional Retirement Program,
1671 plus interest and earnings thereon and less investment fees and
1672 administrative charges, a participant shall be fully and
1673 immediately vested.

1674 (b)~~(a)~~1. With respect to employer contributions paid on
1675 behalf of the participant to the Public Employee Optional
1676 Retirement Program, plus interest and earnings thereon and less
1677 investment fees and administrative charges, a participant shall
1678 be vested after completing 1 work year, as defined in s.
1679 121.021(54), with an employer, including any service while the
1680 participant was a member of the defined benefit retirement



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1681 program or an optional retirement program authorized under s.
1682 121.051(2)(c) or s. 121.055(6).

1683 2. If the participant terminates employment prior to
1684 satisfying the vesting requirements, the nonvested accumulation
1685 shall be transferred from the participant's accounts to the
1686 state board for deposit and investment by the board in the
1687 suspense account of the Public Employee Optional Retirement
1688 Program Trust Fund of the board. If the terminated participant
1689 is reemployed as an eligible employee within 5 years, the state
1690 board shall transfer to the participant's account any amount of
1691 the moneys previously transferred from the participant's
1692 accounts to the suspense account of the Public Employee Optional
1693 Retirement Program Trust Fund, plus the actual earnings on such
1694 amount while in the suspense account.

1695 ~~(c)~~1. A participant shall be vested in the employer
1696 amount transferred from the defined benefit program, plus
1697 interest and earnings thereon and less administrative charges
1698 and investment fees, upon meeting the service requirements for
1699 the participant's membership class as set forth in s.
1700 121.021(29). The third-party administrator shall account for
1701 such amounts for each participant. The division shall notify the
1702 participant and the third-party administrator when the
1703 participant has satisfied the vesting period for Florida
1704 Retirement System purposes.

1705 2. If the participant terminates employment prior to
1706 satisfying the vesting requirements, the nonvested employer
1707 accumulation shall be transferred from the participant's
1708 accounts to the state board for deposit and investment by the
1709 board in the suspense account of the Public Employee Optional



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1710 Retirement Program Trust Fund of the board. If the terminated
1711 participant is reemployed as an eligible employee within 5
1712 years, the state board shall transfer to the participant's
1713 account any amount of the moneys previously transferred from the
1714 participant's accounts to the suspense account of the Public
1715 Employee Optional Retirement Program Trust Fund, plus the actual
1716 earnings on such amount while in the suspense account.

1717 (d) ~~(e)~~ Any nonvested accumulations transferred from a
1718 participant's account to the suspense account shall be forfeited
1719 by the participant if the participant is not reemployed as an
1720 eligible employee within 5 years after termination.

1721 (e) If the participant elects to receive any of his or her
1722 vested employee or employer contributions upon termination of
1723 employment as defined in s. 121.021, the participant shall
1724 forfeit all nonvested employer contributions, and accompanying
1725 service credit, paid on behalf of the participant to the Public
1726 Employee Optional Retirement Program.

1727 (7) BENEFITS.—Under the Public Employee Optional Retirement
1728 Program:

1729 (a) Benefits shall be provided in accordance with s. 401(a)
1730 of the Internal Revenue Code.

1731 (b) Benefits shall accrue in individual accounts that are
1732 participant-directed, portable, and funded by participant and
1733 employer contributions and earnings thereon.

1734 (c) Benefits shall be payable in accordance with the
1735 provisions of s. 121.591.

1736 (8) ADMINISTRATION OF PROGRAM.—

1737 (b)1. The state board shall select and contract with one
1738 third-party administrator to provide administrative services if



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1739 those services cannot be competitively and contractually
1740 provided by the Division of Retirement within the Department of
1741 Management Services. With the approval of the state board, the
1742 third-party administrator may subcontract with other
1743 organizations or individuals to provide components of the
1744 administrative services. As a cost of administration, the board
1745 may compensate any such contractor for its services, in
1746 accordance with the terms of the contract, as is deemed
1747 necessary or proper by the board. The third-party administrator
1748 may not be an approved provider or be affiliated with an
1749 approved provider.

1750 2. These administrative services may include, but are not
1751 limited to, enrollment of eligible employees, collection of
1752 participant and employer contributions, disbursement of such
1753 contributions to approved providers in accordance with the
1754 allocation directions of participants; services relating to
1755 consolidated billing; individual and collective recordkeeping
1756 and accounting; asset purchase, control, and safekeeping; and
1757 direct disbursement of funds to and from the third-party
1758 administrator, the division, the board, employers, participants,
1759 approved providers, and beneficiaries. This section does not
1760 prevent or prohibit a bundled provider from providing any
1761 administrative or customer service, including accounting and
1762 administration of individual participant benefits and
1763 contributions; individual participant recordkeeping; asset
1764 purchase, control, and safekeeping; direct execution of the
1765 participant's instructions as to asset and contribution
1766 allocation; calculation of daily net asset values; direct access
1767 to participant account information; or periodic reporting to



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1768 participants, at least quarterly, on account balances and
1769 transactions, if these services are authorized by the board as
1770 part of the contract.

1771 3. The state board shall select and contract with one or
1772 more organizations to provide educational services. With
1773 approval of the board, the organizations may subcontract with
1774 other organizations or individuals to provide components of the
1775 educational services. As a cost of administration, the board may
1776 compensate any such contractor for its services in accordance
1777 with the terms of the contract, as is deemed necessary or proper
1778 by the board. The education organization may not be an approved
1779 provider or be affiliated with an approved provider.

1780 4. Educational services shall be designed by the board and
1781 department to assist employers, eligible employees,
1782 participants, and beneficiaries in order to maintain compliance
1783 with United States Department of Labor regulations under s.
1784 404(c) of the Employee Retirement Income Security Act of 1974
1785 and to assist employees in their choice of defined benefit or
1786 defined contribution retirement alternatives. Educational
1787 services include, but are not limited to, disseminating
1788 educational materials; providing retirement planning education;
1789 explaining the differences between the defined benefit
1790 retirement plan and the defined contribution retirement plan;
1791 and offering financial planning guidance on matters such as
1792 investment diversification, investment risks, investment costs,
1793 and asset allocation. An approved provider may also provide
1794 educational information, including retirement planning and
1795 investment allocation information concerning its products and
1796 services.



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1797 (11) PARTICIPANT INFORMATION REQUIREMENTS.—The board shall
1798 ensure that each participant is provided a quarterly statement
1799 that accounts for the participant and employer contributions
1800 made on behalf of such participant; the interest and investment
1801 earnings thereon; and any fees, penalties, or other deductions
1802 that apply thereto. At a minimum, such statements must:

1803 (a) Indicate the participant's investment options.

