

1 A bill to be entitled
2 An act relating to the defined contribution retirement
3 program; amending s. 112.0801, F.S.; revising the
4 definition of the term "retiree" for purposes of
5 participation in group insurance by retired employees;
6 amending ss. 110.123, 112.363, 112.65, 121.021, 121.051,
7 121.35, 121.71, 121.72, 121.73, 121.74, 121.77, and
8 121.78, F.S.; conforming cross-references; substituting
9 references to the defined contribution program for
10 references to the Public Employee Optional Retirement
11 Program; amending ss. 121.091, 121.4503, 121.571, 121.591,
12 and 121.5911, F.S.; conforming cross-references; changing
13 the name of the Public Employee Optional Retirement
14 Program to the Public Employee Retirement Investment
15 Program; changing the name of the Public Employee Optional
16 Retirement Program Trust Fund to the Public Employee
17 Retirement Investment Program Trust Fund; amending s.
18 121.055, F.S.; deleting obsolete provisions; amending s.
19 121.4501, F.S.; changing the name of the Public Employee
20 Optional Retirement Program to the Public Employee
21 Retirement Investment Program; limiting the option of
22 enrolling in the Florida Retirement System's defined
23 benefit program or defined contribution program to public
24 employees employed before January 1, 2011; requiring
25 public employees employed on or after January 1, 2011, to
26 enroll in the defined contribution program; revising
27 definitions; deleting obsolete provisions relating to the
28 2002 optional transfer of public employees from the

29 defined benefit program to the defined contribution
 30 program; deleting requirements for an educational program
 31 that compares retirement programs; amending s. 121.4502,
 32 F.S.; changing the name of the Public Employee Optional
 33 Retirement Program Trust Fund to the Public Employee
 34 Retirement Investment Program Trust Fund; amending s.
 35 121.70, F.S.; revising legislative intent; changing the
 36 name of the Public Employee Optional Retirement Program to
 37 the defined contribution program; deleting provisions
 38 relating to an employee's choice in retirement plans;
 39 providing a directive to the Division of Statutory
 40 Revision; providing an effective date.

41

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

43

44 Section 1. Paragraph (g) of subsection (2) of section
 45 110.123, Florida Statutes, is amended to read:

46 110.123 State group insurance program.—

47 (2) DEFINITIONS.—As used in this section, the term:

48 (g) "Retired state officer or employee" or "retiree" means
 49 any state or state university officer or employee who retires
 50 under a state retirement system or a state optional annuity or
 51 retirement program or is placed on disability retirement, and
 52 who was insured under the state group insurance program at the
 53 time of retirement, and who begins receiving retirement benefits
 54 immediately after retirement from state or state university
 55 office or employment. In addition ~~to these requirements,~~ the
 56 term includes any state officer or state employee who retires

57 | under the defined contribution ~~Public Employee Optional~~
 58 | ~~Retirement~~ program established under part II of chapter 121
 59 | ~~shall be considered a "retired state officer or employee" or~~
 60 | ~~"retiree" as used in this section~~ if he or she:

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

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

65 | Section 2. Section 112.0801, Florida Statutes, is amended
 66 | to read:

67 | 112.0801 Group insurance; participation by retired
 68 | employees.—

69 | ~~(1)~~ Any state agency, county, municipality, special
 70 | district, community college, or district school board that ~~which~~
 71 | provides life, health, accident, hospitalization, or annuity
 72 | insurance, or all of any kinds of such insurance, for its
 73 | officers and employees and their dependents upon a group
 74 | insurance plan or self-insurance plan shall allow all former
 75 | personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as
 76 | well as those who retire on or after such date, and their
 77 | eligible dependents, the option of continuing to participate in
 78 | the ~~such~~ group insurance plan or self-insurance plan. Retirees
 79 | and their eligible dependents shall be offered the same health
 80 | and hospitalization insurance coverage as is offered to active
 81 | employees at a premium cost of no more than the premium cost
 82 | applicable to active employees. For ~~the~~ retired employees and
 83 | their eligible dependents, the cost of ~~any such~~ continued
 84 | participation ~~in any type of plan or any of the cost thereof~~ may

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85 be paid by the employer or by the retired employees. To
86 determine health and hospitalization plan costs, the employer
87 shall commingle the claims experience of the retiree group with
88 the claims experience of the active employees; and, for other
89 types of coverage, the employer may commingle the claims
90 experience of the retiree group with the claims experience of
91 active employees. Retirees covered under Medicare may be
92 experience-rated separately from the retirees not covered by
93 Medicare and from active employees if, ~~provided that~~ the total
94 premium does not exceed that of the active group and coverage is
95 basically the same as for the active group.

96 ~~(2) For purposes of this section, "retiree" has the same~~
97 ~~meaning as in s. 110.123(2). means any officer or employee who~~
98 ~~retires under a state retirement system or a state optional~~
99 ~~annuity or retirement program or is placed on disability~~
100 ~~retirement and who begins receiving retirement benefits~~
101 ~~immediately after retirement from employment. In addition to~~
102 ~~these requirements, any officer or employee who retires under~~
103 ~~the Public Employee Optional Retirement Program established~~
104 ~~under part II of chapter 121 shall be considered a "retired~~
105 ~~officer or employee" or "retiree" as used in this section if he~~
106 ~~or she:~~

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

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

111 Section 3. Paragraph (b) of subsection (2) and paragraph
112 (e) of subsection (3) of section 112.363, Florida Statutes, are

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113 amended to read:

114 112.363 Retiree health insurance subsidy.—

115 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

116 (b) For purposes of this section, a person is deemed
 117 retired from a state-administered retirement system if ~~when~~ he
 118 or she terminates employment with all employers participating in
 119 the Florida Retirement System as described in s. 121.021(39)
 120 and:

121 1. For a participant of the defined contribution ~~Public~~
 122 ~~Employee Optional Retirement~~ program established under part II
 123 of chapter 121, the participant meets the age or service
 124 requirements to qualify for normal retirement as set forth in s.
 125 121.021(29).

126 2. For a member of the ~~Florida Retirement System~~ defined
 127 benefit program, or any employee who maintains creditable
 128 service under ~~both~~ the defined benefit program and the defined
 129 contribution ~~Public Employee Optional Retirement~~ program, the
 130 member begins drawing retirement benefits from the defined
 131 benefit program ~~of the Florida Retirement System~~.

132 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

133 (e)1. Beginning July 1, 2001, each eligible retiree of the
 134 defined benefit program ~~of the Florida Retirement System~~, or, if
 135 the retiree is deceased, his or her beneficiary who is receiving
 136 a monthly benefit from such retiree's account and who is a
 137 spouse, or a person who meets the definition of joint annuitant
 138 in s. 121.021(28), shall receive a monthly retiree health
 139 insurance subsidy payment equal to the number of years of
 140 creditable service, as defined in s. 121.021(17), completed at

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141 the time of retirement multiplied by \$5; however, no eligible
 142 retiree or beneficiary may receive a subsidy payment of more
 143 than \$150 or less than \$30. If there are multiple beneficiaries,
 144 the total payment may ~~must~~ not be greater than the payment to
 145 which the retiree was entitled. The health insurance subsidy
 146 amount payable to any person receiving the retiree health
 147 insurance subsidy payment on July 1, 2001, may ~~shall~~ not be
 148 reduced solely by operation of this subparagraph.

149 2. Beginning July 1, 2002, each eligible participant of
 150 the defined contribution ~~Public Employee Optional Retirement~~
 151 ~~program of the Florida Retirement System~~ who has met the
 152 requirements of this section, or, if the participant is
 153 deceased, his or her spouse who is the participant's designated
 154 beneficiary, shall receive a monthly retiree health insurance
 155 subsidy payment equal to the number of years of creditable
 156 service, as provided in this subparagraph, completed at the time
 157 of retirement, multiplied by \$5; however, no eligible retiree or
 158 beneficiary may receive a subsidy payment of more than \$150 or
 159 less than \$30. For purposes of determining a participant's
 160 creditable service used to calculate the health insurance
 161 subsidy, a participant's years of service credit or fraction
 162 thereof shall be based on the participant's work year as defined
 163 in s. 121.021(54). Credit must ~~shall~~ be awarded for a full work
 164 year whenever health insurance subsidy contributions have been
 165 made ~~as required by law~~ for each month in the participant's work
 166 year. In addition, all years of creditable service retained
 167 under the ~~Florida Retirement System~~ defined benefit program must
 168 ~~shall~~ be included as creditable service for purposes of this

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169 section. Notwithstanding any other provision in this section ~~to~~
 170 ~~the contrary~~, the spouse at the time of death is ~~shall be~~ the
 171 participant's beneficiary unless such participant has designated
 172 a different beneficiary subsequent to the participant's most
 173 recent marriage.

174 Section 4. Subsection (1) of section 112.65, Florida
 175 Statutes, is amended to read:

176 112.65 Limitation of benefits.—

177 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement
 178 benefit or pension payable to a retiree who becomes a member of
 179 any retirement system or plan and who has not previously
 180 participated in such plan, on or after January 1, 1980, may
 181 ~~shall~~ not exceed 100 percent of his or her average final
 182 compensation. However, ~~nothing contained in this section~~ does
 183 not shall apply to supplemental retirement benefits or to
 184 pension increases attributable to cost-of-living increases or
 185 adjustments. For the purposes of this section, benefits accruing
 186 in individual participant accounts established under the defined
 187 contribution ~~Public Employee Optional Retirement~~ program
 188 established in part II of chapter 121 are considered
 189 supplemental benefits. As used in this section, the term
 190 "average final compensation" means the average of the member's
 191 earnings over a period of time which the governmental entity has
 192 established by statute, charter, or ordinance.

193 Section 5. Subsection (3) and paragraph (b) of subsection
 194 (22) of section 121.021, Florida Statutes, are amended to read:

195 121.021 Definitions.—The following words and phrases as
 196 used in this chapter have the respective meanings set forth

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197 unless a different meaning is plainly required by the context:

198 (3) "System" means the general retirement system
 199 established by this chapter to be known and cited as the
 200 "Florida Retirement System," including, but not limited to, the
 201 defined benefit ~~retirement~~ program administered under the
 202 ~~provisions of part I of this part chapter~~ and the defined
 203 contribution ~~retirement~~ program known as the Public Employee
 204 ~~Optional Retirement Program~~ and administered under the
 205 ~~provisions of~~ part II of this chapter.

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

209 (b) ~~Under no circumstances shall~~ Compensation for a member
 210 participating in the defined benefit ~~retirement~~ program or the
 211 Public Employee ~~Optional Retirement~~ Investment Program of the
 212 Florida Retirement System may not include:

213 1. Fees paid professional persons for special or
 214 particular services or ~~include~~ salary payments made from a
 215 faculty practice plan authorized by the Board of Governors of
 216 the State University System for eligible clinical faculty at a
 217 college in a state university that has a faculty practice plan;
 218 or

219 2. Any bonuses, as defined in subsection (47), or other
 220 payments prohibited from inclusion in the member's average final
 221 compensation ~~and defined in subsection (47).~~

222 Section 6. Paragraph (c) of subsection (2) of section
 223 121.051, Florida Statutes, is amended to read:

224 121.051 Participation in the system.-

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225 (2) OPTIONAL PARTICIPATION.—

226 (c) Employees of public community colleges or charter
 227 technical career centers sponsored by public community colleges,
 228 designated in s. 1000.21(3), who are members of the Regular
 229 Class of the Florida Retirement System and who comply with the
 230 criteria set forth in this paragraph and s. 1012.875 may, in
 231 lieu of participating in the Florida Retirement System, elect to
 232 withdraw from the system altogether and participate in the State
 233 Community College System Optional Retirement Program provided by
 234 the employing agency under s. 1012.875.

235 1. Through June 30, 2001, the cost to the employer for an
 236 ~~such~~ annuity under the optional retirement program shall equal
 237 ~~equals~~ the normal cost portion of the employer retirement
 238 contribution which would be required if the employee were a
 239 member of the Regular Class defined benefit program, plus the
 240 portion of the contribution rate required by s. 112.363(8) which
 241 would otherwise be assigned to the Retiree Health Insurance
 242 Subsidy Trust Fund. Effective July 1, 2001, each employer shall
 243 contribute on behalf of each participant in the optional program
 244 an amount equal to 10.43 percent of the participant's gross
 245 monthly compensation. The employer shall deduct an amount for
 246 the administration of the program. The employer shall contribute
 247 an additional amount to the Florida Retirement System Trust Fund
 248 equal to the unfunded actuarial accrued liability portion of the
 249 Regular Class contribution rate.

250 2. The decision to participate in the ~~an~~ optional
 251 retirement program is irrevocable as long as the employee holds
 252 a position eligible for participation, except as provided in

253 subparagraph 3. Any service creditable under the Florida
 254 Retirement System is retained after the member withdraws from
 255 the system; however, additional service credit in the system may
 256 not be earned while a member of the optional retirement program.

257 3. An employee who has elected to participate in the
 258 optional retirement program shall have one opportunity, at the
 259 employee's discretion, to transfer from the optional retirement
 260 program to the defined benefit program of the Florida Retirement
 261 System or to the defined contribution ~~Public Employee Optional~~
 262 ~~Retirement~~ program established under part II of this chapter,
 263 subject to the terms of the applicable optional retirement
 264 program contracts.

265 a. If the employee chooses to move to the defined
 266 contribution ~~Public Employee Optional Retirement~~ program, any
 267 contributions, interest, and earnings creditable to the employee
 268 under the State Community College System Optional Retirement
 269 Program are retained by the employee in the State Community
 270 College System Optional Retirement Program, and the applicable
 271 provisions of s. 121.4501(4) govern the election.

272 b. If the employee chooses to move to the defined benefit
 273 program ~~of the Florida Retirement System~~, the employee shall
 274 receive service credit equal to his or her years of service
 275 under the State Community College System Optional Retirement
 276 Program.

277 (I) The cost for such credit must be an ~~is the~~ amount
 278 representing the present value of the employee's accumulated
 279 benefit obligation for the affected period of service. The cost
 280 shall be calculated as if the benefit commencement occurs on the

281 first date the employee becomes eligible for unreduced benefits,
 282 using the discount rate and other relevant actuarial assumptions
 283 that were used to value the ~~Florida Retirement System~~ defined
 284 benefit program plan liabilities in the most recent actuarial
 285 valuation. The calculation must include any service already
 286 maintained under the defined benefit program plan in addition to
 287 the years under the State Community College System Optional
 288 Retirement Program. The present value of any service already
 289 maintained under the defined benefit program shall ~~must~~ be
 290 applied as a credit to total cost resulting from the
 291 calculation. The division shall ensure that the transfer sum is
 292 prepared using a formula and methodology certified by an
 293 enrolled actuary.

294 (II) The employee must transfer from his or her State
 295 Community College System Optional Retirement Program account and
 296 from other employee moneys as necessary, a sum representing the
 297 present value of the employee's accumulated benefit obligation
 298 immediately following the time of such movement, determined
 299 assuming that attained service equals the sum of service in the
 300 defined benefit program and service in the State Community
 301 College System Optional Retirement Program.

302 4. Participation in the optional retirement program is
 303 limited to employees who satisfy the following eligibility
 304 criteria:

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

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

312 (I) Instructional; or

313 (II) Executive Management, Instructional Management, or
 314 Institutional Management, if a community college determines that
 315 recruiting to fill a vacancy in the position is to be conducted
 316 in the national or regional market, and the duties and
 317 responsibilities of the position include the formulation,
 318 interpretation, or implementation of policies, or the
 319 performance of functions that are unique or specialized within
 320 higher education and that frequently support the mission of the
 321 community college.

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

325 5. Participants in the program are subject to the same
 326 reemployment limitations, renewed membership provisions, and
 327 forfeiture provisions as are applicable to regular members of
 328 the Florida Retirement System under ss. 121.091(9), 121.122, and
 329 121.091(5), respectively. A participant who receives a program
 330 distribution funded by employer contributions shall be deemed to
 331 be retired from a state-administered retirement system if the
 332 participant is subsequently employed with an employer that
 333 participates in the Florida Retirement System.

334 6. Eligible community college employees are compulsory
 335 members of the Florida Retirement System until, pursuant to s.
 336 1012.875, a written election to withdraw from the system and

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337 participate in the State Community College System Optional
338 Retirement Program is filed with the program administrator and
339 received by the division.

340 a. A community college employee whose program eligibility
341 results from initial employment must be enrolled in the State
342 Community College System Optional Retirement Program retroactive
343 to the first day of eligible employment. The employer retirement
344 contributions paid through the month of the employee plan change
345 must ~~shall~~ be transferred to the community college to the
346 employee's optional program account, and, effective the first
347 day of the next month, the employer shall pay the applicable
348 contributions based upon subparagraph 1.

349 b. A community college employee whose program eligibility
350 is due to the subsequent designation of the employee's position
351 as one of those specified in subparagraph 4., or due to the
352 employee's appointment, promotion, transfer, or reclassification
353 to a position specified in subparagraph 4., must be enrolled in
354 the program on the first day of the first full calendar month
355 that such change in status becomes effective. The employer
356 retirement contributions paid from the effective date through
357 the month of the employee plan change must be transferred to the
358 community college to the employee's optional program account,
359 and, effective the first day of the next month, the employer
360 shall pay the applicable contributions based upon subparagraph
361 1.

362 7. Effective July 1, 2003, through December 31, 2008, any
363 participant of the State Community College System Optional
364 Retirement Program who has service credit in the defined benefit

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365 plan of the Florida Retirement System for the period between his
 366 or her first eligibility to transfer from the defined benefit
 367 plan to the optional retirement program and the actual date of
 368 transfer may, during employment, transfer to the optional
 369 retirement program a sum representing the present value of the
 370 accumulated benefit obligation under the defined benefit
 371 retirement program for the period of service credit. Upon
 372 transfer, all service credit ~~previously~~ earned under the defined
 373 benefit program ~~of the Florida Retirement System~~ during this
 374 period is nullified for purposes of entitlement to a future
 375 benefit under the defined benefit program ~~of the Florida~~
 376 ~~Retirement System~~.

377 Section 7. Paragraph (b) of subsection (1) of section
 378 121.055, Florida Statutes, is amended to read:

379 121.055 Senior Management Service Class.—There is hereby
 380 established a separate class of membership within the Florida
 381 Retirement System to be known as the "Senior Management Service
 382 Class," which shall become effective February 1, 1987.

383 (1)

384 (b)1. Except as provided in subparagraph 2., effective
 385 January 1, 1990, participation in the Senior Management Service
 386 Class is ~~shall be~~ compulsory for the president of each community
 387 college, the manager of each participating city or county, and
 388 all appointed district school superintendents. Effective January
 389 1, 1994, additional positions may be designated for inclusion in
 390 the Senior Management Service Class of the Florida Retirement
 391 System, provided that:

392 a. Positions to be included in the class shall be

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393 designated by the local agency employer. Notice of intent to
 394 designate positions for inclusion in the class must ~~shall~~ be
 395 published once a week for 2 consecutive weeks in a newspaper of
 396 general circulation published in the county or counties
 397 affected, as provided in chapter 50.

398 b. Up to 10 nonelective full-time positions may be
 399 designated for each local agency employer reporting to the
 400 department ~~of Management Services~~; for local agencies with 100
 401 or more regularly established positions, additional nonelective
 402 full-time positions may be designated, not to exceed 1 percent
 403 of the regularly established positions within the agency.

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

- 408 (I) Heads an organizational unit; or
- 409 (II) Has responsibility to effect or recommend personnel,
 410 budget, expenditure, or policy decisions in his or her areas of
 411 responsibility.

412 2. In lieu of participation in the Senior Management
 413 Service Class, members of the Senior Management Service class,
 414 pursuant to the provisions of subparagraph 1., may withdraw from
 415 the Florida Retirement System altogether. The decision to
 416 withdraw from the Florida Retirement System is ~~shall be~~
 417 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
 418 position. Any service creditable under the Senior Management
 419 Service Class shall be retained after the member withdraws from
 420 the Florida Retirement System; however, additional service

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421 credit in the Senior Management Service Class may ~~shall~~ not be
422 earned after such withdrawal. Such members are ~~shall~~ not be
423 eligible to participate in the Senior Management Service
424 Optional Annuity Program.

425 ~~3. Effective January 1, 2006, through June 30, 2006, an~~
426 ~~employee who has withdrawn from the Florida Retirement System~~
427 ~~under subparagraph 2. has one opportunity to elect to~~
428 ~~participate in either the defined benefit program or the Public~~
429 ~~Employee Optional Retirement Program of the Florida Retirement~~
430 ~~System.~~

431 ~~a. If the employee elects to participate in the Public~~
432 ~~Employee Optional Retirement Program, membership shall be~~
433 ~~prospective, and the applicable provisions of s. 121.4501(4)~~
434 ~~shall govern the election.~~

435 ~~b. If the employee elects to participate in the defined~~
436 ~~benefit program of the Florida Retirement System, the employee~~
437 ~~shall, upon payment to the system trust fund of the amount~~
438 ~~calculated under sub-sub-subparagraph (I), receive service~~
439 ~~credit for prior service based upon the time during which the~~
440 ~~employee had withdrawn from the system.~~

441 ~~(I) The cost for such credit shall be an amount~~
442 ~~representing the actuarial accrued liability for the affected~~
443 ~~period of service. The cost shall be calculated using the~~
444 ~~discount rate and other relevant actuarial assumptions that were~~
445 ~~used to value the Florida Retirement System defined benefit plan~~
446 ~~liabilities in the most recent actuarial valuation. The~~
447 ~~calculation shall include any service already maintained under~~
448 ~~the defined benefit plan in addition to the period of~~

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449 ~~withdrawal. The actuarial accrued liability attributable to any~~
450 ~~service already maintained under the defined benefit plan shall~~
451 ~~be applied as a credit to the total cost resulting from the~~
452 ~~calculation. The division shall ensure that the transfer sum is~~
453 ~~prepared using a formula and methodology certified by an~~
454 ~~actuary.~~

455 ~~(II) The employee must transfer a sum representing the net~~
456 ~~cost owed for the actuarial accrued liability in sub-sub-~~
457 ~~subparagraph (I) immediately following the time of such~~
458 ~~movement, determined assuming that attained service equals the~~
459 ~~sum of service in the defined benefit program and the period of~~
460 ~~withdrawal.~~

461 Section 8. Section 121.091, Florida Statutes, is amended
462 to read:

463 121.091 Benefits payable under the system.—Benefits may
464 not be paid under this section unless the member has terminated
465 employment as provided in s. 121.021(39)(a) or begun
466 participation in the Deferred Retirement Option Program as
467 provided in subsection (13), and filed a proper application ~~has~~
468 ~~been filed~~ in the manner prescribed by the department. The
469 department may cancel an application for retirement benefits if
470 ~~when~~ the member or beneficiary fails to timely provide the
471 information and documents required by this chapter and the
472 department's rules. The department shall adopt rules
473 establishing procedures for application for retirement benefits
474 and for the cancellation of such application if ~~when~~ the
475 required information or documents are not received.

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476 (1) NORMAL RETIREMENT BENEFIT.—Upon attaining his or her
477 normal retirement date, the member, upon application to the
478 administrator, shall receive a monthly benefit which shall begin
479 to accrue on the first day of the month of retirement and be
480 payable on the last day of that month and each month thereafter
481 during his or her lifetime. The normal retirement benefit,
482 including any past or additional retirement credit, may not
483 exceed 100 percent of the average final compensation. The amount
484 of monthly benefit shall be calculated as the product of A and
485 B, subject to the adjustment of C, if applicable, as set forth
486 below:

487 (a)1. For creditable years of Regular Class service, A is
488 1.60 percent of the member's average final compensation, up to
489 the member's normal retirement date. Upon completion of the
490 first year after the normal retirement date, A is 1.63 percent
491 of the member's average final compensation. Following the second
492 year after the normal retirement date, A is 1.65 percent of the
493 member's average final compensation. Following the third year
494 after the normal retirement date, and for subsequent years, A is
495 1.68 percent of the member's average final compensation.

496 2. For creditable years of special risk service, A is:

497 a. Two percent of the member's average final compensation
498 for all creditable years prior to October 1, 1974;

499 b. Three percent of the member's average final
500 compensation for all creditable years after September 30, 1974,
501 and before October 1, 1978;

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502 c. Two percent of the member's average final compensation
 503 for all creditable years after September 30, 1978, and before
 504 January 1, 1989;

505 d. Two and two-tenths percent of the member's final
 506 monthly compensation for all creditable years after December 31,
 507 1988, and before January 1, 1990;

508 e. Two and four-tenths percent of the member's average
 509 final compensation for all creditable years after December 31,
 510 1989, and before January 1, 1991;

511 f. Two and six-tenths percent of the member's average
 512 final compensation for all creditable years after December 31,
 513 1990, and before January 1, 1992;

514 g. Two and eight-tenths percent of the member's average
 515 final compensation for all creditable years after December 31,
 516 1991, and before January 1, 1993;

517 h. Three percent of the member's average final
 518 compensation for all creditable years after December 31, 1992;
 519 and

520 i. Three percent of the member's average final
 521 compensation for all creditable years of service after September
 522 30, 1978, and before January 1, 1993, for any special risk
 523 member who retires after July 1, 2000, or any member of the
 524 Special Risk Administrative Support Class entitled to retain the
 525 special risk normal retirement date who was a member of the
 526 Special Risk Class during the time period and who retires after
 527 July 1, 2000.

528 3. For creditable years of Senior Management Service Class
 529 service after January 31, 1987, A is 2 percent;

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530 4. For creditable years of Elected Officers' Class service
 531 as a Supreme Court Justice, district court of appeal judge,
 532 circuit judge, or county court judge, A is 3 1/3 percent of the
 533 member's average final compensation, and for all other
 534 creditable service in such class, A is 3 percent of average
 535 final compensation;

536 (b) B is the number of the member's years and any
 537 fractional part of a year of creditable service earned
 538 subsequent to November 30, 1970; and

539 (c) C is the normal retirement benefit credit brought
 540 forward as of November 30, 1970, by a former member of an
 541 existing system. Such normal retirement benefit credit shall be
 542 determined as the product of X and Y when X is the percentage of
 543 average final compensation which the member would have been
 544 eligible to receive if the member had attained his or her normal
 545 retirement date as of November 30, 1970, all in accordance with
 546 the existing system under which the member is covered on
 547 November 30, 1970, and Y is average final compensation as
 548 defined in s. 121.021(24). However, any member of an existing
 549 retirement system who is eligible to retire and who does retire,
 550 become disabled, or die prior to April 15, 1971, may have his or
 551 her retirement benefits calculated on the basis of the best 5 of
 552 the last 10 years of service.

553 (d) A member's average final compensation shall be
 554 determined by formula to obtain the coverage for the 5 highest
 555 fiscal years' salaries, calculated as provided by rule.

556 (2) BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT AGES.—If a
 557 member accumulates retirement benefits to commence at different

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558 normal retirement ages by virtue of having performed duties for
559 an employer which would entitle him or her to benefits as both a
560 member of the Special Risk Class and a member of either the
561 Regular Class, Senior Management Service Class, or Elected
562 Officers' Class, the amount of benefits payable shall be
563 computed separately with respect to each such age and the sum of
564 such computed amounts shall be paid as provided in this section.

565 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or
566 her early retirement date, the member shall receive an immediate
567 monthly benefit that shall begin to accrue on the first day of
568 the month of the retirement date and be payable on the last day
569 of that month and each month thereafter during his or her
570 lifetime. Such benefit shall be calculated as follows:

571 (a) The amount of each monthly payment shall be computed
572 in the same manner as for a normal retirement benefit, in
573 accordance with subsection (1), but shall be based on the
574 member's average monthly compensation and creditable service as
575 of the member's early retirement date. The benefit so computed
576 shall be reduced by five-twelfths of 1 percent for each complete
577 month by which the early retirement date precedes the normal
578 retirement date of age 62 for a member of the Regular Class,
579 Senior Management Service Class, or the Elected Officers' Class,
580 and age 55 for a member of the Special Risk Class, or age 52 if
581 a Special Risk member has completed 25 years of creditable
582 service in accordance with s. 121.021(29)(b)3.

583 (b) If the employment of a member is terminated by reason
584 of death subsequent to the completion of 20 years of creditable
585 service, the monthly benefit payable to the member's beneficiary

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586 shall be calculated in accordance with subsection (1), but shall
587 be based on average monthly compensation and creditable service
588 as of the date of death. The benefit so computed shall be
589 reduced by five-twelfths of 1 percent for each complete month by
590 which death precedes the normal retirement date specified above
591 or the date on which the member would have attained 30 years of
592 creditable service had he or she survived and continued his or
593 her employment, whichever provides a higher benefit.

594 (4) DISABILITY RETIREMENT BENEFIT.—

595 (a) Disability retirement; entitlement and effective
596 date.—

597 1.a. A member who becomes totally and permanently
598 disabled, as defined in paragraph (b), after completing 5 years
599 of creditable service, or a member who becomes totally and
600 permanently disabled in the line of duty regardless of service,
601 shall be entitled to a monthly disability benefit; except that
602 any member with less than 5 years of creditable service on July
603 1, 1980, or any person who becomes a member of the Florida
604 Retirement System on or after such date must have completed 10
605 years of creditable service prior to becoming totally and
606 permanently disabled in order to receive disability retirement
607 benefits for any disability which occurs other than in the line
608 of duty. However, if a member employed on July 1, 1980, with
609 less than 5 years of creditable service as of that date, becomes
610 totally and permanently disabled after completing 5 years of
611 creditable service and is found not to have attained fully
612 insured status for benefits under the federal Social Security

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613 Act, such member shall be entitled to a monthly disability
614 benefit.

615 b. Effective July 1, 2001, a member of the defined benefit
616 retirement program who becomes totally and permanently disabled,
617 as defined in paragraph (b), after completing 8 years of
618 creditable service, or a member who becomes totally and
619 permanently disabled in the line of duty regardless of service,
620 shall be entitled to a monthly disability benefit.

621 2. If the division has received from the employer the
622 required documentation of the member's termination of
623 employment, the effective retirement date for a member who
624 applies and is approved for disability retirement shall be
625 established by rule of the division.

626 3. For a member who is receiving Workers' Compensation
627 payments, the effective disability retirement date may not
628 precede the date the member reaches Maximum Medical Improvement
629 (MMI), unless the member terminates employment prior to reaching
630 MMI.

631 (b) Total and permanent disability.—A member shall be
632 considered totally and permanently disabled if, in the opinion
633 of the administrator, he or she is prevented, by reason of a
634 medically determinable physical or mental impairment, from
635 rendering useful and efficient service as an officer or
636 employee.

637 (c) Proof of disability.—The administrator, before
638 approving payment of any disability retirement benefit, shall
639 require proof that the member is totally and permanently
640 disabled as provided herein:

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641 1. Such proof shall include the certification of the
642 member's total and permanent disability by two licensed
643 physicians of the state and such other evidence of disability as
644 the administrator may require, including reports from vocational
645 rehabilitation, evaluation, or testing specialists who have
646 evaluated the applicant for employment. A member whose position
647 with an employer requires that the member work full time outside
648 this state in the United States may include certification by two
649 licensed physicians of the state where the member works.

650 2. It must be documented that:

651 a. The member's medical condition occurred or became
652 symptomatic during the time the member was employed in an
653 employee/employer relationship with his or her employer;

654 b. The member was totally and permanently disabled at the
655 time he or she terminated covered employment; and

656 c. The member has not been employed with any other
657 employer after such termination.

658 3. If the application is for in-line-of-duty disability,
659 in addition to the requirements of subparagraph 2., it must be
660 documented by competent medical evidence that the disability was
661 caused by a job-related illness or accident which occurred while
662 the member was in an employee/employer relationship with his or
663 her employer.

664 4. The unavailability of an employment position that the
665 member is physically and mentally capable of performing will not
666 be considered as proof of total and permanent disability.

667 (d) Election on appeal.—A member whose application for
668 regular disability retirement has been denied and who has filed

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669 an appeal to the State Retirement Commission may, if eligible,
670 elect to receive normal or early service retirement benefits
671 while he or she is awaiting the decision on the appeal. However:

672 1. If the member elects to receive service retirement
673 benefits and disability benefits are later approved as a result
674 of the appeal, the payment option chosen by the member may not
675 be changed.

676 2. If the member elects to receive early service
677 retirement and the appeal is later denied, the member may not
678 change his or her election of early retirement.

679
680 Before such regular or early retirement benefits may be paid by
681 the division, the member must provide to the division a written
682 statement indicating that the member understands that such
683 changes are not permitted after he or she begins receiving the
684 benefits.

685 (e) Disability retirement benefit.—Upon the retirement of
686 a member on his or her disability retirement date, the member
687 shall receive a monthly benefit that shall begin to accrue on
688 the first day of the month of disability retirement and shall be
689 payable on the last day of that month and each month thereafter
690 during his or her lifetime and continued disability.

691 (f) Computation of disability retirement benefit.—The
692 amount of each monthly payment shall be computed in the same
693 manner as for a normal retirement benefit, in accordance with
694 subsection (1), but shall be based on disability option
695 actuarial equivalency tables and the average monthly

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696 compensation and creditable service of the member as of the
697 disability retirement date, subject to the following conditions:

698 1. If the member's disability occurred in the line of
699 duty, the monthly Option 1 benefit shall not be less than:

700 a. Forty-two percent of average monthly compensation as of
701 the disability retirement date; or

702 b. Sixty-five percent of the average monthly compensation
703 as of the disability retirement date for a member of the special
704 risk class who retires on or after July 1, 2000; or

705 2. If the member's disability occurred other than in the
706 line of duty, the monthly Option 1 benefit shall not be less
707 than 25 percent of average monthly compensation as of the
708 disability retirement date.

709 (g) Reapplication.—A member, whose initial application for
710 disability retirement has been denied, may reapply for
711 disability benefits. However, such member's reapplication will
712 be considered only if the member presents new medical evidence
713 of a medical condition that existed prior to the member's
714 termination of employment. The division may prescribe by rule
715 procedures for reapplication and for review and approval or
716 disapproval of reapplication.

717 (h) Recovery from disability.—The administrator may
718 require periodic reexaminations at the expense of the retirement
719 fund. The division may adopt rules establishing procedures for
720 conducting and review of such reexaminations.

721 1. If the administrator finds that a member who is
722 receiving disability benefits is, at any time prior to his or
723 her normal retirement date, no longer disabled, the

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724 administrator shall direct that the benefits be discontinued.
725 The decision of the administrator on this question shall be
726 final and binding. If such member:

727 a. Does not reenter the employ of an employer and was not
728 vested as of the disability retirement date, he or she shall be
729 entitled to the excess, if any, of his or her accumulated
730 contributions over the total disability benefits received up to
731 the date of recovery.

732 b. Does not reenter the employ of an employer, but was
733 vested as of the disability retirement date, he or she may elect
734 to receive:

735 (I) The excess, if any, of his or her accumulated
736 contributions over the total disability benefits received up to
737 the date of recovery; or

738 (II) A deferred benefit commencing on the last day of the
739 month of the normal retirement date which shall be payable on
740 the last day of the month thereafter during his or her lifetime.
741 The amount of such monthly benefit shall be computed in the same
742 manner as for a normal retirement benefit, in accordance with
743 subsection (1), but shall be based on average monthly
744 compensation and creditable service as of the member's
745 disability retirement date.

746 c. Reenters employment of an employer within 6 months
747 after recovery, the member's service will be deemed to have been
748 continuous, but the period beginning with the first month for
749 which he or she received a disability benefit payment and ending
750 with the date he or she reentered employment will not be
751 considered as creditable service for the purpose of computing

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752 benefits except as provided in sub-subparagraph d. As used in
753 this section, the term "accumulated contributions" for such
754 member means the excess of the member's accumulated
755 contributions as of the disability retirement date over the
756 total disability benefits received under paragraph (e).

757 d. Terminates his or her disability benefit, reenters
758 covered employment, and is continuously employed for a minimum
759 of 1 year of creditable service, he or she may claim as
760 creditable service the months during which he or she was
761 receiving a disability benefit, upon payment of the required
762 contributions. Contributions shall equal the total required
763 employee and employer contribution rate applicable during the
764 period the retiree received retirement benefits, multiplied
765 times his or her rate of monthly compensation prior to the
766 commencement of disability retirement for each month of the
767 period claimed, plus 4 percent interest until July 1, 1975, and
768 6.5 percent interest thereafter, compounded annually each June
769 30 to the date of payment. If the member does not claim credit
770 for all of the months he or she received disability benefits,
771 the months claimed must be the most recent months of retirement.
772 Such credit for periods of disability, when purchased under the
773 Florida Retirement System, shall apply toward vesting
774 requirements for eligibility to purchase additional credit for
775 other service.

776 2. Both the member receiving disability benefits who
777 reenters employment and the employer employing such disability
778 retiree shall notify the division immediately upon reemployment,
779 and the division shall terminate such member's disability

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780 benefits, effective the first day of the month following the
781 month in which notification of recovery is received. If the
782 member is reemployed with a Florida Retirement System employer
783 at the time of benefit termination, and he or she has received
784 disability retirement benefit and salary payments concurrently
785 prior to notifying the division, he or she may elect within 30
786 days to:

787 a. Retain the retirement benefits received prior to
788 termination of disability benefits and begin receiving
789 retirement service credit effective upon the date of termination
790 of benefits; or

791 b. Repay, within 12 months after his or her decision to
792 receive service credit, the retirement benefits received for
793 each month of reemployment prior to termination of disability
794 benefits and begin receiving retirement service credit effective
795 upon the date of reemployment. Any such unpaid benefits shall
796 have compound interest of 6.5 percent added June 30.

797
798 A member may not receive both retirement service credit for
799 employment and retirement benefits for the same month.

800 3. If, after recovery of disability and reentry into
801 covered employment, the member again becomes disabled and is
802 again approved for disability retirement, the Option 1 monthly
803 retirement benefit shall not be less than the Option 1 monthly
804 benefit calculated at the time of the previous disability, plus
805 any cost of living increases up to the time the disability
806 benefit was terminated upon his or her reentry into covered
807 employment.

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808 (i) Nonadmissible causes of disability.—A member shall not
809 be entitled to receive any disability retirement benefit if the
810 disability is a result of any of the following:

811 1. Injury or disease sustained by the member while
812 willfully participating in a riot, civil insurrection, or other
813 act of violence or while committing a felony;

814 2. Injury or disease sustained by the member after his or
815 her employment has terminated; or

816 3. Intentional, self-inflicted injury.

817 (j) Disability retirement of justice or judge by order of
818 Supreme Court.—

819 1. If a member is a justice of the Supreme Court, judge of
820 a district court of appeal, circuit judge, or judge of a county
821 court who has served for 6 years or more as an elected
822 constitutional judicial officer, including service as a judicial
823 officer in any court abolished pursuant to Art. V of the State
824 Constitution, and who is retired for disability by order of the
825 Supreme Court upon recommendation of the Judicial Qualifications
826 Commission pursuant to the provisions of Art. V of the State
827 Constitution, the member's Option 1 monthly benefit as provided
828 in subparagraph (6) (a)1. shall not be less than two-thirds of
829 his or her monthly compensation as of the member's disability
830 retirement date. Such a member may alternatively elect to
831 receive a disability retirement benefit under any other option
832 as provided in paragraph (6) (a).

833 2. Should any justice or judge who is a member of the
834 Florida Retirement System be retired for disability by order of
835 the Supreme Court upon recommendation of the Judicial

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836 Qualifications Commission pursuant to the provisions of Art. V
837 of the State Constitution, then all contributions to his or her
838 account and all contributions made on his or her behalf by the
839 employer shall be transferred to and deposited in the General
840 Revenue Fund of the state, and there is hereby appropriated
841 annually out of the General Revenue Fund, to be paid into the
842 Florida Retirement System Fund, an amount necessary to pay the
843 benefits of all justices and judges retired from the Florida
844 Retirement System pursuant to Art. V of the State Constitution.

845 (5) TERMINATION BENEFITS.—A member whose employment is
846 terminated prior to retirement retains membership rights to
847 previously earned member-noncontributory service credit, and to
848 member-contributory service credit, if the member leaves the
849 member contributions on deposit in his or her retirement
850 account. If a terminated member receives a refund of member
851 contributions, such member may reinstate membership rights to
852 the previously earned service credit represented by the refund
853 by completing 1 year of creditable service and repaying the
854 refunded member contributions, plus interest.

855 (a) A member whose employment is terminated for any reason
856 other than death or retirement prior to becoming vested is
857 entitled to the return of his or her accumulated contributions
858 as of the date of termination.

859 (b) A member whose employment is terminated for any reason
860 other than death or retirement after becoming vested may elect
861 to receive a deferred monthly benefit which shall begin to
862 accrue on the first day of the month of normal or early
863 retirement and shall be payable on the last day of that month

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864 and each month thereafter during his or her lifetime. The amount
865 of monthly benefit shall be computed in the same manner as for a
866 normal retirement benefit in accordance with subsection (1) or
867 early retirement benefit in accordance with s. 121.021(30), but
868 based on average monthly compensation and creditable service as
869 of the date of termination.

870 (c) In lieu of the deferred monthly benefit provided in
871 paragraph (b), the terminated member may elect to receive a
872 lump-sum amount equal to his or her accumulated contributions as
873 of the date of termination.

874 (d) If any retired member dies without having received in
875 benefit payments an amount equal to his or her accumulated
876 contributions, there shall be payable to his or her designated
877 beneficiary an amount equal to the excess, if any, of the
878 member's accumulated contributions over the total monthly
879 payments made to the member prior to the date of death.

880 (e) A member shall be deemed a terminated member when
881 termination of employment has occurred as provided in s.
882 121.021(39).

883 (f) Any member who has been found guilty by a verdict of a
884 jury, or by the court trying the case without a jury, of
885 committing, aiding, or abetting any embezzlement or theft from
886 his or her employer, bribery in connection with the employment,
887 or other felony specified in chapter 838, except ss. 838.15 and
888 838.16, committed prior to retirement, or who has entered a plea
889 of guilty or of nolo contendere to such crime, or any member
890 whose employment is terminated by reason of the member's
891 admitted commitment, aiding, or abetting of an embezzlement or

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892 theft from his or her employer, bribery, or other felony
893 specified in chapter 838, except ss. 838.15 and 838.16, shall
894 forfeit all rights and benefits under this chapter, except the
895 return of his or her accumulated contributions as of the date of
896 termination.

897 (g) Any elected official who is convicted by the Senate of
898 an impeachable offense shall forfeit all rights and benefits
899 under this chapter, except the return of his or her accumulated
900 contributions as of the date of the conviction.

901 (h) Any member who, prior to retirement, is adjudged by a
902 court of competent jurisdiction to have violated any state law
903 against strikes by public employees, or who has been found
904 guilty by such court of violating any state law prohibiting
905 strikes by public employees, shall forfeit all rights and
906 benefits under this chapter, except the return of his or her
907 accumulated contributions as of the date of the conviction.

908 (i) The division may not pay benefits to any member
909 convicted of a felony committed on or after October 1, 2008,
910 defined in s. 800.04 against a victim younger than 16 years of
911 age, or defined in chapter 794 against a victim younger than 18
912 years of age, through the use or attempted use of power, rights,
913 privileges, duties, or position of the member's public office or
914 employment position. However, the division shall return the
915 member's accumulated contributions, if any, that the member
916 accumulated as of the date of conviction.

917 (j) Any beneficiary who by a verdict of a jury or by the
918 court trying the case without a jury is found guilty, or who has
919 entered a plea of guilty or nolo contendere, of unlawfully and

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920 intentionally killing or procuring the death of the member
 921 forfeits all rights to the deceased member's benefits under this
 922 chapter, and the benefits will be paid as if such beneficiary
 923 had predeceased the decedent.

924 (k) Benefits shall not be paid by the division pending
 925 final resolution of such charges against a member or beneficiary
 926 if the resolution of such charges could require the forfeiture
 927 of benefits as provided in paragraph (f), paragraph (g),
 928 paragraph (h), paragraph (i), or paragraph (j).

929 (6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND DISABILITY
 930 RETIREMENT BENEFITS.—

931 (a) Prior to the receipt of the first monthly retirement
 932 payment, a member shall elect to receive the retirement benefits
 933 to which he or she is entitled under subsection (1), subsection
 934 (2), subsection (3), or subsection (4) in accordance with one of
 935 the following options:

936 1. The maximum retirement benefit payable to the member
 937 during his or her lifetime.

938 2. A decreased retirement benefit payable to the member
 939 during his or her lifetime and, in the event of his or her death
 940 within a period of 10 years after retirement, the same monthly
 941 amount payable for the balance of such 10-year period to his or
 942 her beneficiary or, in case the beneficiary is deceased, in
 943 accordance with subsection (8) as though no beneficiary had been
 944 named.

945 3. A decreased retirement benefit payable during the joint
 946 lifetime of both the member and his or her joint annuitant and
 947 which, after the death of either, shall continue during the

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948 lifetime of the survivor in the same amount, subject to the
949 provisions of subsection (12).

950 4. A decreased retirement benefit payable during the joint
951 lifetime of the member and his or her joint annuitant and which,
952 after the death of either, shall continue during the lifetime of
953 the survivor in an amount equal to 66 2/3 percent of the amount
954 that was payable during the joint lifetime of the member and his
955 or her joint annuitant, subject to the provisions of subsection
956 (12).

957

958 The spouse of any member who elects to receive the benefit
959 provided under subparagraph 1. or subparagraph 2. shall be
960 notified of and shall acknowledge any such election. The
961 division shall establish by rule a method for selecting the
962 appropriate actuarial factor for optional forms of benefits
963 selected under subparagraphs 3. and 4., based on the age of the
964 member and the joint annuitant.

965 (b) The benefit payable under any option stated above
966 shall be the actuarial equivalent, based on tables adopted by
967 the administrator for this purpose, of the amount to which the
968 member was otherwise entitled.

969 (c) A member who elects the option in subparagraph (a)2.
970 shall, in accordance with subsection (8), designate one or more
971 persons to receive the benefits payable in the event of his or
972 her death. Such persons shall be the beneficiaries of the
973 member. The member may also designate one or more contingent
974 beneficiaries to receive any benefits remaining upon the death
975 of the primary beneficiary.

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976 (d) A member who elects the option in subparagraph (a)3.
977 or subparagraph (a)4. shall, on a form provided for that
978 purpose, designate a joint annuitant to receive the benefits
979 which continue to be payable upon the death of the member. After
980 benefits have commenced under the option in subparagraph (a)3.
981 or subparagraph (a)4., the following shall apply:

982 1. A retired member may change his or her designation of a
983 joint annuitant only twice. If such a retired member desires to
984 change his or her designation of a joint annuitant, he or she
985 shall file with the division a notarized "change of joint
986 annuitant" form and shall notify the former joint annuitant in
987 writing of such change. Effective the first day of the next
988 month following receipt by the division of a completed change of
989 joint annuitant form, the division shall adjust the member's
990 monthly benefit by the application of actuarial tables and
991 calculations developed to ensure that the benefit paid is the
992 actuarial equivalent of the present value of the member's
993 current benefit. The consent of a retired member's first
994 designated joint annuitant to any such change shall not be
995 required. However, if either the member or the joint annuitant
996 dies before the effective date of the request for change of
997 joint annuitant, the requested change shall be void, and
998 survivor benefits, if any, shall be paid as if no request had
999 been made.

1000 2. In the event of the dissolution of marriage of a
1001 retired member and a joint annuitant, such member may make an
1002 election to nullify the joint annuitant designation of the
1003 former spouse, unless there is an existing qualified domestic

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1004 relations order preventing such action. The member shall file
1005 with the division a written, notarized nullification which shall
1006 be effective on the first day of the next month following
1007 receipt by the division. Benefits shall be paid as if the former
1008 spouse predeceased the member. A member who makes such an
1009 election may not reverse the nullification but may designate a
1010 new joint annuitant in accordance with subparagraph 1.

1011 (e) The election of an option shall be null and void if
1012 the member dies before the effective date of retirement.

1013 (f) A member who elects to receive benefits under the
1014 option in subparagraph (a)3. may designate one or more qualified
1015 persons, either a spouse or other dependent, as his or her joint
1016 annuitant to receive the benefits after the member's death in
1017 whatever proportion he or she so assigns to each person named as
1018 joint annuitant. The division shall adopt appropriate actuarial
1019 tables and calculations necessary to ensure that the benefit
1020 paid is the actuarial equivalent of the benefit to which the
1021 member is otherwise entitled under the option in subparagraph
1022 (a)1.

1023 (g) Upon the death of a retired member or beneficiary
1024 receiving monthly benefits under this chapter, the monthly
1025 benefits shall be paid through the last day of the month of
1026 death and shall terminate, or be adjusted, if applicable, as of
1027 that date in accordance with the optional form of benefit
1028 selected at the time of retirement.

1029 (h) The option selected or determined for payment of
1030 benefits as provided in this section shall be final and
1031 irrevocable at the time a benefit payment is cashed or deposited

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1032 or credited to the Deferred Retirement Option Program as
 1033 provided in subsection (13).

1034 (7) DEATH BENEFITS.—

1035 (a) If the employment of a member is terminated by reason
 1036 of his or her death prior to being vested, except as provided in
 1037 paragraph (f), there shall be payable to his or her designated
 1038 beneficiary the member's accumulated contributions.

1039 (b) If the employment of an active member who may or may
 1040 not have applied for retirement is terminated by reason of his
 1041 or her death subsequent to becoming vested and prior to his or
 1042 her effective date of retirement, if established, it shall be
 1043 assumed that the member retired as of the date of death in
 1044 accordance with subsection (1) if eligible for normal retirement
 1045 benefits, subsection (2) if eligible for benefits payable for
 1046 dual normal retirement, or subsection (3) if eligible for early
 1047 retirement benefits. Benefits payable to the designated
 1048 beneficiary shall be as follows:

1049 1. For a beneficiary who qualifies as a joint annuitant,
 1050 the optional form of payment provided in accordance with
 1051 subparagraph (6)(a)3. shall be paid for the joint annuitant's
 1052 lifetime.

1053 2. For a beneficiary who does not qualify as a joint
 1054 annuitant, no continuing monthly benefit shall be paid and the
 1055 beneficiary shall be entitled only to the return of the member's
 1056 personal contributions. If there is no monetary interest in the
 1057 member's retirement account for which such beneficiary is
 1058 eligible, the beneficiary shall be the next named beneficiary

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1059 or, if no other beneficiary is named, the beneficiary shall be
1060 the next eligible beneficiary according to subsection (8).

1061 (c) If a retiring member dies on or after the effective
1062 date of retirement, but prior to a benefit payment being cashed
1063 or deposited, or credited to the Deferred Retirement Option
1064 Program, benefits shall be paid as follows:

1065 1. For a designated beneficiary who qualifies as a joint
1066 annuitant, benefits shall be paid in the optional form of
1067 payment provided in subparagraph (6)(a)3. for the joint
1068 annuitant's lifetime or, if the member chose the optional form
1069 of payment provided in subparagraph (6)(a)2., the joint
1070 annuitant may select the form provided in either subparagraph
1071 (6)(a)2. or subparagraph (6)(a)3.

1072 2. For a designated beneficiary who does not qualify as a
1073 joint annuitant, any benefits payable shall be paid as provided
1074 in the option selected by the member; or if the member has not
1075 selected an option, benefits shall be paid in the optional form
1076 of payment provided in subparagraph (6)(a)1.