1804 (b) State the market value of the account at the close of
1805 the current quarter and previous quarter.

1806 (c) Show account gains and losses for the period and
1807 changes in account accumulation unit values for the period.

1808 (d) Itemize account contributions for the quarter.

1809 (e) Indicate any account changes due to adjustment of
1810 contribution levels, reallocation of contributions, balance
1811 transfers, or withdrawals.

1812 (f) Set forth any fees, charges, penalties, and deductions
1813 that apply to the account.

1814 (g) Indicate the amount of the account in which the
1815 participant is fully vested and the amount of the account in
1816 which the participant is not vested.

1817 (h) Indicate each investment product's performance relative
1818 to an appropriate market benchmark.

1819

1820 The third-party administrator shall provide quarterly and annual
1821 summary reports to the board and any other reports requested by
1822 the department or the board. In any solicitation or offer of
1823 coverage under an optional retirement program, a provider
1824 company shall be governed by the contract readability provisions
1825 of s. 627.4145, notwithstanding s. 627.4145(6)(c). In addition,



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1826 all descriptive materials must be prepared under the assumption
1827 that the participant is an unsophisticated investor. Provider
1828 companies must maintain an internal system of quality assurance,
1829 have proven functional systems that are date-calculation
1830 compliant, and be subject to a due-diligence inquiry that proves
1831 their capacity and fitness to undertake service
1832 responsibilities.

1833 (13) FEDERAL REQUIREMENTS.—

1834 (c) Participant and employer contributions payable under
1835 this section for any limitation year may not exceed the maximum
1836 amount allowable for qualified defined contribution pension
1837 plans under applicable provisions of the Internal Revenue Code.
1838 If an employee who has elected to participate in the Public
1839 Employee Optional Retirement Program participates in any other
1840 plan that is maintained by the participating employer, benefits
1841 that accrue under the Public Employee Optional Retirement
1842 Program shall be considered primary for any aggregate limitation
1843 applicable under s. 415 of the Internal Revenue Code.

1844 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
1845 PROGRAM PARTICIPANTS.—Notwithstanding any provision of law to
1846 the contrary, participants in the Deferred Retirement Option
1847 Program offered under part I may, after conclusion of their
1848 participation in the program, elect to roll over or authorize a
1849 direct trustee-to-trustee transfer to an account under the
1850 Public Employee Optional Retirement Program of their Deferred
1851 Retirement Option Program proceeds distributed as provided under
1852 s. 121.091(13)(c)5. The transaction must constitute an “eligible
1853 rollover distribution” within the meaning of s. 402(c)(4) of the
1854 Internal Revenue Code.



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1855 (b) The affected participant shall direct the investment of
1856 his or her investment account; however, unless he or she becomes
1857 a renewed member of the Florida Retirement System under s.
1858 121.122 and elects to participate in the Public Employee
1859 Optional Retirement Program, participant and employer
1860 contributions may not be made to the participant's account as
1861 provided under paragraph (5) (a).

1862 Section 15. Subsections (1) and (3) of section 121.4503,
1863 Florida Statutes, are amended to read:

1864 121.4503 Florida Retirement System Contributions Clearing
1865 Trust Fund.—

1866 (1) The Florida Retirement System Contributions Clearing
1867 Trust Fund is created as a clearing fund for disbursing
1868 participant and employer contributions to the component plans of
1869 the Florida Retirement System and shall be administered by the
1870 Department of Management Services. Funds shall be credited to
1871 the trust fund as provided in this chapter and shall be held in
1872 trust for the contributing participants and employers until such
1873 time as the assets are transferred by the department to the
1874 Florida Retirement System Trust Fund, the Public Employee
1875 Optional Retirement Program Trust Fund, or other trust funds as
1876 authorized by law, to be used for the purposes of this chapter.
1877 The trust fund is exempt from the service charges imposed by s.
1878 215.20.

1879 (3) The Department of Management Services may adopt rules
1880 governing the receipt and disbursement of amounts received by
1881 the Florida Retirement System Contributions Clearing Trust Fund
1882 from employees and employers contributing to the component plans
1883 of the Florida Retirement System.



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1884 Section 16. Subsection (1) of section 121.571, Florida
1885 Statutes, is amended to read:

1886 121.571 Contributions.—Contributions to the Public Employee
1887 Optional Retirement Program shall be made as follows:

1888 (1) NONCONTRIBUTORY PLAN.—Each participant and employer
1889 shall submit ~~accomplish the~~ contributions as required by s.
1890 121.71 ~~by a procedure in which no employee's gross salary shall~~
1891 ~~be reduced.~~

1892 Section 17. Section 121.591, Florida Statutes, is amended
1893 to read:

1894 121.591 Benefits payable under the Public Employee Optional
1895 Retirement Program of the Florida Retirement System.—Benefits
1896 may not be paid under this section unless the member has
1897 terminated employment as provided in s. 121.021(39)(a) or is
1898 deceased and a proper application has been filed in the manner
1899 prescribed by the state board or the department. Benefits are
1900 not payable under the Public Employee Optional Retirement
1901 Program prior to termination of employment as provided in s.
1902 121.021(39)(a) for employee hardships, unforeseeable
1903 emergencies, loans, medical expenses, educational expenses,
1904 purchase of a principal residence, payments necessary to prevent
1905 eviction or foreclosure on an employee's principal residence, or
1906 for any other reason. The state board or department, as
1907 appropriate, may cancel an application for retirement benefits
1908 when the member or beneficiary fails to timely provide the
1909 information and documents required by this chapter and the rules
1910 of the state board and department. In accordance with their
1911 respective responsibilities as provided herein, the State Board
1912 of Administration and the Department of Management Services