1077 (d) Notwithstanding any other provision in this chapter to
1078 the contrary, with the exception of the Deferred Retirement
1079 Option Program, as provided in subsection (13):

1080 1. The surviving spouse of any member killed in the line
1081 of duty may receive a monthly pension equal to one-half of the
1082 monthly salary being received by the member at the time of death
1083 for the rest of the surviving spouse's lifetime or, if the
1084 member was vested, such surviving spouse may elect to receive a
1085 benefit as provided in paragraph (b). Benefits provided by this

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1086 paragraph shall supersede any other distribution that may have
1087 been provided by the member's designation of beneficiary.

1088 2. If the surviving spouse of a member killed in the line
1089 of duty dies, the monthly payments which would have been payable
1090 to such surviving spouse had such surviving spouse lived shall
1091 be paid for the use and benefit of such member's child or
1092 children under 18 years of age and unmarried until the 18th
1093 birthday of the member's youngest child.

1094 3. If a member killed in the line of duty leaves no
1095 surviving spouse but is survived by a child or children under 18
1096 years of age, the benefits provided by subparagraph 1., normally
1097 payable to a surviving spouse, shall be paid for the use and
1098 benefit of such member's child or children under 18 years of age
1099 and unmarried until the 18th birthday of the member's youngest
1100 child.

1101 4. The surviving spouse of a member whose benefit
1102 terminated because of remarriage shall have the benefit
1103 reinstated beginning July 1, 1993, at an amount that would have
1104 been payable had the benefit not been terminated.

1105 (e) The surviving spouse or other dependent of any member,
1106 except a member who participated in the Deferred Retirement
1107 Option Program, whose employment is terminated by death shall,
1108 upon application to the administrator, be permitted to pay the
1109 required contributions for any service performed by the member
1110 which could have been claimed by the member at the time of his
1111 or her death. Such service shall be added to the creditable
1112 service of the member and shall be used in the calculation of

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1113 any benefits which may be payable to the surviving spouse or
1114 other surviving dependent.

1115 (f) Notwithstanding any other provisions in this chapter
1116 to the contrary and upon application to the administrator, an
1117 eligible joint annuitant, of a member whose employment is
1118 terminated by death within 1 year of such member satisfying the
1119 service requirements for vesting and retirement eligibility,
1120 shall be permitted to purchase only the additional service
1121 credit necessary to vest and qualify for retirement benefits,
1122 not to exceed a total of 1 year of credit, by one or a
1123 combination of the following methods:

1124 1. Such eligible joint annuitant may use the deceased
1125 member's accumulated hours of annual, sick, and compensatory
1126 leave to purchase additional creditable service, on an hour by
1127 hour basis, provided that such deceased member's accumulated
1128 leave is sufficient to cover the additional months required. For
1129 each month of service credit needed prior to the final month,
1130 credit for the total number of work hours in that month must be
1131 purchased, using an equal number of the deceased member's
1132 accumulated leave hours. Service credit required for the final
1133 month in which the deceased member would have become vested
1134 shall be awarded upon the purchase of 1 hour of credit. Such
1135 eligible joint annuitant shall pay the contribution rate in
1136 effect for the period of time being claimed for the deceased
1137 member's class of membership, multiplied by such member's
1138 monthly salary at the time of death, plus 6.5 percent interest
1139 compounded annually. The accumulated leave payment used in the
1140 average final compensation shall not include that portion of the

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1141 payment that represents any leave hours used in the purchase of
 1142 such creditable service.

1143 2. Such eligible joint annuitant may purchase additional
 1144 months of creditable service for any periods of out-of-state
 1145 service as provided in s. 121.1115, and in-state service as
 1146 provided in s. 121.1122, that the deceased member would have
 1147 been eligible to purchase prior to his or her death.

1148
 1149 Service purchased under this paragraph shall be added to the
 1150 creditable service of the member and used to vest for retirement
 1151 eligibility, and shall be used in the calculation of any
 1152 benefits which may be payable to the eligible joint annuitant.
 1153 Any benefits paid in accordance with this paragraph shall only
 1154 be made prospectively.

1155 (g) Notwithstanding any other provisions in this chapter
 1156 to the contrary, if any member who is vested dies and the
 1157 surviving spouse receives a refund of the accumulated
 1158 contributions made to the retirement trust fund, such spouse may
 1159 pay to the Division of Retirement an amount equal to the sum of
 1160 the amount of the deceased member's accumulated contributions
 1161 previously refunded plus interest at 4 percent compounded
 1162 annually each June 30 from the date of refund until July 1,
 1163 1975, and 6.5 percent interest compounded annually thereafter,
 1164 until full payment is made, and receive the monthly retirement
 1165 benefit as provided in paragraph (b).

1166 (h) The designated beneficiary who is the surviving spouse
 1167 or other dependent of a member whose employment is terminated by
 1168 death subsequent to becoming vested, but prior to actual

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1169 retirement, may elect to receive a deferred monthly benefit as
1170 if the member had lived and had elected a deferred monthly
1171 benefit, as provided in paragraph (5) (b), calculated on the
1172 basis of the average final compensation and creditable service
1173 of the member at his or her death and the age the member would
1174 have attained on the commencement date of the deferred benefit
1175 elected by the beneficiary, paid in accordance with option 3 of
1176 paragraph (6) (a).

1177 (8) DESIGNATION OF BENEFICIARIES.—

1178 (a) Each member may, on a form provided for that purpose,
1179 signed and filed with the division, designate a choice of one or
1180 more persons, named sequentially or jointly, as his or her
1181 beneficiary who shall receive the benefits, if any, which may be
1182 payable in the event of the member's death pursuant to the
1183 provisions of this chapter. If no beneficiary is named in the
1184 manner provided above, or if no beneficiary designated by the
1185 member survives the member, the beneficiary shall be the spouse
1186 of the deceased, if living. If the member's spouse is not alive
1187 at his or her death, the beneficiary shall be the living
1188 children of the member. If no children survive, the beneficiary
1189 shall be the member's father or mother, if living; otherwise,
1190 the beneficiary shall be the member's estate. The beneficiary
1191 most recently designated by a member on a form or letter filed
1192 with the division shall be the beneficiary entitled to any
1193 benefits payable at the time of the member's death, except that
1194 benefits shall be paid as provided in paragraph (7) (d) when
1195 death occurs in the line of duty. Notwithstanding any other
1196 provisions in this subsection to the contrary, for a member who

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1197 | dies prior to his or her effective date of retirement on or
 1198 | after January 1, 1999, the spouse at the time of death shall be
 1199 | the member's beneficiary unless such member designates a
 1200 | different beneficiary as provided herein subsequent to the
 1201 | member's most recent marriage.

1202 | (b) A designated beneficiary of a retirement account for
 1203 | whom there is a monetary interest may disclaim his or her
 1204 | monetary interest as provided in chapter 739 and in accordance
 1205 | with division rules governing such disclaimers. Such disclaimer
 1206 | must be filed within 24 months after the event that created the
 1207 | interest, that is, the death of the member or annuitant.

1208 | (c) Notwithstanding the member's designation of benefits
 1209 | to be paid through a trust to a beneficiary that is a natural
 1210 | person as provided in s. 121.021(46), and notwithstanding the
 1211 | provisions of the trust, benefits shall be paid directly to the
 1212 | beneficiary if the person is no longer a minor or an
 1213 | incapacitated person as defined in s. 744.102.

1214 | (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

1215 | (a) Any person who is retired under this chapter, except
 1216 | under the disability retirement provisions of subsection (4),
 1217 | may be employed by an employer that does not participate in a
 1218 | state-administered retirement system and receive compensation
 1219 | from that employment without limiting or restricting in any way
 1220 | the retirement benefits payable to that person.

1221 | (b) Any person whose retirement is effective before July
 1222 | 1, 2010, or whose participation in the Deferred Retirement
 1223 | Option Program terminates before July 1, 2010, except under the
 1224 | disability retirement provisions of subsection (4) or as

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1225 provided in s. 121.053, may be reemployed by an employer that
 1226 participates in a state-administered retirement system and
 1227 receive retirement benefits and compensation from that employer,
 1228 except that the person may not be reemployed by an employer
 1229 participating in the Florida Retirement System before meeting
 1230 the definition of termination in s. 121.021 and may not receive
 1231 both a salary from the employer and retirement benefits for 12
 1232 calendar months immediately subsequent to the date of
 1233 retirement. However, a DROP participant shall continue
 1234 employment and receive a salary during the period of
 1235 participation in the Deferred Retirement Option Program, as
 1236 provided in subsection (13).

1237 1. A retiree who violates such reemployment limitation
 1238 before completion of the 12-month limitation period must give
 1239 timely notice of this fact in writing to the employer and to the
 1240 Division of Retirement or the state board and shall have his or
 1241 her retirement benefits suspended for the months employed or the
 1242 balance of the 12-month limitation period as required in sub-
 1243 subparagraphs b. and c. A retiree employed in violation of this
 1244 paragraph and an employer who employs or appoints such person
 1245 are jointly and severally liable for reimbursement to the
 1246 retirement trust fund, including the Florida Retirement System
 1247 Trust Fund and the Public Employee ~~Optional~~ Retirement
 1248 Investment Program Trust Fund, from which the benefits were
 1249 paid. The employer must have a written statement from the
 1250 retiree that he or she is not retired from a state-administered
 1251 retirement system. Retirement benefits shall remain suspended
 1252 until repayment has been made. Benefits suspended beyond the

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1253 reemployment limitation shall apply toward repayment of benefits
 1254 received in violation of the reemployment limitation.

1255 a. A district school board may reemploy a retiree as a
 1256 substitute or hourly teacher, education paraprofessional,
 1257 transportation assistant, bus driver, or food service worker on
 1258 a noncontractual basis after he or she has been retired for 1
 1259 calendar month. A district school board may reemploy a retiree
 1260 as instructional personnel, as defined in s. 1012.01(2)(a), on
 1261 an annual contractual basis after he or she has been retired for
 1262 1 calendar month. Any member who is reemployed within 1 calendar
 1263 month after retirement shall void his or her application for
 1264 retirement benefits. District school boards reemploying such
 1265 teachers, education paraprofessionals, transportation
 1266 assistants, bus drivers, or food service workers are subject to
 1267 the retirement contribution required by subparagraph 2.

1268 b. A community college board of trustees may reemploy a
 1269 retiree as an adjunct instructor or as a participant in a phased
 1270 retirement program within the Florida Community College System,
 1271 after he or she has been retired for 1 calendar month. A member
 1272 who is reemployed within 1 calendar month after retirement shall
 1273 void his or her application for retirement benefits. Boards of
 1274 trustees reemploying such instructors are subject to the
 1275 retirement contribution required in subparagraph 2. A retiree
 1276 may be reemployed as an adjunct instructor for no more than 780
 1277 hours during the first 12 months of retirement. A retiree
 1278 reemployed for more than 780 hours during the first 12 months of
 1279 retirement must give timely notice in writing to the employer
 1280 and to the Division of Retirement or the state board of the date

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1281 he or she will exceed the limitation. The division shall suspend
 1282 his or her retirement benefits for the remainder of the 12
 1283 months of retirement. Any retiree employed in violation of this
 1284 sub-subparagraph and any employer who employs or appoints such
 1285 person without notifying the division to suspend retirement
 1286 benefits are jointly and severally liable for any benefits paid
 1287 during the reemployment limitation period. The employer must
 1288 have a written statement from the retiree that he or she is not
 1289 retired from a state-administered retirement system. Any
 1290 retirement benefits received by the retiree while reemployed in
 1291 excess of 780 hours during the first 12 months of retirement
 1292 must be repaid to the Florida Retirement System Trust Fund, and
 1293 retirement benefits shall remain suspended until repayment is
 1294 made. Benefits suspended beyond the end of the retiree's first
 1295 12 months of retirement shall apply toward repayment of benefits
 1296 received in violation of the 780-hour reemployment limitation.

1297 c. The State University System may reemploy a retiree as
 1298 an adjunct faculty member or as a participant in a phased
 1299 retirement program within the State University System after the
 1300 retiree has been retired for 1 calendar month. A member who is
 1301 reemployed within 1 calendar month after retirement shall void
 1302 his or her application for retirement benefits. The State
 1303 University System is subject to the retired contribution
 1304 required in subparagraph 2., as appropriate. A retiree may be
 1305 reemployed as an adjunct faculty member or a participant in a
 1306 phased retirement program for no more than 780 hours during the
 1307 first 12 months of his or her retirement. A retiree reemployed
 1308 for more than 780 hours during the first 12 months of retirement

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1309 must give timely notice in writing to the employer and to the
1310 Division of Retirement or the state board of the date he or she
1311 will exceed the limitation. The division shall suspend his or
1312 her retirement benefits for the remainder of the 12 months. Any
1313 retiree employed in violation of this sub-subparagraph and any
1314 employer who employs or appoints such person without notifying
1315 the division to suspend retirement benefits are jointly and
1316 severally liable for any benefits paid during the reemployment
1317 limitation period. The employer must have a written statement
1318 from the retiree that he or she is not retired from a state-
1319 administered retirement system. Any retirement benefits received
1320 by the retiree while reemployed in excess of 780 hours during
1321 the first 12 months of retirement must be repaid to the Florida
1322 Retirement System Trust Fund, and retirement benefits shall
1323 remain suspended until repayment is made. Benefits suspended
1324 beyond the end of the retiree's first 12 months of retirement
1325 shall apply toward repayment of benefits received in violation
1326 of the 780-hour reemployment limitation.

1327 d. The Board of Trustees of the Florida School for the
1328 Deaf and the Blind may reemploy a retiree as a substitute
1329 teacher, substitute residential instructor, or substitute nurse
1330 on a noncontractual basis after he or she has been retired for 1
1331 calendar month. Any member who is reemployed within 1 calendar
1332 month after retirement shall void his or her application for
1333 retirement benefits. The Board of Trustees of the Florida School
1334 for the Deaf and the Blind reemploying such teachers,
1335 residential instructors, or nurses is subject to the retirement
1336 contribution required by subparagraph 2.

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1337 e. A developmental research school may reemploy a retiree
1338 as a substitute or hourly teacher or an education
1339 paraprofessional as defined in s. 1012.01(2) on a noncontractual
1340 basis after he or she has been retired for 1 calendar month. A
1341 developmental research school may reemploy a retiree as
1342 instructional personnel, as defined in s. 1012.01(2)(a), on an
1343 annual contractual basis after he or she has been retired for 1
1344 calendar month after retirement. Any member who is reemployed
1345 within 1 calendar month voids his or her application for
1346 retirement benefits. A developmental research school that
1347 reemploys retired teachers and education paraprofessionals is
1348 subject to the retirement contribution required by subparagraph
1349 2.

1350 f. A charter school may reemploy a retiree as a substitute
1351 or hourly teacher on a noncontractual basis after he or she has
1352 been retired for 1 calendar month. A charter school may reemploy
1353 a retired member as instructional personnel, as defined in s.
1354 1012.01(2)(a), on an annual contractual basis after he or she
1355 has been retired for 1 calendar month after retirement. Any
1356 member who is reemployed within 1 calendar month voids his or
1357 her application for retirement benefits. A charter school that
1358 reemploys such teachers is subject to the retirement
1359 contribution required by subparagraph 2.

1360 2. The employment of a retiree or DROP participant of a
1361 state-administered retirement system does not affect the average
1362 final compensation or years of creditable service of the retiree
1363 or DROP participant. Before July 1, 1991, upon employment of any
1364 person, other than an elected officer as provided in s. 121.053,

1365 | who is retired under a state-administered retirement program,
 1366 | the employer shall pay retirement contributions in an amount
 1367 | equal to the unfunded actuarial liability portion of the
 1368 | employer contribution which would be required for regular
 1369 | members of the Florida Retirement System. Effective July 1,
 1370 | 1991, contributions shall be made as provided in s. 121.122 for
 1371 | retirees who have renewed membership or, as provided in
 1372 | subsection (13), for DROP participants.

1373 | 3. Any person who is holding an elective public office
 1374 | which is covered by the Florida Retirement System and who is
 1375 | concurrently employed in nonelected covered employment may elect
 1376 | to retire while continuing employment in the elective public
 1377 | office if he or she terminates his or her nonelected covered
 1378 | employment. Such person shall receive his or her retirement
 1379 | benefits in addition to the compensation of the elective office
 1380 | without regard to the time limitations otherwise provided in
 1381 | this subsection. A person who seeks to exercise the provisions
 1382 | of this subparagraph as they existed before May 3, 1984, may not
 1383 | be deemed to be retired under those provisions, unless such
 1384 | person is eligible to retire under this subparagraph, as amended
 1385 | by chapter 84-11, Laws of Florida.

1386 | (c) Any person whose retirement is effective on or after
 1387 | July 1, 2010, or whose participation in the Deferred Retirement
 1388 | Option Program terminates on or after July 1, 2010, who is
 1389 | retired under this chapter, except under the disability
 1390 | retirement provisions of subsection (4) or as provided in s.
 1391 | 121.053, may be reemployed by an employer that participates in a
 1392 | state-administered retirement system and receive retirement

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1393 benefits and compensation from that employer. However, a person
 1394 may not be reemployed by an employer participating in the
 1395 Florida Retirement System before meeting the definition of
 1396 termination in s. 121.021 and may not receive both a salary from
 1397 the employer and retirement benefits for 6 calendar months after
 1398 meeting the definition of termination. However, a DROP
 1399 participant shall continue employment and receive a salary
 1400 during the period of participation in the Deferred Retirement
 1401 Option Program, as provided in subsection (13).

1402 1. The reemployed retiree may not renew membership in the
 1403 Florida Retirement System.

1404 2. The employer shall pay retirement contributions in an
 1405 amount equal to the unfunded actuarial liability portion of the
 1406 employer contribution that would be required for active members
 1407 of the Florida Retirement System in addition to the
 1408 contributions required by s. 121.76.

1409 3. A retiree initially reemployed in violation of this
 1410 paragraph and an employer that employs or appoints such person
 1411 are jointly and severally liable for reimbursement of any
 1412 retirement benefits paid to the retirement trust fund from which
 1413 the benefits were paid, including the Florida Retirement System
 1414 Trust Fund and the Public Employee ~~Optional~~ Retirement
 1415 Investment Program Trust Fund, as appropriate. The employer must
 1416 have a written statement from the employee that he or she is not
 1417 retired from a state-administered retirement system. Retirement
 1418 benefits shall remain suspended until repayment is made.
 1419 Benefits suspended beyond the end of the retiree's 6-month

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1420 reemployment limitation period shall apply toward the repayment
1421 of benefits received in violation of this paragraph.

1422 (d) The provisions of this subsection apply to retirees,
1423 as defined in s. 121.4501(2), of the defined contribution ~~Public~~
1424 ~~Employee Optional Retirement~~ program, subject to the following
1425 conditions:

1426 1. The retirees may not be reemployed with an employer
1427 participating in the Florida Retirement System until such person
1428 has been retired for 6 calendar months.

1429 2. A retiree employed in violation of this subsection and
1430 an employer that employs or appoints such person are jointly and
1431 severally liable for reimbursement of any benefits paid to the
1432 retirement trust fund from which the benefits were paid,
1433 including the Retirement System Trust Fund and the Public
1434 ~~Employee Optional Retirement~~ Investment Program Trust Fund, as
1435 appropriate. The employer must have a written statement from the
1436 retiree that he or she is not retired from a state-administered
1437 retirement system.

1438 (e) The limitations of this subsection apply to
1439 reemployment in any capacity irrespective of the category of
1440 funds from which the person is compensated.

1441 (10) FUTURE BENEFITS BASED ON ACTUARIAL DATA.—It is the
1442 intent of the Legislature that future benefit increases enacted
1443 into law in this chapter shall be financed concurrently by
1444 increased contributions or other adequate funding, and such
1445 funding shall be based on sound actuarial data as developed by
1446 the actuary or state retirement actuary, as provided in ss.
1447 121.021(6) and 121.192.

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1448 (11) A member who becomes eligible to retire and has
 1449 accumulated the maximum benefit of 100 percent of average final
 1450 compensation may continue in active service, and, if upon the
 1451 member's retirement the member elects to receive a retirement
 1452 compensation pursuant to subsection (2), subsection (6), or
 1453 subsection (7), the actuarial equivalent percentage factor
 1454 applicable to the age of such member at the time the member
 1455 reached the maximum benefit and to the age, at that time, of the
 1456 member's spouse shall determine the amount of benefits to be
 1457 paid.

1458 (12) SPECIAL PROVISIONS FOR PAYMENT OF CERTAIN SURVIVOR
 1459 BENEFITS.—Notwithstanding any provision of this chapter to the
 1460 contrary, for members with an effective date of retirement, or
 1461 date of death if prior to retirement, on or after January 1,
 1462 1996, the named joint annuitant, as defined in s.
 1463 121.021(28)(b), who is eligible to receive benefits under
 1464 subparagraph (6)(a)3. or subparagraph (6)(a)4., shall receive
 1465 the maximum monthly retirement benefit that would have been
 1466 payable to the member under subparagraph (6)(a)1.; however,
 1467 payment of such benefit shall cease the month the joint
 1468 annuitant attains age 25 unless such joint annuitant is disabled
 1469 and incapable of self-support, in which case, benefits shall
 1470 cease when the joint annuitant is no longer disabled. The
 1471 administrator may require proof of disability or continued
 1472 disability in the same manner as is provided for a member
 1473 seeking or receiving a disability retirement benefit under
 1474 subsection (4).

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1475 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
1476 subject to this section, the Deferred Retirement Option Program,
1477 hereinafter referred to as DROP, is a program under which an
1478 eligible member of the Florida Retirement System may elect to
1479 participate, deferring receipt of retirement benefits while
1480 continuing employment with his or her Florida Retirement System
1481 employer. The deferred monthly benefits shall accrue in the
1482 Florida Retirement System on behalf of the participant, plus
1483 interest compounded monthly, for the specified period of the
1484 DROP participation, as provided in paragraph (c). Upon
1485 termination of employment, the participant shall receive the
1486 total DROP benefits and begin to receive the previously
1487 determined normal retirement benefits. Participation in the DROP
1488 does not guarantee employment for the specified period of DROP.
1489 Participation in DROP by an eligible member beyond the initial
1490 60-month period as authorized in this subsection shall be on an
1491 annual contractual basis for all participants.

1492 (a) Eligibility of member to participate in DROP.—All
1493 active Florida Retirement System members in a regularly
1494 established position, and all active members of the Teachers'
1495 Retirement System established in chapter 238 or the State and
1496 County Officers' and Employees' Retirement System established in
1497 chapter 122, which are consolidated within the Florida
1498 Retirement System under s. 121.011, are eligible to elect
1499 participation in DROP if:

1500 1. The member is not a renewed member under s. 121.122 or
1501 a member of the State Community College System Optional
1502 Retirement Program under s. 121.051, the Senior Management

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1503 Service Optional Annuity Program under s. 121.055, or the
1504 optional retirement program for the State University System
1505 under s. 121.35.

1506 2. Except as provided in subparagraph 6., election to
1507 participate is made within 12 months immediately following the
1508 date on which the member first reaches normal retirement date,
1509 or, for a member who reaches normal retirement date based on
1510 service before he or she reaches age 62, or age 55 for Special
1511 Risk Class members, election to participate may be deferred to
1512 the 12 months immediately following the date the member attains
1513 age 57, or age 52 for Special Risk Class members. A member who
1514 delays DROP participation during the 12-month period immediately
1515 following his or her maximum DROP deferral date, except as
1516 provided in subparagraph 6., loses a month of DROP participation
1517 for each month delayed. A member who fails to make an election
1518 within the 12-month limitation period forfeits all rights to
1519 participate in DROP. The member shall advise his or her employer
1520 and the division in writing of the date DROP begins. The
1521 beginning date may be subsequent to the 12-month election period
1522 but must be within the original 60-month participation period
1523 provided in subparagraph (b)1. When establishing eligibility of
1524 the member to participate in DROP, the member may elect to
1525 include or exclude any optional service credit purchased by the
1526 member from the total service used to establish the normal
1527 retirement date. A member who has dual normal retirement dates
1528 is eligible to elect to participate in DROP after attaining
1529 normal retirement date in either class.

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1530 3. The employer of a member electing to participate in
1531 DROP, or employers if dually employed, shall acknowledge in
1532 writing to the division the date the member's participation in
1533 DROP begins and the date the member's employment and DROP
1534 participation will terminate.

1535 4. Simultaneous employment of a participant by additional
1536 Florida Retirement System employers subsequent to the
1537 commencement of participation in DROP is permissible if such
1538 employers acknowledge in writing a DROP termination date no
1539 later than the participant's existing termination date or the
1540 maximum participation period provided in subparagraph (b)1.

1541 5. A DROP participant may change employers while
1542 participating in DROP, subject to the following:

1543 a. A change of employment must take place without a break
1544 in service so that the member receives salary for each month of
1545 continuous DROP participation. If a member receives no salary
1546 during a month, DROP participation shall cease unless the
1547 employer verifies a continuation of the employment relationship
1548 for such participant pursuant to s. 121.021(39)(b).

1549 b. Such participant and new employer shall notify the
1550 division of the identity of the new employer on forms required
1551 by the division.

1552 c. The new employer shall acknowledge, in writing, the
1553 participant's DROP termination date, which may be extended but
1554 not beyond the maximum participation period provided in
1555 subparagraph (b)1., shall acknowledge liability for any
1556 additional retirement contributions and interest required if the

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1557 participant fails to timely terminate employment, and is subject
1558 to the adjustment required in sub-subparagraph (c)5.d.