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1913 shall adopt rules establishing procedures for application for
1914 retirement benefits and for the cancellation of such application
1915 when the required information or documents are not received. The
1916 State Board of Administration and the Department of Management
1917 Services, as appropriate, are authorized to cash out a de
1918 minimis account of a participant who has been terminated from
1919 Florida Retirement System covered employment for a minimum of 6
1920 calendar months. A de minimis account is an account containing
1921 participant and employer contributions and accumulated earnings
1922 of not more than \$5,000 made under the provisions of this
1923 chapter. Such cash-out must either be a complete lump-sum
1924 liquidation of the account balance, subject to the provisions of
1925 the Internal Revenue Code, or a lump-sum direct rollover
1926 distribution paid directly to the custodian of an eligible
1927 retirement plan, as defined by the Internal Revenue Code, on
1928 behalf of the participant. Any nonvested accumulations,
1929 including amounts transferred to the suspense account of the
1930 Public Employee Optional Retirement Program Trust Fund
1931 authorized under s. 121.4501(6), shall be forfeited upon payment
1932 of any vested benefit to a participant or beneficiary. If any
1933 financial instrument issued for the payment of retirement
1934 benefits under this section is not presented for payment within
1935 180 days after the last day of the month in which it was
1936 originally issued, the third-party administrator or other duly
1937 authorized agent of the State Board of Administration shall
1938 cancel the instrument and credit the amount of the instrument to
1939 the suspense account of the Public Employee Optional Retirement
1940 Program Trust Fund authorized under s. 121.4501(6). Any such
1941 amounts transferred to the suspense account are payable upon a



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1942 proper application, not to include earnings thereon, as provided
1943 in this section, within 10 years after the last day of the month
1944 in which the instrument was originally issued, after which time
1945 such amounts and any earnings attributable to employer
1946 contributions thereon shall be forfeited. Any such forfeited
1947 amounts are assets of the Public Employee Optional Retirement
1948 Program Trust Fund and are not subject to the provisions of
1949 chapter 717.

1950 (1) NORMAL BENEFITS.—Under the Public Employee Optional
1951 Retirement Program:

1952 (a) Benefits in the form of vested accumulations as
1953 described in s. 121.4501(6) are payable under this subsection in
1954 accordance with the following terms and conditions:

1955 1. To the extent vested, benefits are payable only to a
1956 participant.

1957 2. Benefits shall be paid by the third-party administrator
1958 or designated approved providers in accordance with the law, the
1959 contracts, and any applicable board rule or policy.

1960 3. To receive benefits, the participant must be terminated
1961 from all employment with all Florida Retirement System
1962 employers, as provided in s. 121.021(39).

1963 4. Benefit payments may not be made until the participant
1964 has been terminated for 3 calendar months, except that the board
1965 may authorize by rule for the distribution of up to 10 percent
1966 of the participant's account after being terminated for 1
1967 calendar month if the participant has reached the normal
1968 retirement date as defined in s. 121.021 of the defined benefit
1969 plan.

1970 5. If a member or former member of the Florida Retirement



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1971 System receives an invalid distribution from the Public Employee
1972 Optional Retirement Program Trust Fund, such person must repay
1973 the full invalid distribution to the trust fund within 90 days
1974 after receipt of final notification by the state board or the
1975 third-party administrator that the distribution was invalid. If
1976 such person fails to repay the full invalid distribution within
1977 90 days after receipt of final notification, the person may be
1978 deemed retired from the optional retirement program by the state
1979 board, as provided pursuant to s. 121.4501(2)(j), and is subject
1980 to s. 121.122. If such person is deemed retired by the state
1981 board, any joint and several liability set out in s.
1982 121.091(9)(d)2. becomes null and void, and the state board, the
1983 department, or the employing agency is not liable for gains on
1984 payroll contributions that have not been deposited to the
1985 person's account in the retirement program, pending resolution
1986 of the invalid distribution. The member or former member who has
1987 been deemed retired or who has been determined by the board to
1988 have taken an invalid distribution may appeal the agency
1989 decision through the complaint process as provided under s.
1990 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
1991 distribution" means any distribution from an account in the
1992 optional retirement program which is taken in violation of this
1993 section, s. 121.091(9), or s. 121.4501.

1994 (b) If a participant elects to receive his or her benefits
1995 upon termination of employment as defined in s. 121.021, the
1996 participant must submit a written application or an equivalent
1997 form to the third-party administrator indicating his or her
1998 preferred distribution date and selecting an authorized method
1999 of distribution as provided in paragraph (c). The participant



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2000 may defer receipt of benefits until he or she chooses to make
2001 such application, subject to federal requirements.

2002 (c) Upon receipt by the third-party administrator of a
2003 properly executed application for distribution of benefits, the
2004 total accumulated benefit shall be payable to the participant
2005 pro rata across all FRS benefit sources, as:

- 2006 1. A lump-sum or partial distribution to the participant;
2007 2. A lump-sum direct rollover distribution whereby all
2008 accrued benefits, plus interest and investment earnings, are
2009 paid from the participant's account directly to the custodian of
2010 an eligible retirement plan, as defined in s. 402(c)(8)(B) of
2011 the Internal Revenue Code, on behalf of the participant; or
2012 3. Periodic distributions, as authorized by the state
2013 board.

2014 (d) The distribution payment method selected by the
2015 participant or beneficiary, and the retirement of the
2016 participant or beneficiary, shall be final and irrevocable at
2017 the time a benefit distribution payment is cashed, deposited, or
2018 transferred to another financial institution. Any additional
2019 service that remains unclaimed at retirement may not be claimed
2020 or purchased, and the type of retirement may not be changed,
2021 except that if a participant recovers from a disability, the
2022 participant may subsequently request normal service benefits
2023 under subsection (2).

2024 (e) A participant may not receive a distribution of
2025 employee contributions if a pending qualified domestic relations
2026 order is filed against the participant's Public Employee
2027 Optional Retirement Program account.

2028 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under



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2029 this subsection are payable in lieu of the benefits which would
2030 otherwise be payable under the provisions of subsection (1).
2031 Such benefits shall be funded ~~entirely~~ from employer
2032 contributions made under s. 121.571, transferred participant
2033 contributions and funds accumulated pursuant to paragraph (a),
2034 and interest and earnings thereon. Pursuant thereto:

2035 (a) *Transfer of funds.*—To qualify to receive monthly
2036 disability benefits under this subsection:

2037 1. All moneys accumulated in the participant's Public
2038 Employee Optional Retirement Program accounts, including vested
2039 and nonvested accumulations as described in s. 121.4501(6),
2040 shall be transferred from such individual accounts to the
2041 Division of Retirement for deposit in the disability account of
2042 the Florida Retirement System Trust Fund. Such moneys shall be
2043 separately accounted for. Earnings shall be credited on an
2044 annual basis for amounts held in the disability accounts of the
2045 Florida Retirement System Trust Fund based on actual earnings of
2046 the Florida Retirement System Trust Fund.

2047 2. If the participant has retained retirement credit he or
2048 she had earned under the defined benefit program of the Florida
2049 Retirement System as provided in s. 121.4501(3)(b), a sum
2050 representing the actuarial present value of such credit within
2051 the Florida Retirement System Trust Fund shall be reassigned by
2052 the Division of Retirement from the defined benefit program to
2053 the disability program as implemented under this subsection and
2054 shall be deposited in the disability account of the Florida
2055 Retirement System Trust Fund. Such moneys shall be separately
2056 accounted for.

2057 (b) *Disability retirement; entitlement.*—



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2058 1. A participant of the Public Employee Optional Retirement
2059 Program who becomes totally and permanently disabled, as defined
2060 in s. 121.091(4)(b), after completing 8 years of creditable
2061 service, or a participant who becomes totally and permanently
2062 disabled in the line of duty regardless of his or her length of
2063 service, shall be entitled to a monthly disability benefit as
2064 provided herein.

2065 2. In order for service to apply toward the 8 years of
2066 service required to vest for regular disability benefits, or
2067 toward the creditable service used in calculating a service-
2068 based benefit as provided for under paragraph (g), the service
2069 must be creditable service as described below:

2070 a. The participant's period of service under the Public
2071 Employee Optional Retirement Program will be considered
2072 creditable service, except as provided in subparagraph d.

2073 b. If the participant has elected to retain credit for his
2074 or her service under the defined benefit program of the Florida
2075 Retirement System as provided under s. 121.4501(3)(b), all such
2076 service will be considered creditable service.

2077 c. If the participant has elected to transfer to his or her
2078 participant accounts a sum representing the present value of his
2079 or her retirement credit under the defined benefit program as
2080 provided under s. 121.4501(3)(c), the period of service under
2081 the defined benefit program represented in the present value
2082 amounts transferred will be considered creditable service for
2083 purposes of vesting for disability benefits, except as provided
2084 in subparagraph d.

2085 d. Whenever a participant has terminated employment and has
2086 taken distribution of his or her funds as provided in subsection



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2087 (1), all creditable service represented by such distributed
2088 funds is forfeited for purposes of this subsection.

2089 (c) *Disability retirement effective date.*—The effective
2090 retirement date for a participant who applies and is approved
2091 for disability retirement shall be established as provided under
2092 s. 121.091(4) (a)2. and 3.

2093 (d) *Total and permanent disability.*—A participant shall be
2094 considered totally and permanently disabled if, in the opinion
2095 of the division, he or she is prevented, by reason of a
2096 medically determinable physical or mental impairment, from
2097 rendering useful and efficient service as an officer or
2098 employee.

2099 (e) *Proof of disability.*—The division, before approving
2100 payment of any disability retirement benefit, shall require
2101 proof that the participant is totally and permanently disabled
2102 in the same manner as provided for members of the defined
2103 benefit program of the Florida Retirement System under s.
2104 121.091(4) (c).

2105 (f) *Disability retirement benefit.*—Upon the disability
2106 retirement of a participant under this subsection, the
2107 participant shall receive a monthly benefit that shall begin to
2108 accrue on the first day of the month of disability retirement,
2109 as approved by the division, and shall be payable on the last
2110 day of that month and each month thereafter during his or her
2111 lifetime and continued disability. All disability benefits
2112 payable to such member shall be paid out of the disability
2113 account of the Florida Retirement System Trust Fund established
2114 under this subsection.

2115 (g) *Computation of disability retirement benefit.*—The



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2116 amount of each monthly payment shall be calculated in the same
2117 manner as provided for members of the defined benefit program of
2118 the Florida Retirement System under s. 121.091(4)(f). For such
2119 purpose, creditable service under both the defined benefit
2120 program and the Public Employee Optional Retirement Program of
2121 the Florida Retirement System shall be applicable as provided
2122 under paragraph (b).

2123 (h) *Reapplication.*—A participant whose initial application
2124 for disability retirement has been denied may reapply for
2125 disability benefits in the same manner, and under the same
2126 conditions, as provided for members of the defined benefit
2127 program of the Florida Retirement System under s. 121.091(4)(g).

2128 (i) *Membership.*—Upon approval of an application for
2129 disability benefits under this subsection, the applicant shall
2130 be transferred to the defined benefit program of the Florida
2131 Retirement System, effective upon his or her disability
2132 retirement effective date.

2133 (j) *Option to cancel.*—Any participant whose application for
2134 disability benefits is approved may cancel his or her
2135 application for disability benefits, provided that the
2136 cancellation request is received by the division before a
2137 disability retirement warrant has been deposited, cashed, or
2138 received by direct deposit. Upon such cancellation:

2139 1. The participant's transfer to the defined benefit
2140 program under paragraph (i) shall be nullified;

2141 2. The participant shall be retroactively reinstated in the
2142 Public Employee Optional Retirement Program without hiatus;

2143 3. All funds transferred to the Florida Retirement System
2144 Trust Fund under paragraph (a) shall be returned to the



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2145 participant accounts from which such funds were drawn; and
2146 4. The participant may elect to receive the benefit payable
2147 under the provisions of subsection (1) in lieu of disability
2148 benefits as provided under this subsection.

2149 (k) *Recovery from disability.*—

2150 1. The division may require periodic reexaminations at the
2151 expense of the disability program account of the Florida
2152 Retirement System Trust Fund. Except as otherwise provided in
2153 subparagraph 2., the requirements, procedures, and restrictions
2154 relating to the conduct and review of such reexaminations,
2155 discontinuation or termination of benefits, reentry into
2156 employment, disability retirement after reentry into covered
2157 employment, and all other matters relating to recovery from
2158 disability shall be the same as are set forth under s.
2159 121.091(4)(h).

2160 2. Upon recovery from disability, any recipient of
2161 disability retirement benefits under this subsection shall be a
2162 compulsory member of the Public Employee Optional Retirement
2163 Program of the Florida Retirement System. The net difference
2164 between the recipient's original account balance transferred to
2165 the Florida Retirement System Trust Fund, including earnings,
2166 under paragraph (a) and total disability benefits paid to such
2167 recipient, if any, shall be determined as provided in sub-
2168 subparagraph a.

2169 a. An amount equal to the total benefits paid shall be
2170 subtracted from that portion of the transferred account balance
2171 consisting of vested accumulations as described under s.
2172 121.4501(6), if any, and an amount equal to the remainder of
2173 benefit amounts paid, if any, shall then be subtracted from any



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2174 remaining portion consisting of nonvested accumulations as
2175 described under s. 121.4501(6).

2176 b. Amounts subtracted under sub-subparagraph a. shall be
2177 retained within the disability account of the Florida Retirement
2178 System Trust Fund. Any remaining account balance shall be
2179 transferred to the third-party administrator for disposition as
2180 provided under sub-subparagraph c. or sub-subparagraph d., as
2181 appropriate.