1559 6. Effective July 1, 2001, for instructional personnel as
1560 defined in s. 1012.01(2), election to participate in DROP may be
1561 made at any time following the date on which the member first
1562 reaches normal retirement date. The member shall advise his or
1563 her employer and the division in writing of the date on which
1564 DROP begins. When establishing eligibility of the member to
1565 participate in DROP for the 60-month participation period
1566 provided in subparagraph (b)1., the member may elect to include
1567 or exclude any optional service credit purchased by the member
1568 from the total service used to establish the normal retirement
1569 date. A member who has dual normal retirement dates is eligible
1570 to elect to participate in either class.

1571 (b) Participation in DROP.—

1572 1. An eligible member may elect to participate in DROP for
1573 a period not to exceed a maximum of 60 calendar months. However,
1574 members who are instructional personnel employed by the Florida
1575 School for the Deaf and the Blind and authorized by the Board of
1576 Trustees of the Florida School for the Deaf and the Blind, who
1577 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
1578 in grades K-12 and authorized by the district school
1579 superintendent, or who are instructional personnel as defined in
1580 s. 1012.01(2)(a) employed by a developmental research school and
1581 authorized by the school's director, or if the school has no
1582 director, by the school's principal, may participate in DROP for
1583 up to 36 calendar months beyond the 60-month period.

1584 2. Upon deciding to participate in DROP, the member shall
 1585 submit, on forms required by the division:
 1586 a. A written election to participate in DROP;
 1587 b. Selection of DROP participation and termination dates
 1588 that satisfy the limitations stated in paragraph (a) and
 1589 subparagraph 1. The termination date must be in a binding letter
 1590 of resignation to the employer establishing a deferred
 1591 termination date. The member may change the termination date
 1592 within the limitations of subparagraph 1., but only with the
 1593 written approval of the employer;
 1594 c. A properly completed DROP application for service
 1595 retirement as provided in this section; and
 1596 d. Any other information required by the division.
 1597 3. The DROP participant is a retiree under the Florida
 1598 Retirement System for all purposes, except for paragraph (5) (f)
 1599 and subsection (9) and ss. 112.3173, 112.363, 121.053, and
 1600 121.122. DROP participation is final and may not be canceled by
 1601 the participant after the first payment is credited during the
 1602 DROP participation period. However, participation in DROP does
 1603 not alter the participant's employment status, and the member is
 1604 not deemed retired from employment until his or her deferred
 1605 resignation is effective and termination occurs as defined in s.
 1606 121.021.
 1607 4. Elected officers are eligible to participate in DROP
 1608 subject to the following:
 1609 a. An elected officer who reaches normal retirement date
 1610 during a term of office may defer the election to participate
 1611 until the next succeeding term in that office. An elected

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1612 officer who exercises this option may participate in DROP for up
 1613 to 60 calendar months or no longer than the succeeding term of
 1614 office, whichever is less.

1615 b. An elected or a nonelected participant may run for a
 1616 term of office while participating in DROP and, if elected,
 1617 extend the DROP termination date accordingly; however, if such
 1618 additional term of office exceeds the 60-month limitation
 1619 established in subparagraph 1., and the officer does not resign
 1620 from office within such 60-month limitation, the retirement and
 1621 the participant's DROP is null and void as provided in sub-
 1622 subparagraph (c)5.d.

1623 c. An elected officer who is dually employed and elects to
 1624 participate in DROP must terminate all employment relationships
 1625 as provided in s. 121.021(39) for the nonelected position within
 1626 the original 60-month period or maximum participation period as
 1627 provided in subparagraph 1. For DROP participation ending:

1628 (I) Before July 1, 2010, the officer may continue
 1629 employment as an elected officer as provided in s. 121.053. The
 1630 elected officer shall be enrolled as a renewed member in the
 1631 Elected Officers' Class or the Regular Class, as provided in ss.
 1632 121.053 and 121.122, on the first day of the month after
 1633 termination of employment in the nonelected position and
 1634 termination of DROP. Distribution of the DROP benefits shall be
 1635 made as provided in paragraph (c).

1636 (II) On or after July 1, 2010, the officer may continue
 1637 employment as an elected officer but must defer termination as
 1638 provided in s. 121.053.

1639 (c) Benefits payable under DROP.—

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1640 1. Effective on the date of DROP participation, the
1641 member's initial normal monthly benefit, including creditable
1642 service, optional form of payment, and average final
1643 compensation, and the effective date of retirement are fixed.
1644 The beneficiary established under the Florida Retirement System
1645 is the beneficiary eligible to receive any DROP benefits payable
1646 if the DROP participant dies before completing the period of
1647 DROP participation. If a joint annuitant predeceases the member,
1648 the member may name a beneficiary to receive accumulated DROP
1649 benefits payable. The retirement benefit, the annual cost of
1650 living adjustments provided in s. 121.101, and interest accrue
1651 monthly in the Florida Retirement System Trust Fund. The
1652 interest accrues at an effective annual rate of 6.5 percent
1653 compounded monthly, on the prior month's accumulated ending
1654 balance, up to the month of termination or death, except as
1655 provided in s. 121.053(7).

1656 2. Each employee who elects to participate in DROP may
1657 elect to receive a lump-sum payment for accrued annual leave
1658 earned in accordance with agency policy upon beginning
1659 participation in DROP. The accumulated leave payment certified
1660 to the division upon commencement of DROP shall be included in
1661 the calculation of the member's average final compensation. The
1662 employee electing the lump-sum payment is not eligible to
1663 receive a second lump-sum payment upon termination, except to
1664 the extent the employee has earned additional annual leave
1665 which, combined with the original payment, does not exceed the
1666 maximum lump-sum payment allowed by the employing agency's
1667 policy or rules. An early lump-sum payment shall be based on the

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1668 hourly wage of the employee at the time he or she begins
1669 participation in DROP. If the member elects to wait and receive
1670 a lump-sum payment upon termination of DROP and termination of
1671 employment with the employer, any accumulated leave payment made
1672 at that time may not be included in the member's retirement
1673 benefit, which was determined and fixed by law when the employee
1674 elected to participate in DROP.

1675 3. The effective date of DROP participation and the
1676 effective date of retirement of a DROP participant shall be the
1677 first day of the month selected by the member to begin
1678 participation in DROP, provided such date is properly
1679 established, with the written confirmation of the employer, and
1680 the approval of the division, on forms required by the division.

1681 4. Normal retirement benefits and any interest shall
1682 continue to accrue in DROP until the established termination
1683 date of DROP or until the participant terminates employment or
1684 dies prior to such date, except as provided in s. 121.053(7).
1685 Although individual DROP accounts shall not be established, a
1686 separate accounting of each participant's accrued benefits under
1687 DROP shall be calculated and provided to participants.

1688 5. At the conclusion of the participant's DROP, the
1689 division shall distribute the participant's total accumulated
1690 DROP benefits, subject to the following:

1691 a. The division shall receive verification by the
1692 participant's employer or employers that the participant has
1693 terminated all employment relationships as provided in s.
1694 121.021(39).

1695 b. The terminated DROP participant or, if deceased, the
 1696 participant's named beneficiary, shall elect on forms provided
 1697 by the division to receive payment of the DROP benefits in
 1698 accordance with one of the options listed below. If a
 1699 participant or beneficiary fails to elect a method of payment
 1700 within 60 days after termination of DROP, the division shall pay
 1701 a lump sum as provided in sub-sub-subparagraph (I).

1702 (I) Lump sum.—All accrued DROP benefits, plus interest,
 1703 less withholding taxes remitted to the Internal Revenue Service,
 1704 shall be paid to the DROP participant or surviving beneficiary.

1705 (II) Direct rollover.—All accrued DROP benefits, plus
 1706 interest, shall be paid from DROP directly to the custodian of
 1707 an eligible retirement plan as defined in s. 402(c)(8)(B) of the
 1708 Internal Revenue Code. However, in the case of an eligible
 1709 rollover distribution to the surviving spouse of a deceased
 1710 participant, an eligible retirement plan is an individual
 1711 retirement account or an individual retirement annuity as
 1712 described in s. 402(c)(9) of the Internal Revenue Code.

1713 (III) Partial lump sum.—A portion of the accrued DROP
 1714 benefits shall be paid to DROP participant or surviving spouse,
 1715 less withholding taxes remitted to the Internal Revenue Service,
 1716 and the remaining DROP benefits must be transferred directly to
 1717 the custodian of an eligible retirement plan as defined in s.
 1718 402(c)(8)(B) of the Internal Revenue Code. However, in the case
 1719 of an eligible rollover distribution to the surviving spouse of
 1720 a deceased participant, an eligible retirement plan is an
 1721 individual retirement account or an individual retirement
 1722 annuity as described in s. 402(c)(9) of the Internal Revenue

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1723 Code. The proportions must be specified by the DROP participant
 1724 or surviving beneficiary.

1725 c. The form of payment selected by the DROP participant or
 1726 surviving beneficiary must comply with the minimum distribution
 1727 requirements of the Internal Revenue Code.

1728 d. A DROP participant who fails to terminate all
 1729 employment relationships as provided in s. 121.021(39) shall be
 1730 deemed as not retired, and the DROP election is null and void.
 1731 Florida Retirement System membership shall be reestablished
 1732 retroactively to the date of the commencement of DROP, and each
 1733 employer with whom the participant continues employment must pay
 1734 to the Florida Retirement System Trust Fund the difference
 1735 between the DROP contributions paid in paragraph (i) and the
 1736 contributions required for the applicable Florida Retirement
 1737 System class of membership during the period the member
 1738 participated in DROP, plus 6.5 percent interest compounded
 1739 annually.

1740 6. The retirement benefits of any DROP participant who
 1741 terminates all employment relationships as provided in s.
 1742 121.021(39) but is reemployed in violation of the reemployment
 1743 provisions of subsection (9) shall be suspended during those
 1744 months in which the retiree is in violation. Any retiree in
 1745 violation of this subparagraph and any employer that employs or
 1746 appoints such person without notifying the Division of
 1747 Retirement to suspend retirement benefits are jointly and
 1748 severally liable for any benefits paid during the reemployment
 1749 limitation period. The employer must have a written statement
 1750 from the retiree that he or she is not retired from a state-

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1751 administered retirement system. Any retirement benefits received
 1752 by a retiree while employed in violation of the reemployment
 1753 limitations must be repaid to the Florida Retirement System
 1754 Trust Fund, and his or her retirement benefits shall remain
 1755 suspended until payment is made. Benefits suspended beyond the
 1756 end of the reemployment limitation period apply toward repayment
 1757 of benefits received in violation of the reemployment
 1758 limitation.

1759 7. The accrued benefits of any DROP participant, and any
 1760 contributions accumulated under the program, are not subject to
 1761 assignment, execution, attachment, or any legal process
 1762 whatsoever, except for qualified domestic relations orders by a
 1763 court of competent jurisdiction, income deduction orders as
 1764 provided in s. 61.1301, and federal income tax levies.

1765 8. DROP participants are not eligible for disability
 1766 retirement benefits as provided in subsection (4).

1767 (d) Death benefits under DROP.—

1768 1. Upon the death of a DROP participant, the named
 1769 beneficiary is entitled to apply for and receive the accrued
 1770 benefits in DROP as provided in sub-subparagraph (c)5.b.

1771 2. The normal retirement benefit accrued to DROP during
 1772 the month of a participant's death is the final monthly benefit
 1773 credited for such DROP participant.

1774 3. Eligibility to participate in DROP terminates upon
 1775 death of the participant. If the participant dies on or after
 1776 the effective date of enrollment in DROP, but before the first
 1777 monthly benefit is credited to DROP, Florida Retirement System

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1778 benefits are paid in accordance with subparagraph (7)(c)1. or
 1779 subparagraph 2.

1780 4. A DROP participant's survivors are not eligible to
 1781 receive Florida Retirement System death benefits as provided in
 1782 paragraph (7)(d).

1783 (e) Cost-of-living adjustment.—On each July 1, the
 1784 participant's normal retirement benefit shall be increased as
 1785 provided in s. 121.101.

1786 (f) Retiree health insurance subsidy.—DROP participants
 1787 are not eligible to apply for the retiree health insurance
 1788 subsidy payments as provided in s. 112.363 until such
 1789 participants have terminated employment and participation in
 1790 DROP.

1791 (g) Renewed membership.—DROP participants are not eligible
 1792 for renewed membership in the Florida Retirement System under
 1793 ss. 121.053 and 121.122 until all employment relationships are
 1794 terminated as provided in s. 121.021(39).

1795 (h) Employment limitation after DROP participation.—Upon
 1796 termination as defined in s. 121.021, DROP participants are
 1797 subject to the same reemployment limitations as other retirees.
 1798 Reemployment restrictions applicable to retirees as provided in
 1799 subsection (9) do not apply to DROP participants until their
 1800 employment and participation in DROP are terminated.

1801 (i) Contributions.—

1802 1. All employers paying the salary of a DROP participant
 1803 filling a regularly established position shall contribute 8.0
 1804 percent of such participant's gross compensation for the period
 1805 of July 1, 2002, through June 30, 2003, and the percentage of

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1806 such compensation required by s. 121.71 thereafter, which shall
 1807 constitute the entire employer DROP contribution with respect to
 1808 such participant. Such contributions, payable to the Florida
 1809 Retirement System Trust Fund in the same manner as required in
 1810 s. 121.071, must be made as appropriate for each pay period and
 1811 are in addition to contributions required for social security
 1812 and the Retiree Health Insurance Subsidy Trust Fund. Such
 1813 employer, social security, and health insurance subsidy
 1814 contributions are not included in DROP.

1815 2. The employer shall, in addition to subparagraph 1.,
 1816 also withhold one-half of the entire social security
 1817 contribution required for the participant. Contributions for
 1818 social security by each participant and each employer, in the
 1819 amount required for social security coverage as provided by the
 1820 federal Social Security Act, are in addition to contributions
 1821 specified in subparagraph 1.

1822 3. All employers paying the salary of a DROP participant
 1823 filling a regularly established position shall contribute the
 1824 percent of such participant's gross compensation required in s.
 1825 121.071(4), which constitutes the employer's health insurance
 1826 subsidy contribution with respect to such participant. Such
 1827 contributions must be deposited by the administrator in the
 1828 Retiree Health Insurance Subsidy Trust Fund.

1829 (j) Forfeiture of retirement benefits.—This section does
 1830 not remove DROP participants from the scope of s. 8(d), Art. II
 1831 of the State Constitution, s. 112.3173, and paragraph (5)(f).
 1832 DROP participants who commit a specified felony offense while

1833 employed are subject to forfeiture of all retirement benefits,
 1834 including DROP benefits, pursuant to those provisions of law.

1835 (k) Administration of program.—The division shall adopt
 1836 rules as necessary for the effective and efficient
 1837 administration of this subsection. The division is not required
 1838 to advise members of the federal tax consequences of an election
 1839 related to the DROP but may advise members to seek independent
 1840 advice.

1841 (14) PAYMENT OF BENEFITS.—This subsection applies to the
 1842 payment of benefits to a payee (retiree or beneficiary) under
 1843 the Florida Retirement System:

1844 (a) Federal income tax shall be withheld in accordance
 1845 with federal law, unless the payee elects otherwise on Form W-
 1846 4P. The division shall prepare and distribute to each recipient
 1847 of monthly retirement benefits an appropriate income tax form
 1848 that reflects the recipient's income and federal income tax
 1849 withheld for the calendar year just ended.

1850 (b) Subject to approval by the division in accordance with
 1851 rule 60S-4.015, Florida Administrative Code, a payee receiving
 1852 retirement benefits under the system may also have the following
 1853 payments deducted from his or her monthly benefit:

1854 1. Premiums for life and health-related insurance policies
 1855 from approved companies.

1856 2. Life insurance premiums for the State Group Life
 1857 Insurance Plan, if authorized in writing by the payee and by the
 1858 department.

1859 3. Repayment of overpayments from the Florida Retirement
 1860 System Trust Fund, the State Employees' Health Insurance Trust

1861 Fund, or the State Employees' Life Insurance Trust Fund, upon
 1862 notification of the payee.

1863 4. Payments to an alternate payee for alimony or child
 1864 support pursuant to an income deduction order under s. 61.1301,
 1865 or division of marital assets pursuant to a qualified domestic
 1866 relations order under s. 222.21.

1867 5. Payments to the Internal Revenue Service for federal
 1868 income tax levies, upon notification of the division by the
 1869 Internal Revenue Service.

1870 (c) A payee must notify the division of any change in his
 1871 or her address. The division may suspend benefit payments to a
 1872 payee if correspondence sent to the payee's mailing address is
 1873 returned due to an incorrect address. Benefit payments shall be
 1874 resumed upon notification to the division of the payee's new
 1875 address.

1876 (d) A payee whose retirement benefits are reduced by the
 1877 application of maximum benefit limits under s. 415(b) of the
 1878 Internal Revenue Code, as specified in s. 121.30(5), shall have
 1879 the portion of his or her calculated benefit in the Florida
 1880 Retirement System defined benefit plan which exceeds such
 1881 federal limitation paid through the Florida Retirement System
 1882 Preservation of Benefits Plan, as provided in s. 121.1001.

1883 (e) The Division of Retirement may issue retirement
 1884 benefits payable for division of marital assets pursuant to a
 1885 qualified domestic relations order directly to the alternate
 1886 payee, any court order to the contrary notwithstanding, in order
 1887 to meet Internal Revenue Code requirements.

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1888 (f) A benefit may not be reduced for the purpose of
 1889 preserving the member's eligibility for a federal program.

1890 (g) The division shall adopt rules establishing procedures
 1891 for determining that persons to whom benefits are being paid are
 1892 still living. The division shall suspend the benefits being paid
 1893 to any payee if it is unable to contact such payee and to
 1894 confirm that he or she is still living.

1895 Section 9. Paragraphs (g) and (i) of subsection (3) of
 1896 section 121.35, Florida Statutes, are amended to read:

1897 121.35 Optional retirement program for the State
 1898 University System.—

1899 (3) ELECTION OF OPTIONAL PROGRAM.—

1900 (g) An eligible employee who is a member of the Florida
 1901 Retirement System at the time of election to participate in the
 1902 optional retirement program shall retain all retirement service
 1903 credit earned under the Florida Retirement System, at the rate
 1904 earned. ~~No~~ Additional service credit in the Florida Retirement
 1905 System may not ~~shall~~ be earned while the employee participates
 1906 in the optional program, and ~~nor shall~~ the employee is not ~~be~~
 1907 eligible for disability retirement under the Florida Retirement
 1908 System. An eligible employee may transfer from the Florida
 1909 Retirement System to his or her accounts under the State
 1910 University System Optional Retirement Program a sum representing
 1911 the present value of the employee's accumulated benefit
 1912 obligation under the defined benefit program of the Florida
 1913 Retirement System for any service credit accrued from the
 1914 employee's first eligible transfer date to the optional
 1915 retirement program through the actual date of such transfer, if

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1916 such service credit was earned in the period from July 1, 1984,
 1917 through December 31, 1992. The present value of the employee's
 1918 accumulated benefit obligation must ~~shall~~ be calculated as
 1919 described in s. 121.4501(3) ~~s. 121.4501(3)(e)2~~. Upon ~~such~~
 1920 transfer, all ~~such~~ service credit ~~previously~~ earned under the
 1921 defined benefit program ~~of the Florida Retirement System~~ during
 1922 this period is ~~shall be~~ nullified for purposes of entitlement to
 1923 a future benefit under the defined benefit program ~~of the~~
 1924 ~~Florida Retirement System~~.

1925 (i) Effective January 1, 2008, through December 31, 2008,
 1926 except for an employee who is a mandatory participant of the
 1927 State University System Optional Retirement Program, an employee
 1928 who has elected to participate in the State University System
 1929 Optional Retirement Program shall have one opportunity, at the
 1930 employee's discretion, to choose to transfer from this program
 1931 to the defined benefit program of the Florida Retirement System
 1932 or to the defined contribution ~~Public Employee Optional~~
 1933 ~~Retirement~~ program, subject to the terms of the applicable
 1934 contracts of the State University System Optional Retirement
 1935 Program.

1936 1. If the employee chooses to move to the defined
 1937 contribution ~~Public Employee Optional Retirement~~ program, any
 1938 contributions, interest, and earnings creditable to the employee
 1939 under the State University System Optional Retirement Program
 1940 must ~~shall~~ be retained by the employee in the State University
 1941 System Optional Retirement Program, and the applicable
 1942 provisions of s. 121.4501(4) shall govern the election.

1943 2. If the employee chooses to move to the defined benefit

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1944 program of the Florida Retirement System, the employee shall
 1945 receive service credit equal to his or her years of service
 1946 under the State University System Optional Retirement Program.

1947 a. The cost for such credit must be in ~~shall be~~ an amount
 1948 representing the actuarial accrued liability for the affected
 1949 period of service. The cost must ~~shall~~ be calculated using the
 1950 discount rate and other relevant actuarial assumptions that were
 1951 used to value the Florida Retirement System defined benefit plan
 1952 liabilities in the most recent actuarial valuation. The
 1953 calculation must ~~shall~~ include any service already maintained
 1954 under the defined benefit program ~~plan~~ in addition to the years
 1955 under the State University System Optional Retirement Program.
 1956 The actuarial accrued liability of any service already
 1957 maintained under the defined benefit program ~~plan~~ must ~~shall~~ be
 1958 applied as a credit to total cost resulting from the
 1959 calculation. The division shall ensure that the transfer sum is
 1960 prepared using a formula and methodology certified by an
 1961 enrolled actuary.

1962 b. The employee must transfer from his or her State
 1963 University System Optional Retirement Program account, and from
 1964 other employee moneys as necessary, a sum representing the
 1965 actuarial accrued liability immediately following the time of
 1966 such movement, determined assuming that attained service equals
 1967 the sum of service in the defined benefit program and service in
 1968 the State University System Optional Retirement Program.

1969 Section 10. Section 121.4501, Florida Statutes, is amended
 1970 to read:

1971 121.4501 Public Employee ~~Optional~~ Retirement Investment

1972 Program.—
 1973 (1) The Trustees of the State Board of Administration
 1974 shall establish a ~~an optional~~ defined contribution ~~retirement~~
 1975 program called the Public Employee Retirement Investment Program
 1976 for members of the Florida Retirement System under which
 1977 retirement benefits will be provided for eligible employees
 1978 employed before January 1, 2011, who elect to participate in the
 1979 program, and for all eligible employees employed on or after
 1980 January 1, 2011. The retirement benefits ~~to be provided for or~~
 1981 ~~on behalf of participants in such optional retirement program~~
 1982 shall be provided through employee-directed investments, in
 1983 accordance with s. 401(a) of the Internal Revenue Code and ~~its~~
 1984 related regulations. The employer ~~employers~~ shall make
 1985 contributions ~~contribute,~~ as provided in this section and, ss.
 1986 121.571~~7~~ and 121.71~~,~~ to the Public Employee ~~Optional~~ Retirement
 1987 Investment Program Trust Fund toward the funding of ~~such~~
 1988 ~~optional~~ benefits.

1989 (2) DEFINITIONS.—As used in this part, the term:
 1990 (a) "Approved provider" or "provider" means a private
 1991 sector company that is selected and approved by the state board
 1992 to offer one or more investment products or services to the
 1993 investment ~~Public Employee Optional Retirement~~ program. The term
 1994 includes a bundled provider that offers participants a range of
 1995 individually allocated or unallocated investment products and
 1996 may offer a range of administrative and customer services, which
 1997 may include accounting and administration of individual
 1998 participant benefits and contributions; individual participant
 1999 recordkeeping; asset purchase, control, and safekeeping; direct

2000 execution of the participant's instructions as to asset and
 2001 contribution allocation; calculation of daily net asset values;
 2002 direct access to participant account information; periodic
 2003 reporting to participants, at least quarterly, on account
 2004 balances and transactions; guidance, advice, and allocation
 2005 services directly relating to the provider's ~~its own~~ investment
 2006 options or products, but only if the bundled provider complies
 2007 with the standard of care of s. 404(a)(1)(A-B) of the Employee
 2008 Retirement Income Security Act of 1974 (ERISA), and if providing
 2009 such guidance, advice, or allocation services does not
 2010 constitute a prohibited transaction under s. 4975(c)(1) of the
 2011 Internal Revenue Code or s. 406 of ERISA, notwithstanding that
 2012 such prohibited transaction provisions do not apply to the
 2013 investment ~~optional retirement~~ program; a broad array of
 2014 distribution options; asset allocation; and retirement
 2015 counseling and education. Private sector companies include
 2016 investment management companies, insurance companies,
 2017 depositories, and mutual fund companies.

2018 (b) "Average monthly compensation" means one-twelfth of
 2019 average final compensation as defined in s. 121.021(24).

2020 (c) "Covered employment" means employment in a regularly
 2021 established position as defined in s. 121.021(52).

2022 (d) "Defined benefit program" means the defined benefit
 2023 program of the Florida Retirement System as administered under
 2024 part I of this chapter.

2025 (e) ~~(d)~~ "Department" means the Department of Management
 2026 Services.

2027 (f) "District school board employer" means a district

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2028 school board that participates in the Florida Retirement System
 2029 for the benefit of certain employees, or a charter school or
 2030 charter technical career center that participates in the Florida
 2031 Retirement System as provided under s. 121.051(2)(d).

2032 (g)~~(e)~~ "Division" means the Division of Retirement within
 2033 the department ~~of Management Services~~.

2034 (h)~~(f)~~ "Eligible employee" means an officer or employee,
 2035 as defined in s. 121.021, who:

2036 1. Is a member of, or is eligible for membership in, the
 2037 Florida Retirement System, including any renewed member of the
 2038 Florida Retirement System initially enrolled before July 1,
 2039 2010; or

2040 2. Participates in, or is eligible to participate in, the
 2041 Senior Management Service Optional Annuity Program as
 2042 established under s. 121.055(6), the State Community College
 2043 System Optional Retirement Program as established under s.
 2044 121.051(2)(c), or the State University System Optional
 2045 Retirement Program established under s. 121.35.