2182 c. If the recipient returns to covered employment,
2183 transferred amounts shall be deposited in individual accounts
2184 under the Public Employee Optional Retirement Program, as
2185 directed by the participant. Vested and nonvested amounts shall
2186 be separately accounted for as provided in s. 121.4501(6).

2187 d. If the recipient fails to return to covered employment
2188 upon recovery from disability:

2189 (I) Any remaining vested amount shall be deposited in
2190 individual accounts under the Public Employee Optional
2191 Retirement Program, as directed by the participant, and shall be
2192 payable as provided in subsection (1).

2193 (II) Any remaining nonvested amount shall be held in a
2194 suspense account and shall be forfeitable after 5 years as
2195 provided in s. 121.4501(6).

2196 3. If present value was reassigned from the defined benefit
2197 program to the disability program of the Florida Retirement
2198 System as provided under subparagraph (a)2., the full present
2199 value amount shall be returned to the defined benefit account
2200 within the Florida Retirement System Trust Fund and the affected
2201 individual's associated retirement credit under the defined
2202 benefit program shall be reinstated in full. Any benefit based



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2203 upon such credit shall be calculated as provided in s.
2204 121.091(4)(h)1.

2205 (l) *Nonadmissible causes of disability.*—A participant shall
2206 not be entitled to receive a disability retirement benefit if
2207 the disability results from any injury or disease sustained or
2208 inflicted as described in s. 121.091(4)(i).

2209 (m) *Disability retirement of justice or judge by order of*
2210 *Supreme Court.*—

2211 1. If a participant is a justice of the Supreme Court,
2212 judge of a district court of appeal, circuit judge, or judge of
2213 a county court who has served for 6 years or more as an elected
2214 constitutional judicial officer, including service as a judicial
2215 officer in any court abolished pursuant to Art. V of the State
2216 Constitution, and who is retired for disability by order of the
2217 Supreme Court upon recommendation of the Judicial Qualifications
2218 Commission pursuant to the provisions of Art. V of the State
2219 Constitution, the participant's Option 1 monthly disability
2220 benefit amount as provided in s. 121.091(6)(a)1. shall be two-
2221 thirds of his or her monthly compensation as of the
2222 participant's disability retirement date. Such a participant may
2223 alternatively elect to receive an actuarially adjusted
2224 disability retirement benefit under any other option as provided
2225 in s. 121.091(6)(a), or to receive the normal benefit payable
2226 under the Public Employee Optional Retirement Program as set
2227 forth in subsection (1).

2228 2. If any justice or judge who is a participant of the
2229 Public Employee Optional Retirement Program of the Florida
2230 Retirement System is retired for disability by order of the
2231 Supreme Court upon recommendation of the Judicial Qualifications



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2232 Commission pursuant to the provisions of Art. V of the State
2233 Constitution and elects to receive a monthly disability benefit
2234 under the provisions of this paragraph:

2235 a. Any present value amount that was transferred to his or
2236 her program account and all participant and employer
2237 contributions made to such account on his or her behalf, plus
2238 interest and earnings thereon, shall be transferred to and
2239 deposited in the disability account of the Florida Retirement
2240 System Trust Fund; and

2241 b. The monthly benefits payable under this paragraph for
2242 any affected justice or judge retired from the Florida
2243 Retirement System pursuant to Art. V of the State Constitution
2244 shall be paid from the disability account of the Florida
2245 Retirement System Trust Fund.

2246 (n) *Death of retiree or beneficiary.*—Upon the death of a
2247 disabled retiree or beneficiary thereof who is receiving monthly
2248 benefits under this subsection, the monthly benefits shall be
2249 paid through the last day of the month of death and shall
2250 terminate, or be adjusted, if applicable, as of that date in
2251 accordance with the optional form of benefit selected at the
2252 time of retirement. The Department of Management Services may
2253 adopt rules necessary to administer this paragraph.

2254 (3) DEATH BENEFITS.—Under the Public Employee Optional
2255 Retirement Program:

2256 (a) Survivor benefits shall be payable in accordance with
2257 the following terms and conditions:

2258 1. To the extent vested, benefits shall be payable only to
2259 a participant's beneficiary or beneficiaries as designated by
2260 the participant as provided in s. 121.4501(20).



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2261 2. Benefits shall be paid by the third-party administrator
2262 or designated approved providers in accordance with the law, the
2263 contracts, and any applicable board rule or policy.

2264 3. To receive benefits under this subsection, the
2265 participant must be deceased.

2266 (b) In the event of a participant's death, all vested
2267 accumulations as described in s. 121.4501(6), less withholding
2268 taxes remitted to the Internal Revenue Service, shall be
2269 distributed, as provided in paragraph (c) or as described in s.
2270 121.4501(20), as if the participant retired on the date of
2271 death. No other death benefits shall be available for survivors
2272 of participants under the Public Employee Optional Retirement
2273 Program, except for such benefits, or coverage for such
2274 benefits, as are otherwise provided by law or are separately
2275 afforded by the employer, at the employer's discretion.

2276 (c) Upon receipt by the third-party administrator of a
2277 properly executed application for distribution of benefits, the
2278 total accumulated benefit shall be payable by the third-party
2279 administrator to the participant's surviving beneficiary or
2280 beneficiaries, as:

2281 1. A lump-sum distribution payable to the beneficiary or
2282 beneficiaries, or to the deceased participant's estate;

2283 2. An eligible rollover distribution, if permitted, on
2284 behalf of the surviving spouse of a deceased participant,
2285 whereby all accrued benefits, plus interest and investment
2286 earnings, are paid from the deceased participant's account
2287 directly to the custodian of an eligible retirement plan, as
2288 described in s. 402(c)(8)(B) of the Internal Revenue Code, on
2289 behalf of the surviving spouse; or



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2290 3. A partial lump-sum payment whereby a portion of the
2291 accrued benefit is paid to the deceased participant's surviving
2292 spouse or other designated beneficiaries, less withholding taxes
2293 remitted to the Internal Revenue Service, and the remaining
2294 amount is transferred directly to the custodian of an eligible
2295 retirement plan, if permitted, as described in s. 402(c)(8)(B)
2296 of the Internal Revenue Code, on behalf of the surviving spouse.
2297 The proportions must be specified by the participant or the
2298 surviving beneficiary.

2299
2300 This paragraph does not abrogate other applicable provisions of
2301 state or federal law providing for payment of death benefits.