2046
 2047 The term does not include any member participating in the
 2048 Deferred Retirement Option Program established under s.
 2049 121.091(13), a retiree of a state-administered retirement system
 2050 initially reemployed on or after July 1, 2010, or a mandatory
 2051 participant of the State University System Optional Retirement
 2052 Program established under s. 121.35.

2053 (i)~~(g)~~ "Employer" means an employer, as defined in s.
 2054 121.021~~(10)~~, of an eligible employee.

2055 (j) "Investment program" means the Public Employee

2056 Retirement Investment Program established under this part.

2057 (k) "Local employer" means an employer that is not a state
 2058 employer or a district school board employer.

2059 (l)~~(h)~~ "Participant" means an eligible employee who is
 2060 enrolled ~~elects to participate in the investment program, Public~~
 2061 ~~Employee Optional Retirement program and enrolls in such~~
 2062 ~~optional program as provided in subsection (4) or a terminated~~
 2063 ~~Deferred Retirement Option Program participant as described in~~
 2064 ~~subsection (21).~~

2065 ~~(i) "Public Employee Optional Retirement Program,"~~
 2066 ~~"optional program," or "optional retirement program" means the~~
 2067 ~~alternative defined contribution retirement program established~~
 2068 ~~under this section.~~

2069 (m)~~(j)~~ "Retiree" means a former participant of the
 2070 investment ~~Florida Retirement System Public Employee Optional~~
 2071 ~~Retirement~~ program who has terminated employment and ~~has~~ taken a
 2072 distribution as provided in s. 121.591, except for a mandatory
 2073 distribution of a de minimis account authorized by the state
 2074 board.

2075 (n)~~(k)~~ "State board" ~~or "board"~~ means the State Board of
 2076 Administration.

2077 ~~(l) "Trustees" means Trustees of the State Board of~~
 2078 ~~Administration.~~

2079 (o) "State employer" means an agency, board, branch,
 2080 commission, community college, department, institution,
 2081 institution of higher education, or water management district
 2082 that participates in the Florida Retirement System for the
 2083 benefit of certain employees.

2084 (p) ~~(m)~~ "Vested" or "vesting" means the guarantee that a
 2085 participant is eligible to receive a retirement benefit upon
 2086 completion of the required years of service under the investment
 2087 ~~Public Employee Optional Retirement~~ program.

2088 (3) ~~ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF~~
 2089 BENEFITS.—

2090 ~~(a) Participation in the Public Employee Optional~~
 2091 ~~Retirement Program is limited to eligible employees.~~
 2092 ~~Participation in the optional retirement program is in lieu of~~
 2093 ~~participation in the defined benefit program of the Florida~~
 2094 ~~Retirement System.~~

2095 ~~(a)~~ ~~(b)~~ An eligible employee who is employed in a regularly
 2096 established position by a state employer on June 1, 2002; by a
 2097 district school board employer on September 1, 2002; or by a
 2098 local employer on December 1, 2002, and who is a member of the
 2099 defined benefit ~~retirement~~ program of the ~~Florida Retirement~~
 2100 ~~System~~ at the time of his or her election to participate in the
 2101 investment ~~Public Employee Optional Retirement~~ program shall
 2102 retain all retirement service credit earned under the defined
 2103 benefit ~~retirement~~ program of the ~~Florida Retirement System~~ as
 2104 credited under the system and is ~~shall be~~ entitled to a deferred
 2105 benefit upon termination, ~~if eligible under the system.~~ However,
 2106 election to participate in the investment ~~Public Employee~~
 2107 ~~Optional Retirement~~ program terminates the active membership of
 2108 the employee in the defined benefit program of the ~~Florida~~
 2109 ~~Retirement System~~, and the service of a participant in the
 2110 investment ~~Public Employee Optional Retirement~~ program is ~~shall~~
 2111 not ~~be~~ creditable under the defined benefit ~~retirement~~ program

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2112 ~~of the Florida Retirement System~~ for purposes of benefit accrual
 2113 but is creditable ~~shall be credited~~ for purposes of vesting.

2114 ~~(b)(c)1.~~ Notwithstanding paragraph (a), ~~an (b)~~, each
 2115 eligible employee who elects to participate in the investment
 2116 ~~Public Employee Optional Retirement~~ program and establishes one
 2117 or more individual participant accounts ~~under the optional~~
 2118 ~~program~~ may elect to transfer to the investment ~~optional~~ program
 2119 a sum representing the present value of the employee's
 2120 accumulated benefit obligation under the defined benefit
 2121 ~~retirement program of the Florida Retirement System~~. Upon such
 2122 transfer, all service credit ~~previously~~ earned under the defined
 2123 benefit program is ~~of the Florida Retirement System shall be~~
 2124 nullified for purposes of entitlement to a future benefit under
 2125 the defined benefit program ~~of the Florida Retirement System~~. A
 2126 participant may not transfer ~~is precluded from transferring~~ the
 2127 accumulated benefit obligation balance from the defined benefit
 2128 program after the time ~~upon the expiration of the period for~~
 2129 enrolling ~~afforded to enroll~~ in the investment ~~optional~~ program.

2130 1.2. For purposes of this subsection, the present value of
 2131 the member's accumulated benefit obligation is based upon the
 2132 member's estimated creditable service and estimated average
 2133 final compensation under the defined benefit program, subject to
 2134 recomputation under subparagraph 2. ~~3.~~ For state employees
 2135 ~~enrolling under subparagraph (4)(a)1.~~, initial estimates shall
 2136 ~~will~~ be based upon creditable service and average final
 2137 compensation as of midnight on June 30, 2002; for district
 2138 school board employees ~~enrolling under subparagraph (4)(b)1.~~,
 2139 initial estimates shall ~~will~~ be based upon creditable service

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2140 and average final compensation as of midnight on September 30,
 2141 2002; and for local government employees ~~enrolling under~~
 2142 ~~subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be based
 2143 upon creditable service and average final compensation as of
 2144 midnight on December 31, 2002. The dates ~~respectively~~ specified
 2145 are above ~~shall be construed as~~ the "estimate date" for these
 2146 employees. The actuarial present value of the employee's
 2147 accumulated benefit obligation shall be based on the following:

2148 a. The discount rate and other relevant actuarial
 2149 assumptions used to value the Florida Retirement System Trust
 2150 Fund at the time the amount to be transferred is determined,
 2151 consistent with the factors provided in sub-subparagraphs b. and
 2152 c.

2153 b. A benefit commencement age, based on the member's
 2154 estimated creditable service as of the estimate date. The
 2155 benefit commencement age is ~~shall be~~ the younger of the
 2156 following, but may ~~shall~~ not be younger than the member's age as
 2157 of the estimate date:

2158 (I) Age 62; or

2159 (II) The age the member would attain if the member
 2160 completed 30 years of service with an employer, assuming the
 2161 member worked continuously from the estimate date, and
 2162 disregarding any vesting requirement that would otherwise apply
 2163 under the defined benefit program ~~of the Florida Retirement~~
 2164 ~~System.~~

2165 c. For members of the Special Risk Class, and for members
 2166 of the Special Risk Administrative Support Class entitled to
 2167 retain the special risk normal retirement date, the benefit

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2168 commencement age is ~~shall be~~ the younger of the following, but
 2169 may ~~shall~~ not be younger than the member's age as of the
 2170 estimate date:

2171 (I) Age 55; or

2172 (II) The age the member would attain if the member
 2173 completed 25 years of service with an employer, assuming the
 2174 member worked continuously from the estimate date, and
 2175 disregarding any vesting requirement that would otherwise apply
 2176 under the defined benefit program ~~of the Florida Retirement~~
 2177 ~~System.~~

2178 d. The calculation must ~~shall~~ disregard vesting
 2179 requirements and early retirement reduction factors that would
 2180 otherwise apply under the defined benefit ~~retirement~~ program.

2181 ~~2.3.~~ For each participant who elects to transfer moneys
 2182 from the defined benefit program to his or her account in the
 2183 investment optional program, the division shall recompute the
 2184 amount transferred under subparagraph 1. ~~within 2.~~ ~~not later~~
 2185 ~~than~~ 60 days after the actual transfer of funds based upon the
 2186 participant's actual creditable service and actual final average
 2187 compensation as of the initial date of participation in the
 2188 investment optional program. If the recomputed amount differs
 2189 from the amount transferred ~~under subparagraph 2.~~ by \$10 or
 2190 more, the division shall:

2191 a. Transfer, or cause to be transferred, from the Florida
 2192 Retirement System Trust Fund to the participant's account ~~in the~~
 2193 ~~optional program~~ the excess, if any, of the recomputed amount
 2194 over the previously transferred amount together with interest
 2195 from the initial date of transfer to the date of transfer under

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2196 | this subparagraph, based upon the effective annual interest
2197 | equal to the assumed return on the actuarial investment which
2198 | was used in the most recent actuarial valuation of the system,
2199 | compounded annually.

2200 | b. Transfer, or cause to be transferred, from the
2201 | participant's account to the Florida Retirement System Trust
2202 | Fund the excess, if any, of the previously transferred amount
2203 | over the recomputed amount, together with interest from the
2204 | initial date of transfer to the date of transfer under this
2205 | subparagraph, based upon 6 percent effective annual interest,
2206 | compounded annually, pro rata based on the participant's
2207 | allocation plan.

2208 | ~~3.4.~~ As directed by the participant, the state board shall
2209 | transfer or cause to be transferred the appropriate amounts to
2210 | the designated accounts within. ~~The board shall establish~~
2211 | ~~transfer procedures by rule, but the actual transfer shall not~~
2212 | ~~be later than~~ 30 days after the effective date of the member's
2213 | participation in the investment ~~optional~~ program unless the
2214 | major financial markets for securities available for a transfer
2215 | are seriously disrupted by an unforeseen event that ~~which~~ also
2216 | causes the suspension of trading on any national securities
2217 | exchange in the country where the securities are ~~were~~ issued. In
2218 | that event, the ~~such~~ 30-day period ~~of time~~ may be extended by a
2219 | resolution of the state board ~~trustees~~. The state board shall
2220 | establish transfer procedures by rule. Transfers are not
2221 | commissionable or subject to other fees and may be in the form
2222 | of securities or cash, as determined by the state board. Such
2223 | securities are ~~shall be~~ valued as of the date of receipt in the

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2224 participant's account.

2225 ~~4.5.~~ If the state board or the division receives
 2226 notification from the United States Internal Revenue Service
 2227 that this paragraph or any portion of this paragraph will cause
 2228 the retirement system, or a portion thereof, to be disqualified
 2229 for tax purposes under the Internal Revenue Code, ~~then~~ the
 2230 portion that will cause the disqualification does not apply.
 2231 Upon such notice, the state board and the division shall notify
 2232 the presiding officers of the Legislature.

2233 (4) OPTIONAL PARTICIPATION; ENROLLMENT.—

2234 (a)~~1.~~ With respect to an eligible employee who is employed
 2235 in a regularly established position by a state employer after on
 2236 June 1, 2002; by a district school board employer after
 2237 September 1, 2002; or by a local employer after December 1,
 2238 2002, but before January 1, 2011, the, by a state employer:

2239 ~~a. Any such employee may elect to participate in the~~
 2240 ~~Public Employee Optional Retirement Program in lieu of retaining~~
 2241 ~~his or her membership in the defined benefit program of the~~
 2242 ~~Florida Retirement System. The election must be made in writing~~
 2243 ~~or by electronic means and must be filed with the third party~~
 2244 ~~administrator by August 31, 2002, or, in the case of an active~~
 2245 ~~employee who is on a leave of absence on April 1, 2002, by the~~
 2246 ~~last business day of the 5th month following the month the leave~~
 2247 ~~of absence concludes. This election is irrevocable, except as~~
 2248 ~~provided in paragraph (e). Upon making such election, the~~
 2249 ~~employee shall be enrolled as a participant of the Public~~
 2250 ~~Employee Optional Retirement Program, the employee's membership~~
 2251 ~~in the Florida Retirement System shall be governed by the~~

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2252 ~~provisions of this part, and the employee's membership in the~~
2253 ~~defined benefit program of the Florida Retirement System shall~~
2254 ~~terminate. The employee's enrollment in the Public Employee~~
2255 ~~Optional Retirement Program shall be effective the first day of~~
2256 ~~the month for which a full month's employer contribution is made~~
2257 ~~to the optional program.~~

2258 ~~b. Any such employee who fails to elect to participate in~~
2259 ~~the Public Employee Optional Retirement Program within the~~
2260 ~~prescribed time period is deemed to have elected to retain~~
2261 ~~membership in the defined benefit program of the Florida~~
2262 ~~Retirement System, and the employee's option to elect to~~
2263 ~~participate in the optional program is forfeited.~~

2264 ~~2. With respect to employees who become eligible to~~
2265 ~~participate in the Public Employee Optional Retirement Program~~
2266 ~~by reason of employment in a regularly established position with~~
2267 ~~a state employer commencing after April 1, 2002:~~

2268 ~~a. Any such employee shall, by default, be enrolled in the~~
2269 ~~defined benefit retirement program of the Florida Retirement~~
2270 ~~System at the commencement of employment, and may, by the last~~
2271 ~~business day of the 5th month following the employee's month of~~
2272 ~~hire, elect to participate in the investment ~~Public Employee~~~~
2273 ~~Optional Retirement program. The employee's election must be~~
2274 ~~made in writing or by electronic means and must be filed with~~
2275 ~~the third-party administrator. The election to participate in~~
2276 ~~the investment ~~optional~~ program is irrevocable, except as~~
2277 ~~provided in paragraph (c) ~~(e)~~.~~

2278 ~~1.b.~~ If the employee files such election within the
2279 prescribed time period, enrollment in the investment ~~optional~~

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2280 program ~~is shall be~~ effective on the first day of employment.
 2281 The employer retirement contributions paid through the month of
 2282 the employee plan change shall be transferred to the investment
 2283 ~~optional~~ program, and, effective the first day of the next
 2284 month, the employer must ~~shall~~ pay the applicable contributions
 2285 based on the employee membership class in the investment
 2286 ~~optional~~ program.

2287 ~~2.e. An Any such~~ employee who fails to elect to
 2288 participate in the investment ~~Public Employee Optional~~
 2289 ~~Retirement~~ program within the prescribed time period is deemed
 2290 to have elected to retain membership in the defined benefit
 2291 program ~~of the Florida Retirement System~~, and the employee's
 2292 option to elect to participate in the investment ~~optional~~
 2293 program is forfeited.

2294 3. With respect to employees who become eligible to
 2295 participate in the Public Employee ~~Optional~~ Retirement
 2296 Investment Program pursuant to s. 121.051(2)(c)3. or s.
 2297 121.35(3)(i), ~~the any such~~ employee may elect to participate in
 2298 the investment ~~Public Employee Optional Retirement~~ program in
 2299 lieu of retaining his or her participation in the State
 2300 Community College System Optional Retirement Program or the
 2301 State University System Optional Retirement Program. The
 2302 election must be made in writing or by electronic means and must
 2303 be filed with the third-party administrator. This election is
 2304 irrevocable, except as provided in paragraph (c) ~~(e)~~. Upon
 2305 making such election, the employee shall be enrolled as a
 2306 participant ~~in of~~ the investment ~~Public Employee Optional~~
 2307 ~~Retirement~~ program, the employee's membership in the Florida

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2308 Retirement System shall be governed by the provisions of this
 2309 part, and the employee's participation in the State Community
 2310 College System Optional Retirement Program or the State
 2311 University System Optional Retirement Program shall terminate.
 2312 The employee's enrollment in the investment ~~Public Employee~~
 2313 ~~Optional Retirement~~ program is ~~shall be~~ effective on the first
 2314 day of the month for which a full month's employer contribution
 2315 is made to the investment ~~optional~~ program.

2316 ~~4. For purposes of this paragraph, "state employer" means~~
 2317 ~~any agency, board, branch, commission, community college,~~
 2318 ~~department, institution, institution of higher education, or~~
 2319 ~~water management district of the state, which participates in~~
 2320 ~~the Florida Retirement System for the benefit of certain~~
 2321 ~~employees.~~

2322 ~~(b)1. With respect to an eligible employee who is employed~~
 2323 ~~in a regularly established position on September 1, 2002, by a~~
 2324 ~~district school board employer:~~

2325 ~~a. Any such employee may elect to participate in the~~
 2326 ~~Public Employee Optional Retirement Program in lieu of retaining~~
 2327 ~~his or her membership in the defined benefit program of the~~
 2328 ~~Florida Retirement System. The election must be made in writing~~
 2329 ~~or by electronic means and must be filed with the third party~~
 2330 ~~administrator by November 30, or, in the case of an active~~
 2331 ~~employee who is on a leave of absence on July 1, 2002, by the~~
 2332 ~~last business day of the 5th month following the month the leave~~
 2333 ~~of absence concludes. This election is irrevocable, except as~~
 2334 ~~provided in paragraph (c). Upon making such election, the~~
 2335 ~~employee shall be enrolled as a participant of the Public~~

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2336 ~~Employee Optional Retirement Program, the employee's membership~~
2337 ~~in the Florida Retirement System shall be governed by the~~
2338 ~~provisions of this part, and the employee's membership in the~~
2339 ~~defined benefit program of the Florida Retirement System shall~~
2340 ~~terminate. The employee's enrollment in the Public Employee~~
2341 ~~Optional Retirement Program shall be effective the first day of~~
2342 ~~the month for which a full month's employer contribution is made~~
2343 ~~to the optional program.~~

2344 ~~b. Any such employee who fails to elect to participate in~~
2345 ~~the Public Employee Optional Retirement Program within the~~
2346 ~~prescribed time period is deemed to have elected to retain~~
2347 ~~membership in the defined benefit program of the Florida~~
2348 ~~Retirement System, and the employee's option to elect to~~
2349 ~~participate in the optional program is forfeited.~~

2350 ~~2. With respect to employees who become eligible to~~
2351 ~~participate in the Public Employee Optional Retirement Program~~
2352 ~~by reason of employment in a regularly established position with~~
2353 ~~a district school board employer commencing after July 1, 2002:~~

2354 ~~a. Any such employee shall, by default, be enrolled in the~~
2355 ~~defined benefit retirement program of the Florida Retirement~~
2356 ~~System at the commencement of employment, and may, by the last~~
2357 ~~business day of the 5th month following the employee's month of~~
2358 ~~hire, elect to participate in the Public Employee Optional~~
2359 ~~Retirement Program. The employee's election must be made in~~
2360 ~~writing or by electronic means and must be filed with the third-~~
2361 ~~party administrator. The election to participate in the optional~~
2362 ~~program is irrevocable, except as provided in paragraph (c).~~

2363 ~~b. If the employee files such election within the~~

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2364 ~~prescribed time period, enrollment in the optional program shall~~
2365 ~~be effective on the first day of employment. The employer~~
2366 ~~retirement contributions paid through the month of the employee~~
2367 ~~plan change shall be transferred to the optional program, and,~~
2368 ~~effective the first day of the next month, the employer shall~~
2369 ~~pay the applicable contributions based on the employee~~
2370 ~~membership class in the optional program.~~

2371 ~~e. Any such employee who fails to elect to participate in~~
2372 ~~the Public Employee Optional Retirement Program within the~~
2373 ~~prescribed time period is deemed to have elected to retain~~
2374 ~~membership in the defined benefit program of the Florida~~
2375 ~~Retirement System, and the employee's option to elect to~~
2376 ~~participate in the optional program is forfeited.~~

2377 ~~3. For purposes of this paragraph, "district school board~~
2378 ~~employer" means any district school board that participates in~~
2379 ~~the Florida Retirement System for the benefit of certain~~
2380 ~~employees, or a charter school or charter technical career~~
2381 ~~center that participates in the Florida Retirement System as~~
2382 ~~provided in s. 121.051(2)(d).~~

2383 ~~(c)1. With respect to an eligible employee who is employed~~
2384 ~~in a regularly established position on December 1, 2002, by a~~
2385 ~~local employer:~~

2386 ~~a. Any such employee may elect to participate in the~~
2387 ~~Public Employee Optional Retirement Program in lieu of retaining~~
2388 ~~his or her membership in the defined benefit program of the~~
2389 ~~Florida Retirement System. The election must be made in writing~~
2390 ~~or by electronic means and must be filed with the third-party~~
2391 ~~administrator by February 28, 2003, or, in the case of an active~~

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2392 ~~employee who is on a leave of absence on October 1, 2002, by the~~
2393 ~~last business day of the 5th month following the month the leave~~
2394 ~~of absence concludes. This election is irrevocable, except as~~
2395 ~~provided in paragraph (c). Upon making such election, the~~
2396 ~~employee shall be enrolled as a participant of the Public~~
2397 ~~Employee Optional Retirement Program, the employee's membership~~
2398 ~~in the Florida Retirement System shall be governed by the~~
2399 ~~provisions of this part, and the employee's membership in the~~
2400 ~~defined benefit program of the Florida Retirement System shall~~
2401 ~~terminate. The employee's enrollment in the Public Employee~~
2402 ~~Optional Retirement Program shall be effective the first day of~~
2403 ~~the month for which a full month's employer contribution is made~~
2404 ~~to the optional program.~~

2405 ~~b. Any such employee who fails to elect to participate in~~
2406 ~~the Public Employee Optional Retirement Program within the~~
2407 ~~prescribed time period is deemed to have elected to retain~~
2408 ~~membership in the defined benefit program of the Florida~~
2409 ~~Retirement System, and the employee's option to elect to~~
2410 ~~participate in the optional program is forfeited.~~

2411 ~~2. With respect to employees who become eligible to~~
2412 ~~participate in the Public Employee Optional Retirement Program~~
2413 ~~by reason of employment in a regularly established position with~~
2414 ~~a local employer commencing after October 1, 2002:~~

2415 ~~a. Any such employee shall, by default, be enrolled in the~~
2416 ~~defined benefit retirement program of the Florida Retirement~~
2417 ~~System at the commencement of employment, and may, by the last~~
2418 ~~business day of the 5th month following the employee's month of~~
2419 ~~hire, elect to participate in the Public Employee Optional~~

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2420 ~~Retirement Program. The employee's election must be made in~~
2421 ~~writing or by electronic means and must be filed with the third-~~
2422 ~~party administrator. The election to participate in the optional~~
2423 ~~program is irrevocable, except as provided in paragraph (c).~~

2424 ~~b. If the employee files such election within the~~
2425 ~~prescribed time period, enrollment in the optional program shall~~
2426 ~~be effective on the first day of employment. The employer~~
2427 ~~retirement contributions paid through the month of the employee~~
2428 ~~plan change shall be transferred to the optional program, and,~~
2429 ~~effective the first day of the next month, the employer shall~~
2430 ~~pay the applicable contributions based on the employee~~
2431 ~~membership class in the optional program.~~

2432 ~~e. Any such employee who fails to elect to participate in~~
2433 ~~the Public Employee Optional Retirement Program within the~~
2434 ~~prescribed time period is deemed to have elected to retain~~
2435 ~~membership in the defined benefit program of the Florida~~
2436 ~~Retirement System, and the employee's option to elect to~~
2437 ~~participate in the optional program is forfeited.~~

2438 ~~3. For purposes of this paragraph, "local employer" means~~
2439 ~~any employer not included in paragraph (a) or paragraph (b).~~

2440 ~~(b) (d)~~ Contributions available for self-direction by a
2441 participant who has not selected one or more specific investment
2442 products shall be allocated as prescribed by the state board.
2443 The third-party administrator shall notify the ~~any such~~
2444 participant at least quarterly that the participant should take
2445 an affirmative action to make an asset allocation among the
2446 ~~optional~~ program products.

2447 ~~(c) (e)~~ After the period during which an eligible employee

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2448 had the choice to elect the defined benefit program or the
 2449 investment ~~Public Employee Optional Retirement~~ program, or the
 2450 month following the receipt of the eligible employee's plan
 2451 election, if sooner, the employee shall have one opportunity, at
 2452 the employee's discretion, to choose to move from the defined
 2453 benefit program to the investment ~~Public Employee Optional~~
 2454 ~~Retirement~~ program or from the investment ~~Public Employee~~
 2455 ~~Optional Retirement~~ program to the defined benefit program.
 2456 Eligible employees may elect to move between Florida Retirement
 2457 System programs only if they are earning service credit in an
 2458 employer-employee relationship consistent with the requirements
 2459 under s. 121.021(17)(b), excluding leaves of absence without
 2460 pay. Effective July 1, 2005, such elections are ~~shall be~~
 2461 effective on the first day of the month following the receipt of
 2462 the election by the third-party administrator and are not
 2463 subject to the requirements regarding an employer-employee
 2464 relationship or receipt of contributions for the eligible
 2465 employee in the effective month, except ~~that the employee must~~
 2466 ~~meet the conditions of the previous sentence~~ when the election
 2467 is received by the third-party administrator. This paragraph is
 2468 ~~shall be~~ contingent upon approval by ~~from~~ the Internal Revenue
 2469 Service ~~for including the choice described herein within the~~
 2470 ~~programs offered by the Florida Retirement System.~~

2471 1. If the employee chooses to move to the investment
 2472 ~~Public Employee Optional Retirement~~ program, the applicable
 2473 provisions of subsection (3) ~~this section~~ shall govern the
 2474 transfer.

2475 2. If the employee chooses to move to the defined benefit

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2476 program, the employee must transfer from his or her investment
 2477 ~~Public Employee Optional Retirement~~ program account, and from
 2478 other employee moneys as necessary, a sum representing the
 2479 present value of that employee's accumulated benefit obligation
 2480 immediately following the time of such movement, determined
 2481 assuming that attained service equals the sum of service in the
 2482 defined benefit program and service in the investment ~~Public~~
 2483 ~~Employee Optional Retirement~~ program. Benefit commencement
 2484 occurs on the first date the employee is ~~would become~~ eligible
 2485 for unreduced benefits, using the discount rate and other
 2486 relevant actuarial assumptions that were used to value the
 2487 ~~Florida Retirement System~~ defined benefit program plan
 2488 liabilities in the most recent actuarial valuation. For any
 2489 employee who, at the time of the second election, already
 2490 maintains an accrued benefit amount in the defined benefit
 2491 program plan, the then-present value of the ~~such~~ accrued benefit
 2492 shall be deemed part of the required transfer amount ~~described~~
 2493 ~~in this subparagraph~~. The division shall ensure that the
 2494 transfer sum is prepared using a formula and methodology
 2495 certified by an enrolled actuary.