2302 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
2303 any person under the Public Employee Optional Retirement
2304 Program, and any contributions accumulated under such program,
2305 are not subject to assignment, execution, attachment, or any
2306 legal process, except for qualified domestic relations orders by
2307 a court of competent jurisdiction, income deduction orders as
2308 provided in s. 61.1301, and federal income tax levies.

2309 Section 18. Subsection (1) of section 121.70, Florida
2310 Statutes, is amended to read:

2311 121.70 Legislative purpose and intent.—

2312 (1) This part provides for a uniform system for funding
2313 benefits provided under the Florida Retirement System defined
2314 benefit program established under part I of this chapter
2315 (referred to in this part as the defined benefit program) and
2316 under the Public Employee Optional Retirement Program
2317 established under part II of this chapter (referred to in this
2318 part as the optional retirement program). The Legislature



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2319 recognizes and declares that the Florida Retirement System is a
2320 single retirement system, consisting of two retirement plans and
2321 other nonintegrated programs. Employees and employers
2322 participating in the Florida Retirement System collectively
2323 shall be responsible for making contributions to support the
2324 benefits afforded under both plans. As provided in this part,
2325 employees and employers participating in the Florida Retirement
2326 System shall make contributions based upon uniform contribution
2327 rates determined as a percentage of the employee's gross monthly
2328 compensation ~~total payroll~~ for the employee's each class or
2329 subclass of Florida Retirement System membership, irrespective
2330 of which retirement plan individual employees may elect. This
2331 shall be known as a uniform or blended contribution rate system.

2332 Section 19. Subsection (2) of section 121.71, Florida
2333 Statutes, is amended, present subsections (3) and (4) of that
2334 section are renumbered as subsections (4) and (7), respectively,
2335 and new subsections (3), (5), and (6) are added to that section,
2336 to read:

2337 121.71 Uniform rates; process; calculations; levy.-

2338 (2) Based on the uniform rates set forth in subsections
2339 subsection (3), (4), and (5), employees and employers shall make
2340 monthly contributions to the Division of Retirement as required
2341 in s. 121.061(1), which shall initially deposit the funds into
2342 the Florida Retirement System Contributions Clearing Trust Fund.
2343 A change in a contribution rate is effective the first day of
2344 the month for which a full month's employee and employer
2345 contribution may be made on or after the beginning date of the
2346 change. Beginning January 1, 2011, each employee shall
2347 contribute to the plan the contributions required in subsection



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2348 (3). The employer shall deduct the contribution from the
2349 employee's monthly salary, and the contribution shall be
2350 submitted to the Division of Retirement. These contributions
2351 shall be reported as employer-paid employee contributions, and
2352 shall be credited to the account of the employee. The
2353 contributions shall be deducted from the employee's salary
2354 before the computation of applicable federal taxes and shall be
2355 treated as employer contributions under 26 U.S.C. 414(b)(2). The
2356 contributions, although designated as employee contributions,
2357 are being paid by the employers in lieu of contributions by the
2358 employee. The employee shall not have the option of choosing to
2359 receive the contributed amounts directly instead of having them
2360 paid by the employer to the plan. Such contributions are
2361 mandatory and each employee shall be considered to consent to
2362 payroll deductions. Payment of an employee's salary or wages,
2363 less the contribution, is a full and complete discharge and
2364 satisfaction of all claims and demands for the service rendered
2365 by employees during the period covered by the payment, except
2366 their claims to the benefits to which they may be entitled under
2367 the provisions of this chapter.

2368 (3) Required employee retirement contribution rates for
2369 each membership class and subclass of the Florida Retirement
2370 System for both retirement plans are as follows:

| <u>Membership Class</u> | <u>Percentage of Gross Compensation,</u> <u>Effective January 1, 2011</u> |
|---------------------------|--|
| <u>Regular Class</u> | <u>0.25%</u> |
| <u>Special Risk Class</u> | <u>0.25%</u> |



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2373

Special Risk

Administrative

Support Class 0.25%

2374

Elected Officers' Class -

Legislators, Governor,

Lt. Governor,

Cabinet Officers,

State Attorneys,

Public Defenders 0.25%

2375

Elected Officers' Class -

Justices, Judges 0.25%

2376

Elected Officers' Class -

County Elected Officers 0.25%

2377

Senior Management Class 0.25%

2378

DROP 0.25%

2379

2380

2381

2382

~~(4)-(3)~~ Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:



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| | Percentage of Gross Compensation, Effective July 1, <u>2010</u> 2009 | Percentage of Gross Compensation, Effective <u>January</u> <u>1, 2011</u> July 1, 2010 |
|------|---|---|
| 2383 | Membership Class | |
| 2384 | Regular Class | <u>9.76%</u> 8.69% <u>9.54%</u> 9.63% |
| 2385 | Special Risk Class | <u>22.15%</u> 19.76% <u>21.92%</u> 22.11% |
| | Special Risk Administrative Support Class | <u>11.24%</u> 11.39% <u>11.02%</u> 12.10% |
| 2386 | Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders | <u>14.38%</u> 13.32% <u>14.16%</u> 15.20% |
| 2387 | Elected Officers' Class - Justices, Judges | <u>19.39%</u> 18.40% <u>19.15%</u> 20.65% |
| 2388 | Elected Officers' Class - County Elected Officers | <u>16.62%</u> 15.37% <u>16.39%</u> 17.50% |
| 2389 | Senior Management Class | <u>11.70%</u> 11.96% <u>11.49%</u> 13.43% |



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 2400

DROP 14.23% ~~9.80%~~ 14.21% ~~11.14%~~

(5) In order to address unfunded actuarial liabilities of the system, the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

| <u>Membership Class</u> | <u>Percentage of Gross Compensation, Effective July 1, 2010</u> | <u>Percentage of Gross Compensation, Effective July 1, 2011</u> |
|---|---|---|
| <u>Regular Class</u> | <u>0.00%</u> | <u>1.58%</u> |
| <u>Special Risk Class</u> | <u>0.00%</u> | <u>5.97%</u> |
| <u>Special Risk Administrative Support Class</u> | <u>0.00%</u> | <u>15.97%</u> |
| <u>Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u> | <u>0.00%</u> | <u>17.05%</u> |
| <u>Elected Officers' Class -</u> | <u>0.00%</u> | <u>11.00%</u> |



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Justices, Judges

2401

Elected Officers' Class -

County Elected Officers 0.00% 19.75%

2402

Senior Management Class 0.00% 9.26%

2403

DROP 0.00% 4.97%

2404

2405

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(6) If a member is reported under an incorrect membership class and the amount of contributions reported and remitted are less than the amount required, the employer shall owe the difference, plus the delinquent fee, of 1 percent for each calendar month or part thereof that the contributions should have been paid. This delinquent assessment may not be waived. If the contributions reported and remitted are more than the amount required, the employer shall receive a credit to be applied against future contributions owed.