2496 3. Notwithstanding subparagraph 2., an employee who
 2497 chooses to move to the defined benefit program ~~and who became~~
 2498 ~~eligible to participate in the Public Employee Optional~~
 2499 ~~Retirement Program by reason of employment in a regularly~~
 2500 ~~established position with a state employer after June 1, 2002; a~~
 2501 ~~district school board employer after September 1, 2002; or a~~
 2502 ~~local employer after December 1, 2002,~~ must transfer from his or
 2503 her investment ~~Public Employee Optional Retirement~~ program

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2504 account, ~~and~~ from other employee moneys as necessary, a sum
 2505 representing that employee's actuarial accrued liability.

2506 4. An employee's ~~Employees'~~ ability to transfer from the
 2507 ~~Florida Retirement System~~ defined benefit program to the
 2508 investment ~~Public Employee Optional Retirement~~ program pursuant
 2509 to paragraphs (a)-(c) ~~(a)-(d)~~, and the ability of a ~~for~~ current
 2510 employee ~~employees~~ to have an option to later transfer back into
 2511 the defined benefit program under subparagraph 2., shall be
 2512 deemed a significant system amendment. Pursuant to s.
 2513 121.031(4), any ~~such~~ resulting unfunded liability arising from
 2514 actual original transfers from the defined benefit program to
 2515 the investment ~~optional~~ program must ~~shall~~ be amortized within
 2516 30 plan years as a separate unfunded actuarial base independent
 2517 of the reserve stabilization mechanism defined in s.
 2518 121.031(3)(f). For the first 25 years, a ~~no~~ direct amortization
 2519 payment may not ~~shall~~ be calculated for this base. During this
 2520 25-year period, the ~~such~~ separate base shall be used to offset
 2521 the impact of employees exercising their second program election
 2522 under this paragraph. It is the ~~legislative~~ intent of the
 2523 Legislature that the actuarial funded status of the ~~Florida~~
 2524 ~~Retirement System~~ defined benefit program not be affected ~~plan~~
 2525 ~~is neither beneficially nor adversely impacted~~ by such second
 2526 program elections in any significant manner, after due
 2527 recognition of the separate unfunded actuarial base. Following
 2528 this initial 25-year period, any remaining balance of the
 2529 original separate base shall be amortized over the remaining 5
 2530 years of the required 30-year amortization period.

2531 (5) CONTRIBUTIONS.—

2532 (a) Each employer shall contribute on behalf of each
 2533 participant in the investment ~~Public Employee Optional~~
 2534 ~~Retirement~~ program, as provided in part III of this chapter. The
 2535 state board, acting as plan fiduciary, shall ensure that all
 2536 plan assets are held in a trust, pursuant to s. 401 of the
 2537 Internal Revenue Code. The fiduciary shall ensure that ~~said~~
 2538 contributions are allocated as follows:

2539 1. The portion earmarked for participant accounts shall be
 2540 used to purchase interests in the appropriate investment
 2541 vehicles ~~for the accounts of each participant~~ as specified by
 2542 the participant, or in accordance with paragraph (4) (b) ~~(4) (d)~~.

2543 2. The portion earmarked for administrative and
 2544 educational expenses shall be transferred to the state board.

2545 3. The portion earmarked for disability benefits shall be
 2546 transferred to the department.

2547 (b) Employers are responsible for notifying participants
 2548 regarding maximum contribution levels allowed ~~permitted~~ under
 2549 the Internal Revenue Code. If a participant contributes to any
 2550 other tax-deferred plan, the participant ~~he or she~~ is
 2551 responsible for ensuring that total contributions made to the
 2552 investment ~~optional~~ program and to any other such plan do not
 2553 exceed federally permitted maximums.

2554 (c) The investment ~~Public Employee Optional Retirement~~
 2555 program may accept for deposit into participant accounts
 2556 contributions in the form of rollovers or direct trustee-to-
 2557 trustee transfers by or on behalf of participants, reasonably
 2558 determined by the state board to be eligible for rollover or
 2559 transfer to the investment ~~optional retirement~~ program pursuant

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2560 to the Internal Revenue Code, if such contributions are made in
 2561 accordance with rules ~~as may be~~ adopted by the state board. Such
 2562 contributions must ~~shall~~ be accounted for in accordance with ~~any~~
 2563 applicable Internal Revenue Code requirements and rules of the
 2564 state board.

2565 (6) VESTING REQUIREMENTS.—

2566 (a)1. With respect to employer contributions paid on
 2567 behalf of the participant to the investment ~~Public Employee~~
 2568 ~~Optional Retirement~~ program, plus interest and earnings thereon
 2569 and less investment fees and administrative charges, a
 2570 participant is ~~shall be~~ vested after completing 1 work year, ~~as~~
 2571 ~~defined in s. 121.021(54)~~, with an employer, including any
 2572 service while the participant was a member of the defined
 2573 benefit ~~retirement~~ program or an optional retirement program
 2574 authorized under s. 121.051(2)(c) or s. 121.055(6).

2575 2. If the participant terminates employment before ~~prior~~
 2576 ~~to~~ satisfying the vesting requirements, the nonvested
 2577 accumulation must ~~shall~~ be transferred from the participant's
 2578 accounts to the state board for deposit and investment by the
 2579 state board in its ~~the~~ suspense account in ~~of~~ the Public
 2580 Employee ~~Optional Retirement~~ Investment Program Trust Fund ~~of~~
 2581 ~~the board~~. If the terminated participant is reemployed as an
 2582 eligible employee within 5 years, the state board shall transfer
 2583 to the participant's account any amount ~~of the moneys~~ previously
 2584 transferred from the participant's accounts to the suspense
 2585 account, ~~of the Public Employee Optional Retirement Program~~
 2586 ~~Trust Fund~~, plus the actual earnings on such amount while in the
 2587 suspense account.

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2588 (b)1. With respect to amounts transferred from the defined
 2589 benefit program to the investment program, plus interest and
 2590 earnings, and less investment fees and administrative charges, a
 2591 participant shall be vested in the amount transferred ~~from the~~
 2592 ~~defined benefit program, plus interest and earnings thereon and~~
 2593 ~~less administrative charges and investment fees,~~ upon meeting
 2594 the service requirements for the participant's membership class
 2595 as set forth in s. 121.021(29). The third-party administrator
 2596 shall account for such amounts for each participant. The
 2597 division shall notify the participant and the third-party
 2598 administrator when the participant has satisfied the vesting
 2599 period for Florida Retirement System purposes.

2600 2. If the participant terminates employment before ~~prior~~
 2601 ~~to~~ satisfying the vesting requirements, the nonvested
 2602 accumulation must ~~shall~~ be transferred from the participant's
 2603 accounts to the state board for deposit and investment by the
 2604 state board in the suspense account in ~~of~~ the Public Employee
 2605 ~~Optional~~ Retirement Investment Program Trust Fund ~~of the board~~.
 2606 If the terminated participant is reemployed as an eligible
 2607 employee within 5 years, the state board shall transfer to the
 2608 participant's account any amount ~~of the moneys~~ previously
 2609 transferred from the participant's accounts to the suspense
 2610 account ~~of the Public Employee Optional Retirement Program Trust~~
 2611 ~~Fund~~, plus the actual earnings on such amount while in the
 2612 suspense account.

2613 (c) Any nonvested accumulations transferred from a
 2614 participant's account to the state board's suspense account
 2615 shall be forfeited by the participant if the participant is not

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2616 reemployed as an eligible employee within 5 years after
 2617 termination.

2618 (7) ~~BENEFITS.—Under the Public Employee Optional~~
 2619 ~~Retirement Investment Program, benefits shall:~~

2620 (a) ~~Benefits shall~~ Be provided in accordance with s.
 2621 401(a) of the Internal Revenue Code.

2622 (b) ~~Benefits shall~~ Accrue in individual accounts that are
 2623 participant-directed, portable, and funded by employer
 2624 contributions and earnings thereon.

2625 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~
 2626 ~~provisions of~~ s. 121.591.

2627 (8) PROGRAM ADMINISTRATION OF PROGRAM.—

2628 ~~(a)~~ The Public Employee ~~Optional~~ Retirement Investment
 2629 Program shall be administered by the state board and affected
 2630 employers. The state board is authorized to require oaths, by
 2631 affidavit or otherwise, and acknowledgments from persons in
 2632 connection with the administration of its duties and
 2633 responsibilities under the program ~~this chapter~~. An ~~No~~ oath, by
 2634 affidavit or otherwise, may not ~~shall~~ be required of an employee
 2635 participant at the time of enrollment ~~election~~. ~~Acknowledgment~~
 2636 ~~of an employee's election to participate in the program shall be~~
 2637 ~~no greater than necessary to confirm the employee's election.~~
 2638 The state board shall adopt rules establishing the roles ~~role~~
 2639 and responsibilities of affected state, local government, and
 2640 education-related employers, the state board, the department,
 2641 and third-party contractors in administering the investment
 2642 ~~Public Employee Optional Retirement~~ program. The department
 2643 shall adopt rules necessary to administer ~~implement~~ the

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2644 investment optional program in coordination with the defined
 2645 benefit ~~retirement~~ program and the disability benefits available
 2646 under the investment optional program.

2647 (a)~~(b)~~1. The state board shall select and contract with a
 2648 ~~one~~ third-party administrator to provide administrative services
 2649 if those services cannot be competitively and contractually
 2650 provided by the division ~~of Retirement within the Department of~~
 2651 ~~Management Services~~. With the approval of the state board, the
 2652 third-party administrator may subcontract ~~with other~~
 2653 ~~organizations or individuals~~ to provide components of the
 2654 administrative services. As a cost of administration, the state
 2655 board may compensate any such contractor for its services, in
 2656 accordance with the terms of the contract, as is deemed
 2657 necessary or proper by the state board. The third-party
 2658 administrator may not be an approved provider or be affiliated
 2659 with an approved provider.

2660 2. These administrative services may include, but are not
 2661 limited to, enrollment of eligible employees, collection of
 2662 employer contributions, disbursement of ~~such~~ contributions to
 2663 approved providers in accordance with the allocation directions
 2664 of participants; services relating to consolidated billing;
 2665 individual and collective recordkeeping and accounting; asset
 2666 purchase, control, and safekeeping; and direct disbursement of
 2667 funds to and from the third-party administrator, the division,
 2668 the state board, employers, participants, approved providers,
 2669 and beneficiaries. This paragraph ~~section~~ does not prevent or
 2670 prohibit a bundled provider from providing any administrative or
 2671 customer service, including accounting and administration of

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2672 individual participant benefits and contributions; individual
 2673 participant recordkeeping; asset purchase, control, and
 2674 safekeeping; direct execution of the participant's instructions
 2675 as to asset and contribution allocation; calculation of daily
 2676 net asset values; direct access to participant account
 2677 information; or periodic reporting to participants, at least
 2678 quarterly, on account balances and transactions, if these
 2679 services are authorized by the state board as part of the
 2680 contract.

2681 ~~(b) 1.3.~~ The state board shall select and contract with one
 2682 or more organizations to provide educational services. With
 2683 approval of the state board, the organizations may subcontract
 2684 ~~with other organizations or individuals~~ to provide components of
 2685 the educational services. As a cost of administration, the state
 2686 board may compensate any such contractor for its services in
 2687 accordance with the terms of the contract, as is deemed
 2688 necessary or proper by the state board. The education
 2689 organization may not be an approved provider or be affiliated
 2690 with an approved provider.

2691 ~~2.4.~~ Educational services shall be designed by the state
 2692 board and department to assist employers, eligible employees,
 2693 participants, and beneficiaries in order to maintain compliance
 2694 with United States Department of Labor regulations under s.
 2695 404(c) of the Employee Retirement Income Security Act of 1974
 2696 and to assist employees in understanding their ~~choice of defined~~
 2697 ~~benefit or defined contribution~~ retirement program alternatives.
 2698 Educational services include, but are not limited to,
 2699 disseminating educational materials; providing retirement

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2700 | planning education; explaining the ~~differences between the~~
2701 | defined benefit ~~retirement plan~~ and investment programs ~~the~~
2702 | ~~defined contribution retirement plan~~; and offering financial
2703 | planning guidance on matters such as investment diversification,
2704 | investment risks, investment costs, and asset allocation. An
2705 | approved provider may also provide educational information,
2706 | including retirement planning and investment allocation
2707 | information concerning its products and services.

2708 | (c)1. In evaluating and selecting a third-party
2709 | administrator, the state board shall establish criteria for
2710 | evaluating ~~under which it shall consider~~ the relative
2711 | capabilities and qualifications of each proposed administrator.
2712 | In developing such criteria, the state board shall consider:

2713 | a. The administrator's demonstrated experience in
2714 | providing administrative services to public or private sector
2715 | retirement systems.

2716 | b. The administrator's demonstrated experience in
2717 | providing daily valued recordkeeping to defined contribution
2718 | programs ~~plans~~.

2719 | c. The administrator's ability and willingness to
2720 | coordinate its activities with ~~the Florida Retirement System~~
2721 | employers, the state board, and the division, and to supply to
2722 | such employers, the state board, and the division the
2723 | information and data they require, including, but not limited
2724 | to, monthly management reports, quarterly participant reports,
2725 | and ad hoc reports requested by the department or state board.

2726 | d. The cost-effectiveness and levels of the administrative
2727 | services provided.

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2728 e. The administrator's ability to interact with the
 2729 participants, the employers, the state board, the division, and
 2730 the providers; the means by which participants may access
 2731 account information, direct investment of contributions, make
 2732 changes to their accounts, transfer moneys between available
 2733 investment vehicles, and transfer moneys between investment
 2734 products; and any fees that apply to such activities.

2735 f. Any other factor deemed necessary by the ~~Trustees of~~
 2736 ~~the state board of Administration.~~

2737 2. In evaluating and selecting an educational provider,
 2738 the state board shall establish criteria under which it shall
 2739 consider the relative capabilities and qualifications of each
 2740 proposed educational provider. In developing such criteria, the
 2741 state board shall consider:

2742 a. Demonstrated experience in providing educational
 2743 services to public or private sector retirement systems.

2744 b. Ability and willingness to coordinate its activities
 2745 with the ~~Florida Retirement System~~ employers, the state board,
 2746 and the division, and to supply to such employers, the state
 2747 board, and the division the information and data they require,
 2748 including, but not limited to, reports on educational contacts.

2749 c. The cost-effectiveness and levels of the educational
 2750 services provided.

2751 d. Ability to provide educational services via different
 2752 media, including, but not limited to, the Internet, personal
 2753 contact, seminars, brochures, and newsletters.

2754 e. Any other factor deemed necessary by the ~~Trustees of~~
 2755 ~~the state board of Administration.~~

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2756 3. The establishment of the criteria shall be solely
 2757 within the discretion of the state board.

2758 (d) The state board shall develop the form and content of
 2759 any contracts to be offered under the investment ~~Public Employee~~
 2760 ~~Optional Retirement~~ program. In developing the ~~its~~ contracts,
 2761 the state board shall ~~must~~ consider:

2762 1. The nature and extent of the rights and benefits to be
 2763 afforded in relation to the ~~required~~ contributions required
 2764 under the program.

2765 2. The suitability of the rights and benefits provided ~~to~~
 2766 ~~be afforded~~ and the interests of employers in the recruitment
 2767 and retention of eligible employees.

2768 (e)1. The state board may contract ~~with any consultant~~ for
 2769 professional services, including legal, consulting, accounting,
 2770 and actuarial services, deemed necessary to implement and
 2771 administer the investment ~~optional~~ program ~~by the Trustees of~~
 2772 ~~the state board of Administration~~. The state board may enter
 2773 into a contract with one or more vendors to provide low-cost
 2774 investment advice to participants, supplemental to education
 2775 provided by the third-party administrator. All fees under ~~any~~
 2776 such contract shall be paid by those participants who choose to
 2777 use the services of the vendor.

2778 2. The department may contract ~~with consultants~~ for
 2779 professional services, including legal, consulting, accounting,
 2780 and actuarial services, deemed necessary to implement and
 2781 administer the investment ~~optional~~ program in coordination with
 2782 the defined benefit program ~~of the Florida Retirement System~~.
 2783 The department, in coordination with the state board, may enter

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2784 into a contract with the third-party administrator in order to
 2785 coordinate services common to the various programs within the
 2786 Florida Retirement System.

2787 (f) The third-party administrator may ~~shall~~ not receive
 2788 direct or indirect compensation from an approved provider,
 2789 except as specifically provided for in the contract with the
 2790 state board.

2791 (g) The state board shall resolve any conflict between the
 2792 third-party administrator and an approved provider if ~~when~~ such
 2793 conflict threatens the implementation or administration of the
 2794 program or the quality of services to employees and may resolve
 2795 any other conflicts.

2796 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

2797 (a) The state board shall develop policy and procedures
 2798 for selecting, evaluating, and monitoring the performance of
 2799 approved providers and investment products ~~to which employees~~
 2800 ~~may direct retirement contributions~~ under the investment
 2801 program. In accordance with such policy and procedures, the
 2802 state board shall designate and contract for a number of
 2803 investment products as determined by the state board. The state
 2804 board shall also select one or more bundled providers, each of
 2805 which ~~whom~~ may offer multiple investment options and related
 2806 services, if ~~when~~ such ~~an~~ approach is determined by the state
 2807 board to provide ~~afford~~ value to the participants otherwise not
 2808 available through individual investment products. Each approved
 2809 bundled provider may offer investment options that provide
 2810 participants with the opportunity to invest in each of the
 2811 following asset classes, to be composed of individual options

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2812 that represent either a single asset class or a combination
 2813 thereof: money markets, United States fixed income, United
 2814 States equities, and foreign stock. The state board shall review
 2815 and manage all educational materials, contract terms, fee
 2816 schedules, and other aspects of ~~the~~ approved provider
 2817 relationships to ensure that no provider is unduly favored or
 2818 penalized by virtue of its status within the investment program
 2819 ~~plan~~.

2820 (b) The state board shall consider investment options or
 2821 products it considers appropriate to give participants the
 2822 opportunity to accumulate retirement benefits, subject to the
 2823 following:

2824 1. The investment ~~Public Employee Optional Retirement~~
 2825 program must offer a diversified mix of low-cost investment
 2826 products that span the risk-return spectrum and may include a
 2827 guaranteed account as well as investment products, such as
 2828 individually allocated guaranteed and variable annuities, which
 2829 meet the requirements of this subsection and combine the ability
 2830 to accumulate investment returns with the option of receiving
 2831 lifetime income consistent with the long-term retirement
 2832 security of a pension plan and similar to the lifetime-income
 2833 benefit provided by the Florida Retirement System.

2834 2. Investment options or products offered by ~~the group of~~
 2835 approved providers may include mutual funds, group annuity
 2836 contracts, individual retirement annuities, interests in trusts,
 2837 collective trusts, separate accounts, ~~and~~ other ~~such~~ financial
 2838 instruments, and ~~may include~~ products that give participants the
 2839 option of committing their contributions for an extended time

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2840 | period in an effort to obtain returns higher than those that
 2841 | could be obtained from investment products offering full
 2842 | liquidity.

2843 | 3. The state board may ~~shall~~ not contract with a ~~any~~
 2844 | provider that imposes a front-end, back-end, contingent, or
 2845 | deferred sales charge, or any other fee that limits or restricts
 2846 | the ability of participants to select any investment product
 2847 | available in the investment ~~optional~~ program. This prohibition
 2848 | does not apply to fees or charges that are imposed on
 2849 | withdrawals from products that give participants the option of
 2850 | committing ~~their~~ contributions for an extended time period in an
 2851 | effort to obtain returns higher than those that could be
 2852 | obtained from investment products offering full liquidity,
 2853 | provided that the product ~~in question~~, net of all fees and
 2854 | charges, produces material benefits relative to other comparable
 2855 | products in the program offering full liquidity.

2856 | 4. Fees or charges for insurance features, such as
 2857 | mortality and expense-risk charges, must be reasonable relative
 2858 | to the benefits provided.

2859 | (c) In evaluating and selecting approved providers and
 2860 | products, the state board shall establish criteria for
 2861 | evaluating ~~under which it shall consider~~ the relative
 2862 | capabilities and qualifications of each proposed provider
 2863 | company and product. In developing such criteria, the state
 2864 | board shall consider the following to the extent such factors
 2865 | may be applied in connection with investment products, services,
 2866 | or providers:

2867 | 1. Experience in the United States providing retirement

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2868 products and related financial services under a defined
 2869 contribution retirement program ~~plans~~.

2870 2. Financial strength and stability as ~~which shall be~~
 2871 evidenced by the highest ratings assigned by nationally
 2872 recognized rating services when comparing proposed providers
 2873 that are so rated.

2874 3. Intrastate and interstate portability of the product
 2875 offered, including early withdrawal options.

2876 4. Compliance with the Internal Revenue Code.

2877 5. The cost-effectiveness of the product provided and the
 2878 levels of service supporting the product relative to its
 2879 benefits and its characteristics, including, ~~without limitation,~~
 2880 the level of risk borne by the provider.

2881 6. The provider company's ability and willingness to
 2882 coordinate its activities with Florida Retirement System
 2883 employers, the department, and the state board, and to supply ~~to~~
 2884 the ~~such~~ employers, the department, and the state board with the
 2885 information and data they require.

2886 7. The methods available to participants to interact with
 2887 the provider company; the means by which participants may access
 2888 account information, direct investment of contributions, make
 2889 changes to their accounts, transfer moneys between available
 2890 investment vehicles, and transfer moneys between provider
 2891 companies; and any fees that apply to such activities.

2892 8. The provider company's policies with respect to the
 2893 transfer of individual account balances, contributions, and
 2894 earnings thereon, both internally among investment products
 2895 offered by the provider company and externally between approved

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2896 providers, as well as any fees, charges, reductions, or
 2897 penalties that may be applied.

2898 9. An evaluation of specific investment products, taking
 2899 into account each product's experience in meeting its investment
 2900 return objectives net of all related fees, expenses, and
 2901 charges, including, but not limited to, investment management
 2902 fees, loads, distribution and marketing fees, custody fees,
 2903 recordkeeping fees, education fees, annuity expenses, and
 2904 consulting fees.

2905 10. Organizational factors, including, but not limited to,
 2906 financial solvency, organizational depth, and experience in
 2907 providing institutional and retail investment services.

2908 (d) By March 1, 2010, the state board shall identify and
 2909 offer at least one terror-free investment product that allocates
 2910 its funds among securities not subject to divestiture as
 2911 provided in s. 215.473 if the investment product is deemed by
 2912 the state board to be consistent with prudent investor
 2913 standards. No person may bring a civil, criminal, or
 2914 administrative action against an approved provider; the state
 2915 board; or any employee, officer, director, or trustee of such
 2916 provider based upon the divestiture of any security or the
 2917 offering of a terror-free investment product as specified in
 2918 this paragraph.

2919 (e) As a condition of offering an ~~any~~ investment option or
 2920 product in the investment ~~optional retirement~~ program, the
 2921 approved provider must agree to make the investment product or
 2922 service available under the most beneficial terms offered to any
 2923 other customer, subject to approval by the ~~Trustees of the state~~

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2924 board of ~~Administration~~.

2925 (f) The state board shall regularly review the performance
 2926 of each approved provider and product and related organizational
 2927 factors to ensure continued compliance with established
 2928 selection criteria and with state board policy and procedures.
 2929 Providers and products may be terminated subject to contract
 2930 provisions. The state board shall adopt procedures to transfer
 2931 account balances from terminated products or providers to other
 2932 products or providers in the investment ~~optional~~ program.

2933 (g)1. An approved provider shall comply with all
 2934 applicable federal and state securities and insurance laws and
 2935 regulations ~~applicable to the provider~~, as well as with the
 2936 applicable rules and guidelines of the National Association of
 2937 Securities Dealers which govern the ethical marketing of
 2938 investment products. In furtherance of this mandate, an approved
 2939 provider must agree in its contract with the state board to
 2940 establish and maintain a compliance education and monitoring
 2941 system to supervise the activities of all personnel who directly
 2942 communicate with individual participants and recommend
 2943 investment products, which system is consistent with rules of
 2944 the National Association of Securities Dealers.

2945 2. Approved provider personnel who directly communicate
 2946 with individual participants and who recommend investment
 2947 products shall make an independent and unbiased determination as
 2948 to whether an investment product is suitable for a particular
 2949 participant.

2950 3. The state board shall develop procedures to receive and
 2951 resolve participant complaints against a provider or approved

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2952 provider personnel, and, if ~~when~~ appropriate, refer such
 2953 complaints to the appropriate agency.

2954 4. Approved providers may not sell or in any way
 2955 distribute any customer list or participant identification
 2956 information generated through their offering of products or
 2957 services through the investment ~~optional retirement~~ program.