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(7)-(4) The state actuary shall recognize and use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates.

2419

2420

Section 20. Subsections (2), (3), and (4) of section 121.72, Florida Statutes, are amended to read:

2421

2422

121.72 Allocations to optional retirement program participant accounts; percentage amounts.—

2423

2424

(2) The allocations are stated as a percentage of each optional retirement program participant's gross compensation for



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2425 the calendar month. A change in a contribution percentage is
2426 effective the first day of the month for which retirement
2427 contributions ~~a full month's employer contribution~~ may be made
2428 on or after the beginning date of the change. Contribution
2429 percentages may be modified by general law.

2430 (3) Employer and participant contributions to participant
2431 accounts shall be accounted for separately. ~~Participant~~
2432 ~~contributions may be made only if expressly authorized by law.~~
2433 Interest and investment earnings on contributions shall accrue
2434 on a tax-deferred basis until proceeds are distributed.

2435 (4) Effective January 1, 2011 ~~July 1, 2002~~, allocations
2436 from the Florida Retirement System Contributions Clearing Trust
2437 Fund to optional retirement program participant accounts,
2438 including employee contributions as required in s. 121.71(3),
2439 shall be as follows:

| Membership Class | Percentage of Gross Compensation |
|---|----------------------------------|
| Regular Class | 9.00% |
| Special Risk Class | 20.00% |
| Special Risk Administrative Support Class | 11.35% |
| Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders | 13.40% |
| Elected Officers' Class - | 18.90% |



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Justices, Judges

2445

Elected Officers' Class -

County Elected Officers 16.20%

2446

Senior Management Service Class 10.95%

2447

2448 Section 21. Section 121.73, Florida Statutes, is amended to
2449 read:

2450 121.73 Allocations for optional retirement program
2451 participant disability coverage; percentage amounts.-

2452 (1) In addition to contributions required under s. 121.71,
2453 employers participating in the Florida Retirement System shall
2454 contribute an amount equal to a percentage of the payroll
2455 reported for each class or subclass of Florida Retirement System
2456 membership, as specified in subsection (3). These contributions
2457 ~~The allocations established in subsection (3)~~ shall be used to
2458 provide disability coverage for participants in the optional
2459 retirement program and shall be transferred monthly by the
2460 Division of Retirement from the Florida Retirement System
2461 Contributions Clearing Trust Fund to the disability account of
2462 the Florida Retirement System Trust Fund.

2463 (2) The allocations are stated as a percentage of each
2464 optional retirement program participant's gross compensation for
2465 the calendar month. A change in a contribution percentage is
2466 effective the first day of the month for which retirement
2467 contributions ~~a full month's employer contribution~~ may be made
2468 on or after the beginning date of the change. Contribution
2469 percentages may be modified by general law.



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2470 (3) Effective July 1, 2002, allocations from the FRS
2471 Contribution Clearing Fund to provide disability coverage for
2472 participants in the optional retirement program, and to offset
2473 the costs of administering said coverage, shall be as follows:

| 2474 | Membership Class | Percentage of Gross Compensation |
|------|---|----------------------------------|
| 2475 | Regular Class | 0.25% |
| 2476 | Special Risk Class | 1.33% |
| 2477 | Special Risk Administrative Support Class | 0.45% |
| 2478 | Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders | 0.41% |
| 2479 | Elected Officers' Class - Justices, Judges | 0.73% |
| 2480 | Elected Officers' Class - County Elected Officers | 0.41% |
| 2481 | Senior Management Service Class | 0.26% |

2482 Section 22. Section 121.74, Florida Statutes, is amended to
2483 read:

2484 121.74 Administrative and educational expenses.—In addition
2485 to contributions required under ss. ~~s.~~ 121.71 and 121.73,



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2486 effective July 1, 2010, through June 30, 2014, employers
2487 participating in the Florida Retirement System shall contribute
2488 an amount equal to 0.03 ~~0.05~~ percent of the payroll reported for
2489 each class or subclass of Florida Retirement System membership.
2490 Effective July 1, 2014, the contribution rate shall be 0.04
2491 percent of the payroll reported for each class or subclass of
2492 membership. The, which amount contributed shall be transferred
2493 by the Division of Retirement from the Florida Retirement System
2494 Contributions Clearing Trust Fund to the State Board of
2495 Administration's Administrative Trust Fund to offset the costs
2496 of administering the optional retirement program and the costs
2497 of providing educational services to participants in the defined
2498 benefit program and the optional retirement program. Approval of
2499 the trustees ~~of the State Board of Administration~~ is required
2500 before ~~prior to~~ the expenditure of these funds. Payments for
2501 third-party administrative or educational expenses shall be made
2502 only pursuant to the terms of the approved contracts for such
2503 services.

2504 Section 23. Section 121.76, Florida Statutes, is amended to
2505 read:

2506 121.76 Contributions for social security and for retiree
2507 health insurance subsidy.—Contributions required under this part
2508 shall be made or deducted, as may be appropriate, for each pay
2509 period and are in addition to employer and member contributions
2510 required for social security and the Retiree Health Insurance
2511 Subsidy Trust Fund as provided under parts I and II of this
2512 chapter. The employer-paid employee contributions specified in
2513 s. 121.71(2) are subject to taxes imposed under the Federal
2514 Insurance Contributions Act, 26 U.S.C. ss. 3101-3128.



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2515 Section 24. Subsections (1) and (3) of section 121.78,
2516 Florida Statutes, are amended to read:

2517 121.78 Payment and distribution of contributions.—

2518 (1) Contributions made pursuant to this part shall be paid
2519 by the employer, including the employee contribution, to the
2520 Division of Retirement by electronic funds transfer no later
2521 than the 5th working day of the month immediately following the
2522 month during which the payroll period ended. Accompanying
2523 payroll data must be transmitted to the division concurrent with
2524 the contributions.

2525 (3) (a) Employee and employer contributions and accompanying
2526 payroll data received after the 5th working day of the month
2527 shall be considered late. The employer shall be assessed by the
2528 division a penalty of 1 percent of the contributions due for
2529 each calendar month or part thereof that the contributions or
2530 accompanying payroll data are late. Proceeds from the 1-percent
2531 assessment against contributions made on behalf of participants
2532 of the defined benefit program shall be deposited in the Florida
2533 Retirement System Trust Fund, and proceeds from the 1-percent
2534 assessment against contributions made on behalf of participants
2535 of the optional retirement program shall be transferred to the
2536 third-party administrator for deposit into participant accounts,
2537 as provided in paragraph (c) ~~(b)~~.

2538 (b) Retirement contributions paid for a prior period shall
2539 be charged a delinquent fee of 1 percent for each calendar month
2540 or part thereof that the contributions should have been paid.
2541 This includes prior period contributions due to incorrect wages
2542 and contributions from an earlier report or wages and
2543 contributions that should have been reported, but were not. This



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2544 delinquent assessment may not be waived.

2545 (c) ~~(b)~~ If employee contributions or contributions made by
2546 an employer on behalf of participants of the optional retirement
2547 program or accompanying payroll data are not received within the
2548 calendar month they are due, including, but not limited to,
2549 contribution adjustments as a result of employer errors or
2550 corrections, and if that delinquency results in market losses to
2551 participants, the employer shall reimburse each participant's
2552 account for market losses resulting from the late contributions.
2553 If a participant has terminated employment and taken a
2554 distribution, the participant is responsible for returning any
2555 excess contributions erroneously provided by employers, adjusted
2556 for any investment gain or loss incurred during the period such
2557 excess contributions were in the participant's Public Employee
2558 Optional Retirement Program account. The State Board of
2559 Administration or its designated agent shall communicate to
2560 terminated participants any obligation to repay such excess
2561 contribution amounts. However, the State Board of
2562 Administration, its designated agents, the Public Employee
2563 Optional Retirement Program Trust Fund, the Department of
2564 Management Services, or the Florida Retirement System Trust Fund
2565 shall not incur any loss or gain as a result of an employer's
2566 correction of such excess contributions. The third-party
2567 administrator, hired by the board pursuant to s. 121.4501(8),
2568 shall calculate the market losses for each affected participant.
2569 When contributions made on behalf of participants of the
2570 optional retirement program or accompanying payroll data are not
2571 received within the calendar month due, the employer shall also
2572 pay the cost of the third-party administrator's calculation and



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2573 reconciliation adjustments resulting from the late
2574 contributions. The third-party administrator shall notify the
2575 employer of the results of the calculations and the total amount
2576 due from the employer for such losses and the costs of
2577 calculation and reconciliation. The employer shall remit to the
2578 division the amount due within 10 working days after the date of
2579 the penalty notice sent by the division. The division shall
2580 transfer said amount to the third-party administrator, who shall
2581 deposit proceeds from the 1-percent assessment and from
2582 individual market losses into participant accounts, as
2583 appropriate. The board is authorized to adopt rules to implement
2584 the provisions regarding late contributions, late submission of
2585 payroll data, the process for reimbursing participant accounts
2586 for resultant market losses, and the penalties charged to the
2587 employers.

2588 (d) If employee contributions reported by an employer on
2589 behalf of participants of the defined benefit program are
2590 reduced as a result of employer errors or corrections, and the
2591 participant has terminated employment and taken a refund, the
2592 employer shall be billed and is responsible for recovering from
2593 the participant any excess contributions erroneously provided by
2594 the employer.

2595 (e)-(e) Delinquency fees specified in paragraph (a) may be
2596 waived by the division, with regard to defined benefit program
2597 contributions, and by the State Board of Administration, with
2598 regard to optional retirement program contributions, only when,
2599 in the opinion of the division or the board, as appropriate,
2600 exceptional circumstances beyond the employer's control
2601 prevented remittance by the prescribed due date notwithstanding



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2602 the employer's good faith efforts to effect delivery. Such a
2603 waiver of delinquency may be granted an employer only one time
2604 each plan state fiscal year.

2605 (f) If the employer submits excess employer or employee
2606 contributions, the employer shall receive a credit to be applied
2607 against future contributions owed. The employer is responsible
2608 for reimbursing the employee for any excess contributions
2609 submitted, provided that any return of such an erroneous excess
2610 pretax contribution by the program shall be made within 1 year
2611 after making erroneous contributions or such other period as may
2612 be allowed by applicable Internal Revenue guidance.

2613 Section 25. Paragraph (a) of subsection (4) of section
2614 1012.875, Florida Statutes, is amended to read:

2615 1012.875 State Community College System Optional Retirement
2616 Program.—Each community college may implement an optional
2617 retirement program, if such program is established therefor
2618 pursuant to s. 1001.64(20), under which annuity or other
2619 contracts providing retirement and death benefits may be
2620 purchased by, and on behalf of, eligible employees who
2621 participate in the program, in accordance with s. 403(b) of the
2622 Internal Revenue Code. Except as otherwise provided herein, this
2623 retirement program, which shall be known as the State Community
2624 College System Optional Retirement Program, may be implemented
2625 and administered only by an individual community college or by a
2626 consortium of community colleges.

2627 (4) (a) Through December 31, 2010, each college must
2628 contribute on behalf of each program participant an amount equal
2629 to 10.43 percent of the participant's gross monthly
2630 compensation. Effective January 1, 2011, each program



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2631 participant shall contribute an amount equal to the employee
2632 contribution required in s. 121.71(3). Effective January 1,
2633 2011, each employer shall contribute on behalf of each program
2634 participant an amount equal to the difference between 10.43
2635 percent of the participant's gross monthly compensation and the
2636 amount equal to the employee's required contribution based on
2637 the employee's gross monthly compensation. The college shall
2638 deduct an amount approved by the district board of trustees of
2639 the college to provide for the administration of the optional
2640 retirement program. Payment of this contribution must be made
2641 either directly by the college or through the program
2642 administrator to the designated company contracting for payment
2643 of benefits to the program participant.

2644 Section 26. The Legislature finds that a proper and
2645 legitimate state purpose is served when employees and retirees
2646 of the state and its political subdivisions, and the dependents,
2647 survivors, and beneficiaries of such employees and retirees, are
2648 extended the basic protections afforded by governmental
2649 retirement systems. These persons must be provided benefits that
2650 are fair and adequate and that are managed, administered, and
2651 funded in an actuarially sound manner, as required by s. 14,
2652 Article X of the State Constitution and part VII of chapter 112,
2653 Florida Statutes. Therefore, the Legislature determines and
2654 declares that this act fulfills an important state interest.

2655 Section 27. This act shall take effect July 1, 2010.
2656