2958 (10) EDUCATION COMPONENT.—

2959 ~~(a) The state board, in coordination with the department,~~
 2960 ~~shall provide for an education component for eligible employees~~
 2961 ~~system members in a manner consistent with the provisions of~~
 2962 ~~this subsection section. The education component must be~~
 2963 ~~available to eligible employees at least 90 days prior to the~~
 2964 ~~beginning date of the election period for the employees of the~~
 2965 ~~respective types of employers.~~

2966 ~~(b) The education component must provide system members~~
 2967 ~~with impartial and balanced information about plan choices. The~~
 2968 ~~education component must involve multimedia formats. Program~~
 2969 ~~comparisons must, to the greatest extent possible, be based upon~~
 2970 ~~the retirement income that different retirement programs may~~
 2971 ~~provide to the participant. The board shall monitor the~~
 2972 ~~performance of the contract to ensure that the program is~~
 2973 ~~conducted in accordance with the contract, applicable law, and~~
 2974 ~~the rules of the board.~~

2975 ~~(c) The board, in coordination with the department, shall~~
 2976 ~~provide for an initial and ongoing transfer education component~~
 2977 ~~to provide system members with information necessary to make~~
 2978 ~~informed plan choice decisions. The transfer education component~~
 2979 ~~must include, but is not limited to, information on:~~

2980 1. ~~The amount of money available to a member to transfer~~
 2981 ~~to the defined contribution program.~~

2982 2. ~~The features of and differences between the defined~~
 2983 ~~benefit program and the defined contribution program, both~~
 2984 ~~generally and specifically, as those differences may affect the~~
 2985 ~~member.~~

2986 3. ~~The expected benefit available if the member were to~~
 2987 ~~retire under each of the retirement programs, based on~~
 2988 ~~appropriate alternative sets of assumptions.~~

2989 4. ~~The rate of return from investments in the defined~~
 2990 ~~contribution program and the period of time over which such rate~~
 2991 ~~of return must be achieved to equal or exceed the expected~~
 2992 ~~monthly benefit payable to the member under the defined benefit~~
 2993 ~~program.~~

2994 5. ~~The historical rates of return for the investment~~
 2995 ~~alternatives available in the defined contribution programs.~~

2996 6. ~~The benefits and historical rates of return on~~
 2997 ~~investments available in a typical deferred compensation plan or~~
 2998 ~~a typical plan under s. 403(b) of the Internal Revenue Code for~~
 2999 ~~which the employee may be eligible.~~

3000 7. ~~The program choices available to employees of the State~~
 3001 ~~University System and the comparative benefits of each available~~
 3002 ~~program, if applicable.~~

3003 8. ~~Payout options available in each of the retirement~~
 3004 ~~programs.~~

3005 (a) ~~(d)~~ An ongoing education and communication component
 3006 must provide eligible employees ~~system members~~ with information
 3007 necessary to make informed decisions about choices within their

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3008 retirement program ~~of membership~~ and in preparation for
 3009 retirement. The component must include, but is not limited to,
 3010 information concerning:

- 3011 1. Rights and conditions of membership.
- 3012 2. Benefit features within the program, options, and
- 3013 effects of certain decisions.
- 3014 3. Coordination of contributions and benefits with a
- 3015 deferred compensation plan under s. 457 or a plan under s.
- 3016 403(b) of the Internal Revenue Code.
- 3017 4. Significant program changes.
- 3018 5. Contribution rates and program funding status.
- 3019 6. Planning for retirement.

3020 ~~(b)(e)~~ (b)(e) Descriptive materials must be prepared under the
 3021 assumption that the employee is an unsophisticated investor, and
 3022 all materials used in the education component must be approved
 3023 by the state board before ~~prior to~~ dissemination.

3024 ~~(c)(f)~~ (c)(f) The state board and the department shall also
 3025 establish a communication component to provide program
 3026 information to participating employers and the employers'
 3027 personnel and payroll officers and to explain their respective
 3028 responsibilities in conjunction with the retirement programs.

3029 ~~(d)(g)~~ (d)(g) Funding for education of new employees may reflect
 3030 administrative costs to the investment ~~optional~~ program and the
 3031 defined benefit program.

3032 ~~(h)~~ Pursuant to paragraph (8)(a), all Florida Retirement
 3033 System employers have an obligation to regularly communicate the
 3034 existence of the two Florida Retirement System plans and the
 3035 plan choice in the natural course of administering their

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3036 ~~personnel functions, using the educational materials supplied by~~
3037 ~~the state board and the Department of Management Services.~~

3038 (11) PARTICIPANT INFORMATION REQUIREMENTS.—The state board
3039 shall ensure that each participant is provided a quarterly
3040 statement that accounts for ~~the~~ contributions made on behalf of
3041 the ~~such~~ participant; the interest and investment earnings
3042 thereon; and any fees, penalties, or other deductions that apply
3043 ~~thereto~~. At a minimum, such statements must:

3044 (a) Indicate the participant's investment options.

3045 (b) State the market value of the account at the close of
3046 the current quarter and previous quarter.

3047 (c) Show account gains and losses ~~for the period~~ and
3048 changes in account accumulation unit values for the quarter
3049 ~~period~~.

3050 (d) Itemize account contributions for the quarter.

3051 (e) Indicate any account changes due to adjustment of
3052 contribution levels, reallocation of contributions, balance
3053 transfers, or withdrawals.

3054 (f) Set forth any fees, charges, penalties, and deductions
3055 that apply to the account.

3056 (g) Indicate the amount of the account in which the
3057 participant is fully vested and the amount of the account in
3058 which the participant is not vested.

3059 (h) Indicate each investment product's performance
3060 relative to an appropriate market benchmark.

3061

3062 The third-party administrator shall provide quarterly and annual
3063 summary reports to the state board and any other reports

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3064 requested by the department or the state board. In any
 3065 solicitation or offer of coverage under the defined contribution
 3066 ~~an optional retirement~~ program, a provider company shall be
 3067 governed by the contract readability provisions of s. 627.4145,
 3068 notwithstanding s. 627.4145(6)(c). In addition, all descriptive
 3069 materials must be prepared under the assumption that the
 3070 participant is an unsophisticated investor. Provider companies
 3071 must maintain an internal system of quality assurance, have
 3072 proven functional systems that are date-calculation compliant,
 3073 and be subject to a due-diligence inquiry that proves their
 3074 capacity and fitness to undertake service responsibilities.

3075 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—
 3076 The Investment Advisory Council, created pursuant to s. 215.444,
 3077 shall assist the state board in implementing and administering
 3078 the Public Employee ~~Optional Retirement~~ Investment Program. The
 3079 ~~Investment Advisory~~ council, ~~created pursuant to s. 215.444,~~
 3080 shall review the state board's initial recommendations regarding
 3081 the criteria to be used in selecting and evaluating approved
 3082 providers and investment products. The council may provide
 3083 comments on the recommendations to the state board within 45
 3084 days after receiving the initial recommendations. The state
 3085 board shall make the final determination as to whether any
 3086 investment provider or product, any contractor, or any and all
 3087 contract provisions are ~~shall be~~ approved for the investment
 3088 program.

3089 (13) FEDERAL REQUIREMENTS.—

3090 (a) ~~Provisions of~~ This section shall be construed, and the
 3091 investment ~~Public Employee Optional Retirement~~ program shall be

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3092 administered, so as to comply with the Internal Revenue Code, 26
 3093 U.S.C., and specifically with plan qualification requirements
 3094 imposed on governmental plans under s. 401(a) of the Internal
 3095 Revenue Code. The state board may ~~shall have the power and~~
 3096 ~~authority to~~ adopt rules reasonably necessary to establish or
 3097 maintain the qualified status of the investment ~~Optional~~
 3098 ~~Retirement~~ program under the Internal Revenue Code and to
 3099 implement and administer the investment ~~Optional Retirement~~
 3100 program in compliance with the Internal Revenue Code and as
 3101 designated under this part; ~~provided however, that the board~~
 3102 ~~shall not have the authority to adopt any rule which makes a~~
 3103 ~~substantive change to the Optional Retirement Program as~~
 3104 ~~designed by this part.~~

3105 (b) Any section or provision of this chapter which is
 3106 susceptible to more than one construction shall ~~must~~ be
 3107 interpreted in favor of the construction most likely to satisfy
 3108 requirements imposed by s. 401(a) of the Internal Revenue Code.

3109 (c) Contributions payable under this section for any
 3110 limitation year may not exceed the maximum amount allowable for
 3111 qualified defined contribution pension plans under applicable
 3112 provisions of the Internal Revenue Code. If an employee who is
 3113 enrolled ~~who has elected to participate~~ in the Public Employee
 3114 ~~Optional Retirement Investment~~ Program participates in any other
 3115 plan that is maintained by the participating employer, benefits
 3116 that accrue under the investment ~~Public Employee Optional~~
 3117 ~~Retirement~~ program shall be considered primary for any aggregate
 3118 limitation applicable under s. 415 of the Internal Revenue Code.

3119 (14) INVESTMENT POLICY STATEMENT.—

3120 (a) Investment products and approved providers selected
 3121 for the investment ~~Public Employee Optional Retirement~~ program
 3122 must ~~shall~~ conform with the Public Employee ~~Optional~~ Retirement
 3123 Investment Program Investment Policy Statement, herein referred
 3124 to as the "statement," as developed and approved by the ~~Trustees~~
 3125 ~~of the~~ state board of ~~Administration~~. The statement must
 3126 include, among other items, the investment objectives of the
 3127 investment ~~Public Employee Optional Retirement~~ program, manager
 3128 selection and monitoring guidelines, and performance measurement
 3129 criteria. As required from time to time, the executive director
 3130 of the state board may present recommended changes in the
 3131 statement to the state board for approval.

3132 (b) Before ~~Prior to~~ presenting the statement, or any
 3133 recommended changes ~~thereto~~, to the state board, the executive
 3134 director of the state board shall present such statement or
 3135 changes to the Investment Advisory Council for review. The
 3136 council shall present the results of its review to the state
 3137 board prior to the state board's final approval of the statement
 3138 or changes in the statement.

3139 (15) STATEMENT OF FIDUCIARY STANDARDS AND
 3140 RESPONSIBILITIES.—

3141 (a) Investment of investment program ~~optional defined~~
 3142 ~~contribution retirement plan~~ assets shall be made for the sole
 3143 interest and exclusive purpose of providing benefits to ~~plan~~
 3144 participants and beneficiaries and defraying reasonable expenses
 3145 of administering the investment program ~~plan~~. The program's
 3146 assets are to be invested, on behalf of the program
 3147 participants, with the care, skill, and diligence that a prudent

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3148 person acting in a like manner would undertake. The performance
 3149 of the investment duties set forth in this paragraph shall
 3150 comply with the fiduciary standards set forth in the Employee
 3151 Retirement Income Security Act of 1974 at 29 U.S.C. s.
 3152 1104(a)(1)(A)-(C). In case of conflict with other provisions of
 3153 law authorizing investments, the investment and fiduciary
 3154 standards set forth in this subsection shall prevail.

3155 (b) If a participant or beneficiary of the investment
 3156 ~~Public Employee Optional Retirement~~ program exercises control
 3157 over the assets in his or her account, as determined by
 3158 reference to regulations of the United States Department of
 3159 Labor under s. 404(c) of the Employee Retirement Income Security
 3160 Act of 1974 and all applicable laws governing the operation of
 3161 the program, a ~~no~~ program fiduciary is not ~~shall be~~ liable for
 3162 any loss to a participant's or beneficiary's account which
 3163 results from the ~~such~~ participant's or beneficiary's exercise of
 3164 control.

3165 (c) Subparagraph (8)(b)2. ~~(8)(b)4.~~ and paragraph (15)(b)
 3166 incorporate the federal law concept of participant control,
 3167 established by regulations of the United States Department of
 3168 Labor under s. 404(c) of the Employee Retirement Income Security
 3169 Act of 1974 (ERISA). The purpose of this paragraph is to assist
 3170 employers and the state board ~~of Administration~~ in maintaining
 3171 compliance with s. 404(c), while avoiding unnecessary costs and
 3172 eroding participant benefits under the investment ~~Public~~
 3173 ~~Employee Optional Retirement~~ program. Pursuant to 29 C.F.R. s.
 3174 2550.404c-1(b)(2)(i)(B)(1)(viii), the state board ~~of~~
 3175 ~~Administration~~ or its designated agents shall deliver to

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3176 participants of the investment ~~Public Employee Optional~~
3177 ~~Retirement~~ program a copy of the prospectus most recently
3178 provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-
3179 1(b)(2)(i)(B)(2)(ii), shall provide such participants an
3180 opportunity to obtain this information, except that:

3181 1. The requirement to deliver a prospectus shall be ~~deemed~~
3182 ~~to be~~ satisfied by delivery of a fund profile that contains the
3183 information that would be included in a summary prospectus as
3184 described by Rule 498 under the Securities Act of 1933, 17
3185 C.F.R. s. 230.498. If ~~When~~ the transaction fees, expense
3186 information or other information provided by a mutual fund in
3187 the prospectus does not reflect terms negotiated by the state
3188 board of ~~Administration~~ or its designated agents, the
3189 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery
3190 of a separate document described by Rule 498 substituting
3191 accurate information; and

3192 2. Delivery shall be ~~deemed to have been~~ effected if
3193 delivery is through electronic means and the following standards
3194 are satisfied:

3195 a. Electronically-delivered documents are prepared and
3196 provided consistent with style, format, and content requirements
3197 applicable to printed documents;

3198 b. Each participant is provided timely and adequate notice
3199 of the documents that are to be delivered and their significance
3200 thereof, and of the participant's right to obtain a paper copy
3201 of such documents free of charge;

3202 c. ~~(I)~~ Participants have adequate access to the electronic
3203 documents, at locations such as their worksites or public

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3204 facilities, and have the ability to convert the documents to
 3205 paper free of charge by the state board ~~of Administration~~, and
 3206 the state board or its designated agents take appropriate and
 3207 reasonable measures to ensure that the system for furnishing
 3208 electronic documents results in actual receipt. ~~or~~

3209 ~~(II)~~ Participants have provided consent to receive
 3210 information in electronic format, which consent may be revoked;
 3211 and

3212 d. The state board ~~of Administration~~, or its designated
 3213 agent, actually provides paper copies of the documents free of
 3214 charge, upon request.

3215 (16) DISABILITY BENEFITS.—For any participant of the
 3216 investment ~~optional retirement~~ program who becomes totally and
 3217 permanently disabled, benefits must ~~shall~~ be paid in accordance
 3218 with the provisions of s. 121.591.

3219 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
 3220 shall be provided for all officers and employees who become
 3221 participants of the investment ~~optional~~ program. Any
 3222 modification of the present agreement with the Social Security
 3223 Administration, or referendum required under the Social Security
 3224 Act, for the purpose of providing social security coverage for
 3225 any member shall be requested by the state agency in compliance
 3226 with the applicable provisions of the Social Security Act
 3227 governing such coverage. However, retroactive social security
 3228 coverage for service before ~~prior to~~ December 1, 1970, with the
 3229 employer may ~~shall~~ not be provided for any member who was not
 3230 covered under the agreement as of November 30, 1970.

3231 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and

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3232 employees who are participants of the investment ~~optional~~
 3233 program are ~~shall be~~ eligible to receive the retiree health
 3234 insurance subsidy, subject to the provisions of s. 112.363.

3235 (19) PARTICIPANT RECORDS.—Personal identifying information
 3236 of a participant in the investment ~~Public Employee Optional~~
 3237 ~~Retirement~~ program contained in Florida Retirement System
 3238 records held by the state board ~~of Administration~~ or the
 3239 department ~~of Management Services~~ is exempt from s. 119.07(1)
 3240 and s. 24(a), Art. I of the State Constitution.

3241 (20) DESIGNATION OF BENEFICIARIES.—

3242 (a) Each participant may, on a form provided for that
 3243 purpose, signed and filed with the third-party administrator,
 3244 designate a choice of one or more persons, named sequentially or
 3245 jointly, as his or her beneficiary for receiving ~~who shall~~
 3246 ~~receive~~ the benefits, if any, which may be payable pursuant to
 3247 this chapter in the event of the participant's death. If no
 3248 beneficiary is named in this manner, or if no beneficiary
 3249 designated by the participant survives the participant, the
 3250 beneficiary shall be the spouse of the deceased, if living. If
 3251 the participant's spouse is not alive at the time of the
 3252 beneficiary's ~~his or her~~ death, the beneficiary shall be the
 3253 living children of the participant. If no children survive, the
 3254 beneficiary shall be the participant's father or mother, if
 3255 living; otherwise, the beneficiary shall be the participant's
 3256 estate. The beneficiary most recently designated by a
 3257 participant ~~on a form or letter filed with the third-party~~
 3258 ~~administrator~~ shall be the beneficiary entitled to any benefits
 3259 payable at the time of the participant's death. However

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3260 ~~Notwithstanding any other provision in this subsection to the~~
 3261 ~~contrary,~~ for a participant who dies before ~~prior to~~ his or her
 3262 effective date of retirement, the spouse at the time of death
 3263 shall be the participant's beneficiary unless the ~~such~~
 3264 participant designates a different beneficiary ~~as provided in~~
 3265 ~~this subsection~~ subsequent to the participant's most recent
 3266 marriage.

3267 (b) If a participant designates a primary beneficiary
 3268 other than the participant's spouse, the participant's spouse
 3269 must sign the beneficiary designation form to acknowledge the
 3270 designation. This requirement does not apply to the designation
 3271 of one or more contingent beneficiaries to receive benefits
 3272 remaining upon the death of the primary beneficiary or
 3273 beneficiaries.

3274 (c) Notwithstanding the participant's designation of
 3275 benefits to be paid through a trust to a beneficiary that is a
 3276 natural person, ~~and notwithstanding the provisions of the trust,~~
 3277 benefits must ~~shall~~ be paid directly to the beneficiary if the
 3278 person is no longer a minor or an incapacitated person as
 3279 defined in s. 744.102.

3280 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT
 3281 OPTION PROGRAM PARTICIPANTS.—Notwithstanding any other provision
 3282 of law ~~to the contrary,~~ participants in the Deferred Retirement
 3283 Option Program offered under part I may, after conclusion of
 3284 their participation in the program, elect to roll over or
 3285 authorize a direct trustee-to-trustee transfer to an account
 3286 under the Public Employee ~~Optional~~ Retirement Investment Program
 3287 of their Deferred Retirement Option Program proceeds distributed

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3288 as provided under s. 121.091(13)(c)5. The transaction must
 3289 constitute an "eligible rollover distribution" within the
 3290 meaning of s. 402(c)(4) of the Internal Revenue Code.

3291 (a) The investment ~~Public Employee Optional Retirement~~
 3292 program may accept such amounts for deposit into participant
 3293 accounts as provided in paragraph (5)(c).

3294 (b) The affected participant shall direct the investment
 3295 of his or her investment account; however, unless he or she
 3296 becomes a renewed member of the Florida Retirement System under
 3297 s. 121.122 and elects to participate in the investment ~~Public~~
 3298 ~~Employee Optional Retirement~~ program, employer contributions may
 3299 not be made to the participant's account as provided under
 3300 paragraph (5)(a).

3301 (c) The state board or the department is not responsible
 3302 for locating those persons who may be eligible to participate in
 3303 the investment ~~Public Employee Optional Retirement~~ program under
 3304 this subsection.

3305 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of
 3306 any member of the Public Employee ~~Optional Retirement~~ Investment
 3307 Program includes ~~shall include~~ military service in the Armed
 3308 Forces of the United States as provided in ~~the conditions~~
 3309 ~~outlined in~~ s. 121.111(1).

3310 Section 11. Section 121.4502, Florida Statutes, is amended
 3311 to read:

3312 121.4502 Public Employee ~~Optional Retirement~~ Investment
 3313 Program Trust Fund.—

3314 (1) The Public Employee ~~Optional Retirement~~ Investment
 3315 Program Trust Fund is created to hold the assets of the Public

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3316 Employee ~~Optional~~ Retirement Investment Program in trust for the
 3317 exclusive benefit of program ~~such program's~~ participants and
 3318 beneficiaries, and for the payment of reasonable administrative
 3319 expenses of the program, in accordance with s. 401 of the
 3320 Internal Revenue Code, and shall be administered by the state
 3321 board of ~~Administration~~ as trustee. Funds shall be credited to
 3322 the trust fund as provided in this part and, ~~to be~~ used for the
 3323 purposes of this part. The trust fund is exempt from the service
 3324 charges imposed by s. 215.20.

3325 (2) The Public Employee ~~Optional~~ Retirement Investment
 3326 Program Trust Fund is a ~~retirement~~ trust fund of the Florida
 3327 Retirement System that accounts for retirement plan assets held
 3328 by the state in a trustee capacity as a fiduciary for individual
 3329 participants in the Public Employee ~~Optional~~ Retirement
 3330 Investment Program and, pursuant to s. 19(f), Art. III of the
 3331 State Constitution, is not subject to termination.

3332 Section 12. Subsection (1) of section 121.4503, Florida
 3333 Statutes, is amended to read:

3334 121.4503 Florida Retirement System Contributions Clearing
 3335 Trust Fund.—

3336 (1) The Florida Retirement System Contributions Clearing
 3337 Trust Fund is created as a clearing fund for disbursing employer
 3338 contributions to the component plans of the Florida Retirement
 3339 System and shall be administered by the Department of Management
 3340 Services. Funds shall be credited to the trust fund as provided
 3341 in this chapter and shall be held in trust for the contributing
 3342 employers until such time as the assets are transferred by the
 3343 department to the Florida Retirement System Trust Fund, the

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3344 Public Employee ~~Optional~~ Retirement Investment Program Trust
 3345 Fund, or other trust funds as authorized by law, to be used for
 3346 the purposes of this chapter. The trust fund is exempt from the
 3347 service charges imposed by s. 215.20.

3348 Section 13. Section 121.571, Florida Statutes, is amended
 3349 to read:

3350 121.571 Contributions.—Contributions to the Public
 3351 Employee ~~Optional~~ Retirement Investment Program shall be made as
 3352 follows:

3353 (1) NONCONTRIBUTORY PLAN.—Each employer shall make
 3354 ~~accomplish~~ the monthly contributions required under ~~by~~ s. 121.71
 3355 without reducing an ~~by a procedure in which no~~ employee's gross
 3356 salary ~~shall be reduced~~.

3357 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund
 3358 the retirement and disability benefits provided under this part
 3359 must shall be based on the uniform contribution rates
 3360 established by s. 121.71 and on the membership class or subclass
 3361 of the participant. Such contributions must shall be allocated
 3362 as provided in ss. 121.72 and 121.73.

3363 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
 3364 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
 3365 s. 121.71 are ~~this section shall be~~ in addition to employer and
 3366 member contributions ~~required~~ for social security and the
 3367 Retiree Health Insurance Subsidy Trust Fund as required under
 3368 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as
 3369 appropriate.

3370 Section 14. Section 121.591, Florida Statutes, is amended
 3371 to read:

3372 121.591 Payment of benefits ~~payable under the Public~~
 3373 ~~Employee Optional Retirement Program of the Florida Retirement~~
 3374 ~~System.~~ Benefits may not be paid under the Public Employee
 3375 Retirement Investment Program ~~this section~~ unless the member has
 3376 terminated employment as provided in s. 121.021(39)(a) or is
 3377 deceased and a proper application has been filed as ~~in the~~
 3378 ~~manner~~ prescribed by the state board or the department. The
 3379 state board or department, as appropriate, may cancel an
 3380 application for retirement benefits if ~~when~~ the member or
 3381 beneficiary fails to timely provide the information and
 3382 documents required by this chapter and the rules of the state
 3383 board and department. In accordance with their respective
 3384 responsibilities ~~as provided herein~~, the state board ~~of~~
 3385 ~~Administration~~ and the department ~~of Management Services~~ shall
 3386 adopt rules establishing procedures for application for
 3387 retirement benefits and for the cancellation of such application
 3388 if ~~when~~ the required information or documents are not received.
 3389 The state board ~~of Administration~~ and the department ~~of~~
 3390 ~~Management Services~~, as appropriate, are authorized to cash out
 3391 a de minimis account of not more than \$5,000 of a participant
 3392 who has been terminated from Florida Retirement System covered
 3393 employment for a minimum of 6 calendar months. ~~A de minimis~~
 3394 ~~account is an account containing employer contributions and~~
 3395 ~~accumulated earnings of not more than \$5,000 made under the~~
 3396 ~~provisions of this chapter.~~ Such cash-out must ~~either~~ be a
 3397 complete lump-sum liquidation of the account balance, subject to
 3398 the provisions of the Internal Revenue Code, or a lump-sum
 3399 direct rollover distribution paid directly to the custodian of

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3400 an eligible retirement plan, as defined by the Internal Revenue
 3401 Code, on behalf of the participant. If any financial instrument
 3402 issued for the payment of retirement benefits under this section
 3403 is not presented for payment within 180 days after the last day
 3404 of the month in which it was originally issued, the third-party
 3405 administrator or other duly authorized agent of the state board
 3406 ~~of Administration~~ shall cancel the instrument and credit the
 3407 amount of the instrument to the suspense account of the Public
 3408 Employee ~~Optional~~ Retirement Investment Program Trust Fund
 3409 authorized under s. 121.4501(6). Any ~~such~~ amounts transferred to
 3410 the suspense account are payable upon a proper application, not
 3411 to include earnings thereon, as provided in this section, within
 3412 10 years after the last day of the month in which the instrument
 3413 was originally issued, after which time such amounts and any
 3414 earnings are ~~thereon shall be~~ forfeited. Any ~~such~~ forfeited
 3415 amounts are assets of the ~~Public Employee Optional Retirement~~
 3416 ~~Program~~ trust fund and are not subject to the provisions of
 3417 chapter 717.

3418 (1) NORMAL BENEFITS.—Under the Public Employee ~~Optional~~
 3419 Retirement Investment Program:

3420 (a) Benefits in the form of vested accumulations as
 3421 described in s. 121.4501(6) are payable ~~under this subsection~~ in
 3422 accordance with the following terms and conditions:

3423 1. ~~To the extent vested,~~ Benefits shall be paid ~~are~~
 3424 ~~payable~~ only to a participant.

3425 2. Benefits shall be paid by the third-party administrator
 3426 or designated approved providers in accordance with the law, the
 3427 contracts, and any applicable state board rule or policy.

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3428 3. ~~To receive benefits,~~ The participant must be terminated
 3429 from all employment with all Florida Retirement System
 3430 employers, as provided in s. 121.021(39).

3431 4. Benefit payments may not be made until the participant
 3432 has been terminated for 3 calendar months, except that the state
 3433 board may authorize by rule for the distribution of up to 10
 3434 percent of the participant's account after being terminated for
 3435 1 calendar month if the participant has reached the normal
 3436 retirement date as defined in s. 121.021 of the defined benefit
 3437 plan.

3438 5. If a member or former member of the Florida Retirement
 3439 System receives an invalid distribution ~~from the Public Employee~~
 3440 ~~Optional Retirement Program Trust Fund,~~ such person must repay
 3441 the full amount ~~invalid distribution to the trust fund~~ within 90
 3442 days after receipt of final notification by the state board or
 3443 the third-party administrator that the distribution was invalid.
 3444 If such person fails to repay the full invalid distribution
 3445 within 90 days after receipt of final notification, the person
 3446 may be deemed retired from the investment ~~optional retirement~~
 3447 program by the state board, ~~as provided pursuant to s.~~
 3448 ~~121.4501(2)(j),~~ and shall be ~~is~~ subject to s. 121.122. If such
 3449 person is deemed retired ~~by the state board,~~ any joint and
 3450 several liability set out in s. 121.091(9)(d)2. is ~~becomes~~ null
 3451 and void, and the state board, the department, or the employing
 3452 agency is not liable for gains on payroll contributions that
 3453 have not been deposited to the person's account in the
 3454 investment ~~retirement~~ program, pending resolution of the invalid
 3455 distribution. The member or former member who has been deemed

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3456 | retired or who has been determined by the state board to have
 3457 | taken an invalid distribution may appeal the agency decision
 3458 | through the complaint process as provided under s.
 3459 | 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
 3460 | distribution" means any distribution from an account in the
 3461 | investment ~~optional retirement~~ program which is taken in
 3462 | violation of this section, s. 121.091(9), or s. 121.4501.

3463 | (b) If a participant elects to receive his or her benefits
 3464 | upon termination of employment as defined in s. 121.021, the
 3465 | participant must submit a written application or an equivalent
 3466 | form to the third-party administrator indicating his or her
 3467 | preferred distribution date and selecting an authorized method
 3468 | of distribution as provided in paragraph (c). The participant
 3469 | may defer receipt of benefits until he or she chooses to make
 3470 | such application, subject to federal requirements.

3471 | (c) Upon receipt by the third-party administrator of a
 3472 | properly executed application for distribution of benefits, the
 3473 | total accumulated benefit shall be payable to the participant,
 3474 | as:

- 3475 | 1. A lump-sum distribution to the participant;
- 3476 | 2. A lump-sum direct rollover distribution whereby all
 3477 | accrued benefits, plus interest and investment earnings, are
 3478 | paid from the participant's account directly to the custodian of
 3479 | an eligible retirement plan, as defined in s. 402(c)(8)(B) of
 3480 | the Internal Revenue Code, on behalf of the participant; or
- 3481 | 3. Periodic distributions, as authorized by the state
 3482 | board.

3483 | (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided

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3484 under this subsection are payable in lieu of the benefits that
 3485 ~~which~~ would otherwise be payable under the provisions of
 3486 subsection (1). Such benefits must ~~shall~~ be funded entirely from
 3487 employer contributions ~~made under s. 121.571~~, transferred
 3488 participant funds accumulated pursuant to paragraph (a), and
 3489 interest and earnings thereon. ~~Pursuant thereto:~~

3490 (a) Transfer of funds.—To qualify for ~~to receive~~ monthly
 3491 disability benefits under this subsection:

3492 1. All moneys accumulated in the participant's ~~Public~~
 3493 ~~Employee Optional Retirement Program~~ accounts, including vested
 3494 and nonvested accumulations as described in s. 121.4501(6), must
 3495 ~~shall~~ be transferred from such individual accounts to the
 3496 division ~~of Retirement~~ for deposit in the disability account of
 3497 the Florida Retirement System Trust Fund. Such moneys must ~~shall~~
 3498 be ~~separately~~ accounted for separately. Earnings must ~~shall~~ be
 3499 credited on an annual basis for amounts held in the disability
 3500 accounts ~~of the Florida Retirement System Trust Fund~~ based on
 3501 actual earnings of the ~~Florida Retirement System~~ trust fund.

3502 2. If the participant has retained retirement credit ~~he or~~
 3503 ~~she had~~ earned under the defined benefit program ~~of the Florida~~
 3504 ~~Retirement System~~ as provided in s. 121.4501(3) ~~s.~~
 3505 ~~121.4501(3)(b)~~, a sum representing the actuarial present value
 3506 of such credit within the Florida Retirement System Trust Fund
 3507 shall be reassigned by the division ~~of Retirement~~ from the
 3508 defined benefit program to the disability program as implemented
 3509 under this subsection and shall be deposited in the disability
 3510 account of the ~~Florida Retirement System~~ trust fund. Such moneys
 3511 must ~~shall~~ be ~~separately~~ accounted for separately.

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3512 (b) Disability retirement; entitlement.—
 3513 1. A participant of the investment ~~Public Employee~~
 3514 ~~Optional Retirement~~ program who becomes totally and permanently
 3515 disabled, as defined in paragraph (d) ~~s. 121.091(4)(b)~~, after
 3516 completing 8 years of creditable service, or a participant who
 3517 becomes totally and permanently disabled in the line of duty
 3518 regardless of ~~his or her~~ length of service, is ~~shall be~~ entitled
 3519 to a monthly disability benefit ~~as provided herein~~.
 3520 2. In order for service to apply toward the 8 years of
 3521 creditable service required ~~to vest~~ for regular disability
 3522 benefits, or toward the creditable service used in calculating a
 3523 service-based benefit as provided ~~for~~ under paragraph (g), the
 3524 service must be creditable service as described below:
 3525 a. The participant's period of service under the
 3526 investment ~~Public Employee Optional Retirement~~ program shall
 3527 ~~will~~ be considered creditable service, except as provided in
 3528 subparagraph d.
 3529 b. If the participant has elected to retain credit for ~~his~~
 3530 ~~or her~~ service under the defined benefit program ~~of the Florida~~
 3531 ~~Retirement System~~ as provided under s. 121.4501(3) ~~s.~~
 3532 ~~121.4501(3)(b)~~, all such service shall ~~will~~ be considered
 3533 creditable service.
 3534 c. If the participant elects ~~has elected~~ to transfer to
 3535 his or her participant accounts a sum representing the present
 3536 value of his or her retirement credit under the defined benefit
 3537 program as provided under s. 121.4501(3) ~~s. 121.4501(3)(e)~~, the
 3538 period of service under the defined benefit program represented
 3539 in the present value amounts transferred shall ~~will~~ be

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3540 considered creditable service ~~for purposes of vesting for~~
3541 ~~disability benefits~~, except as provided in subparagraph d.

3542 d. Whenever a participant has terminated employment and
3543 has taken distribution of his or her funds as provided in
3544 subsection (1), all creditable service represented by such
3545 distributed funds is forfeited for purposes of this subsection.

3546 (c) Disability retirement effective date.—The effective
3547 retirement date for a participant who applies and is approved
3548 for disability retirement shall be established as provided under
3549 s. 121.091(4) (a)2. and 3.

3550 (d) Total and permanent disability.—A participant shall be
3551 considered totally and permanently disabled if, in the opinion
3552 of the division, he or she is prevented, by reason of a
3553 medically determinable physical or mental impairment, from
3554 rendering useful and efficient service as an officer or
3555 employee.

3556 (e) Proof of disability.—~~The division,~~ Before approving
3557 payment of any disability retirement benefit, the division shall
3558 require proof that the participant is totally and permanently
3559 ~~disabled in the same manner as provided for members of the~~
3560 ~~defined benefit program of the Florida Retirement System~~ under
3561 s. 121.091(4) (c).

3562 (f) Disability retirement benefit.—Upon the disability
3563 retirement of a participant under this subsection, the
3564 participant shall receive a monthly benefit that begins accruing
3565 ~~shall begin to accrue~~ on the first day of the month of
3566 disability retirement, as approved by the division, and is ~~shall~~
3567 ~~be~~ payable on the last day of that month and each month

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3568 thereafter during his or her lifetime and continued disability.
 3569 All disability benefits must ~~payable to such member shall~~ be
 3570 paid out of the disability account of the Florida Retirement
 3571 System Trust Fund established under this subsection.

3572 (g) Computation of disability retirement benefit.—The
 3573 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~
 3574 ~~same manner~~ as provided ~~for members of the defined benefit~~
 3575 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
 3576 ~~For such purpose,~~ Creditable service under both the defined
 3577 benefit program and the investment ~~Public Employee Optional~~
 3578 ~~Retirement program of the Florida Retirement System~~ shall be
 3579 applicable as provided under paragraph (b).

3580 (h) Reapplication.—A participant whose initial application
 3581 for disability retirement is ~~has been~~ denied may reapply for
 3582 disability benefits ~~in the same manner, and under the same~~
 3583 ~~conditions,~~ as provided ~~for members of the defined benefit~~
 3584 ~~program of the Florida Retirement System~~ under s. 121.091(4)(g).

3585 (i) Membership.—Upon approval of a participant's ~~an~~
 3586 application for disability benefits ~~under this subsection,~~ the
 3587 applicant shall be transferred to the defined benefit program ~~of~~
 3588 ~~the Florida Retirement System,~~ effective upon his or her
 3589 disability retirement effective date.

3590 (j) Option to cancel.—A ~~Any~~ participant whose application
 3591 for disability benefits is approved may cancel the ~~his or her~~
 3592 application if ~~for disability benefits,~~ provided that the
 3593 cancellation request is received by the division before a
 3594 disability retirement warrant has been deposited, cashed, or
 3595 received by direct deposit. Upon ~~such~~ cancellation:

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3596 | 1. The participant's transfer to the defined benefit
3597 | program under paragraph (i) shall be nullified;

3598 | 2. The participant shall be retroactively reinstated in
3599 | the investment ~~Public Employee Optional Retirement~~ program
3600 | without hiatus;

3601 | 3. All funds transferred to the Florida Retirement System
3602 | Trust Fund under paragraph (a) must ~~shall~~ be returned to the
3603 | participant accounts from which the ~~such~~ funds were drawn; and

3604 | 4. The participant may elect to receive the benefit
3605 | payable under ~~the provisions of~~ subsection (1) in lieu of
3606 | disability benefits ~~as provided under this subsection.~~

3607 | (k) Recovery from disability.—

3608 | 1. The division may require periodic reexaminations at the
3609 | expense of the disability program account of the Florida
3610 | Retirement System Trust Fund. Except as ~~otherwise~~ provided in
3611 | subparagraph 2., ~~the requirements, procedures, and restrictions~~
3612 | ~~relating to the conduct and review of such reexaminations,~~
3613 | ~~discontinuation or termination of benefits, reentry into~~
3614 | ~~employment, disability retirement after reentry into covered~~
3615 | ~~employment, and all other~~ matters relating to recovery from
3616 | disability shall be ~~the same~~ as provided ~~are set forth~~ under s.
3617 | 121.091(4)(h).

3618 | 2. Upon recovery from disability, the ~~any~~ recipient of
3619 | disability retirement benefits under this subsection shall be
3620 | transferred back to the investment program ~~a compulsory member~~
3621 | ~~of the Public Employee Optional Retirement Program of the~~
3622 | ~~Florida Retirement System.~~ The net difference between the
3623 | recipient's original account balance transferred to the Florida

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3624 Retirement System Trust Fund, including earnings, ~~under~~
 3625 ~~paragraph (a)~~ and total disability benefits paid to such
 3626 recipient, if any, shall be determined as provided in sub-
 3627 subparagraph a.

3628 a. An amount equal to the total benefits paid shall be
 3629 subtracted from that portion of the transferred account balance
 3630 consisting of vested accumulations as described under s.
 3631 121.4501(6), if any, and an amount equal to the remainder of
 3632 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
 3633 remaining ~~portion consisting of~~ nonvested accumulations as
 3634 described under s. 121.4501(6).

3635 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
 3636 be retained within the disability account of the Florida
 3637 Retirement System Trust Fund. Any remaining account balance
 3638 shall be transferred to the third-party administrator for
 3639 disposition as provided under sub-subparagraph c. or sub-
 3640 subparagraph d., as appropriate.

3641 c. If the recipient returns to covered employment,
 3642 transferred amounts must ~~shall~~ be deposited in individual
 3643 accounts under the investment ~~Public Employee Optional~~
 3644 ~~Retirement~~ program, as directed by the participant. Vested and
 3645 nonvested amounts shall be separately accounted for as provided
 3646 in s. 121.4501(6).

3647 d. If the recipient fails to return to covered employment
 3648 upon recovery from disability:

3649 (I) Any remaining vested amount must ~~shall~~ be deposited in
 3650 individual accounts under the investment ~~Public Employee~~
 3651 ~~Optional Retirement~~ program, as directed by the participant, and

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3652 ~~is shall be~~ payable as provided in subsection (1).

3653 (II) Any remaining nonvested amount must ~~shall~~ be held in
 3654 a suspense account and ~~is shall be~~ forfeitable after 5 years as
 3655 provided in s. 121.4501(6).

3656 3. If present value was reassigned from the defined
 3657 benefit program to the disability program ~~of the Florida~~
 3658 ~~Retirement System~~ as provided under subparagraph (a)2., the full
 3659 present value amount must ~~shall~~ be returned to the defined
 3660 benefit account within the Florida Retirement System Trust Fund
 3661 and the recipient's ~~affected individual's~~ associated retirement
 3662 credit under the defined benefit program must ~~shall~~ be
 3663 reinstated in full. Any benefit based upon such credit must
 3664 ~~shall~~ be calculated as provided in s. 121.091(4)(h)1.

3665 (1) Nonadmissible causes of disability.—A participant is
 3666 ~~shall not be~~ entitled to ~~receive~~ a disability retirement benefit
 3667 if the disability results from any injury or disease ~~sustained~~
 3668 ~~or inflicted~~ as described in s. 121.091(4)(i).

3669 (m) Disability retirement of justice or judge by order of
 3670 Supreme Court.—

3671 1. If a participant is a justice of the Supreme Court,
 3672 judge of a district court of appeal, circuit judge, or judge of
 3673 a county court who has served for 6 years or more as an elected
 3674 constitutional judicial officer, including service as a judicial
 3675 officer in any court abolished pursuant to Art. V of the State
 3676 Constitution, and who is retired for disability ~~by order of the~~
 3677 ~~Supreme Court upon recommendation of the Judicial Qualifications~~
 3678 ~~Commission~~ pursuant to s. 12, ~~the provisions of~~ Art. V of the
 3679 State Constitution, the participant's Option 1 monthly

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3680 disability benefit amount as provided in s. 121.091(6)(a)1.
 3681 shall be two-thirds of his or her monthly compensation as of the
 3682 participant's disability retirement date. The ~~Such a~~ participant
 3683 may alternatively elect to receive an actuarially adjusted
 3684 disability retirement benefit under any other option as provided
 3685 in s. 121.091(6)(a), or ~~to~~ receive the normal benefit payable
 3686 under ~~the Public Employee Optional Retirement Program as set~~
 3687 ~~forth in~~ subsection (1).

3688 2. If any justice or judge who is a participant of the
 3689 investment ~~Public Employee Optional Retirement~~ program of the
 3690 ~~Florida Retirement System~~ is retired for disability ~~by order of~~
 3691 ~~the Supreme Court upon recommendation of the Judicial~~
 3692 ~~Qualifications Commission~~ pursuant to s. 12, ~~the provisions of~~
 3693 Art. V of the State Constitution and elects to receive a monthly
 3694 disability benefit under the provisions of this paragraph:

3695 a. Any present value amount that was transferred to his or
 3696 her program account and all employer contributions made to such
 3697 account on his or her behalf, plus interest and earnings
 3698 thereon, must ~~shall~~ be transferred to and deposited in the
 3699 disability account of the Florida Retirement System Trust Fund;
 3700 and

3701 b. The monthly disability benefits payable under this
 3702 paragraph ~~for any affected justice or judge retired from the~~
 3703 ~~Florida Retirement System pursuant to Art. V of the State~~
 3704 ~~Constitution~~ shall be paid from the disability account of the
 3705 Florida Retirement System Trust Fund.

3706 (n) Death of retiree or beneficiary.—Upon the death of a
 3707 disabled retiree or beneficiary of the retiree ~~thereof~~ who is

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3708 receiving monthly disability benefits under this subsection, the
 3709 monthly benefits shall be paid through the last day of the month
 3710 of death and shall terminate, or be adjusted, if applicable, as
 3711 of that date in accordance with the optional form of benefit
 3712 selected at the time of retirement. The department ~~of Management~~
 3713 ~~Services~~ may adopt rules necessary to administer this paragraph.

3714 (3) DEATH BENEFITS.—Under the Public Employee ~~Optional~~
 3715 Retirement Investment Program:

3716 (a) Survivor benefits are ~~shall be~~ payable in accordance
 3717 with the following terms and conditions:

3718 1. To the extent vested, benefits are ~~shall be~~ payable
 3719 only to a participant's beneficiary or beneficiaries as
 3720 designated by the participant as provided in s. 121.4501(20).

3721 2. Benefits must ~~shall~~ be paid by the third-party
 3722 administrator or designated approved providers in accordance
 3723 with the law, the contracts, and any applicable state board rule
 3724 or policy.

3725 3. To receive benefits under this subsection, the
 3726 participant must be deceased.

3727 (b) In the event of a participant's death, all vested
 3728 accumulations as described in s. 121.4501(6), less withholding
 3729 taxes remitted to the Internal Revenue Service, shall be
 3730 distributed, as provided in paragraph (c) or as described in s.
 3731 121.4501(20), as if the participant retired on the date of
 3732 death. No other death benefits are ~~shall be~~ available for
 3733 survivors of participants ~~under the Public Employee Optional~~
 3734 ~~Retirement Program~~, except for ~~such~~ benefits, or coverage for
 3735 ~~such~~ benefits, as are otherwise provided by law or ~~are~~

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3736 separately provided ~~afforded~~ by the employer, at the employer's
 3737 discretion.

3738 (c) Upon receipt by the third-party administrator of a
 3739 properly executed application for distribution of benefits, the
 3740 total accumulated benefit is ~~shall be~~ payable by the third-party
 3741 administrator to the participant's surviving beneficiary or
 3742 beneficiaries, as:

3743 1. A lump-sum distribution payable to the beneficiary or
 3744 beneficiaries, or to the deceased participant's estate;

3745 2. An eligible rollover distribution on behalf of the
 3746 surviving spouse of a deceased participant, whereby all accrued
 3747 benefits, plus interest and investment earnings, are paid from
 3748 the deceased participant's account directly to the custodian of
 3749 an eligible retirement plan, as described in s. 402(c)(8)(B) of
 3750 the Internal Revenue Code, on behalf of the surviving spouse; or

3751 3. A partial lump-sum payment whereby a portion of the
 3752 accrued benefit is paid to the deceased participant's surviving
 3753 spouse or other designated beneficiaries, less withholding taxes
 3754 remitted to the Internal Revenue Service, and the remaining
 3755 amount is transferred directly to the custodian of an eligible
 3756 retirement plan, as described in s. 402(c)(8)(B) of the Internal
 3757 Revenue Code, on behalf of the surviving spouse. The proportions
 3758 must be specified by the participant or the surviving
 3759 beneficiary.

3760
 3761 This paragraph does not abrogate other applicable provisions of
 3762 state or federal law providing for payment of death benefits.

3763 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to

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3764 any person under the Public Employee ~~Optional~~ Retirement
 3765 Investment Program, and any contributions accumulated under such
 3766 program, are not subject to assignment, execution, attachment,
 3767 or any legal process, except for qualified domestic relations
 3768 orders by a court of competent jurisdiction, income deduction
 3769 orders as provided in s. 61.1301, and federal income tax levies.

3770 Section 15. Section 121.5911, Florida Statutes, is amended
 3771 to read:

3772 121.5911 Disability retirement program; qualified status;
 3773 rulemaking authority.—It is the intent of the Legislature that
 3774 the disability retirement program for participants of the Public
 3775 Employee ~~Optional~~ Retirement Investment Program ~~as created in~~
 3776 ~~this act must~~ meet all applicable requirements of federal law
 3777 for a qualified plan. The department ~~of Management Services~~
 3778 shall seek a private letter ruling from the Internal Revenue
 3779 Service on the disability retirement program ~~for participants of~~
 3780 ~~the Public Employee Optional Retirement Program~~. Consistent with
 3781 the private letter ruling, the department ~~of Management Services~~
 3782 shall adopt ~~any necessary~~ rules necessary ~~required~~ to maintain
 3783 the qualified status of the disability retirement program and
 3784 the Florida Retirement System defined benefit plan.

3785 Section 16. Section 121.70, Florida Statutes, is amended
 3786 to read:

3787 121.70 Legislative purpose and intent.—

3788 (1) This part provides for a uniform system for funding
 3789 benefits provided under the Florida Retirement System defined
 3790 benefit program established under part I of this chapter
 3791 (referred to in this part as the defined benefit program) and

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3792 under the Public Employee ~~Optional~~ Retirement Investment Program
 3793 established under part II of this chapter (referred to in this
 3794 part as the defined contribution ~~optional retirement~~ program).
 3795 The Legislature recognizes and declares that the Florida
 3796 Retirement System is a single retirement system, consisting of
 3797 two retirement plans and other nonintegrated programs. Employers
 3798 participating in the Florida Retirement System collectively
 3799 shall be responsible for making contributions to support the
 3800 benefits provided ~~afforded~~ under both programs ~~plans~~. The ~~As~~
 3801 ~~provided in this part,~~ employers ~~participating in the Florida~~
 3802 ~~Retirement System~~ shall make contributions based upon uniform
 3803 contribution rates determined as a percentage of the total
 3804 payroll for each class or subclass of Florida Retirement System
 3805 membership, irrespective of which retirement program the ~~plan~~
 3806 individual employee is enrolled in ~~employees may elect~~. This
 3807 shall be known as a uniform or blended contribution rate system.

3808 (2) In establishing a uniform contribution rate system, it
 3809 is the intent of the Legislature to:

3810 (a) Provide greater stability and certainty in financial
 3811 planning and budgeting for Florida Retirement System employers
 3812 by eliminating the fiscal instability that would be caused by
 3813 dual rates ~~coupled with employee-selected plan participation;~~
 3814 and

3815 (b) Provide greater fiscal equity and uniformity for
 3816 system employers by effectively distributing the financial
 3817 burden and benefit of short-term system deficits and surpluses,
 3818 respectively, in proportion to total system payroll. ~~;~~ and

3819 ~~(c) Allow employees to make their retirement plan~~

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3820 ~~selection decisions free of circumstances that may cause~~
 3821 ~~employers to favor one plan choice over another.~~

3822 Section 17. Subsection (1) of section 121.71, Florida
 3823 Statutes, is amended to read:

3824 121.71 Uniform rates; process; calculations; levy.—

3825 (1) In conducting the system actuarial study required
 3826 under s. 121.031, the actuary shall follow all requirements
 3827 specified ~~thereunder~~ to determine, by Florida Retirement System
 3828 employee membership class, the dollar contribution amounts
 3829 necessary for the next ~~forthcoming~~ fiscal year for the defined
 3830 benefit program. In addition, the actuary shall determine, by
 3831 Florida Retirement System membership class, based on an estimate
 3832 for the forthcoming fiscal year of the gross compensation of
 3833 employees participating in the defined contribution ~~optional~~
 3834 ~~retirement~~ program, the dollar contribution amounts necessary to
 3835 make the allocations required under ss. 121.72 and 121.73. For
 3836 each employee membership class and subclass, the actuarial study
 3837 must ~~shall~~ establish a uniform rate necessary to fund the
 3838 benefit obligations under both Florida Retirement System
 3839 retirement plans by dividing the sum of total dollars required
 3840 by the estimated gross compensation of members in both plans.

3841 Section 18. Section 121.72, Florida Statutes, is amended
 3842 to read:

3843 121.72 Allocations to defined contribution ~~optional~~
 3844 ~~retirement~~ program participant accounts; percentage amounts.—

3845 (1) The allocations established in subsection (4) shall
 3846 fund retirement benefits under the defined contribution ~~optional~~
 3847 ~~retirement~~ program and shall be transferred monthly by the

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3848 Division of Retirement from the Florida Retirement System
 3849 Contributions Clearing Trust Fund to the third-party
 3850 administrator for deposit in each participating employee's
 3851 individual account based on the membership class of the
 3852 participant.

3853 (2) The allocations are stated as a percentage of each
 3854 defined contribution ~~optional retirement~~ program participant's
 3855 gross compensation for the calendar month. A change in a
 3856 contribution percentage is effective the first day of the month
 3857 for which a full month's employer contribution may be made on or
 3858 after the beginning date of the change. Contribution percentages
 3859 may be modified by general law.

3860 (3) Employer and participant contributions to participant
 3861 accounts shall be accounted for separately. Participant
 3862 contributions may be made only if expressly authorized by law.
 3863 Interest and investment earnings on contributions shall accrue
 3864 on a tax-deferred basis until proceeds are distributed.

3865 (4) Effective July 1, 2002, allocations from the Florida
 3866 Retirement System Contributions Clearing Trust Fund to defined
 3867 contribution ~~optional retirement~~ program participant accounts
 3868 shall be as follows:

3869

Membership Class	Percentage of Gross Compensation
------------------	-------------------------------------

3870

Regular Class	9.00%
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3872	Special Risk Class	20.00%
3873	Special Risk Administrative Support Class	11.35%
3874	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
3875	Elected Officers' Class— Justices, Judges	18.90%
3876	Elected Officers' Class— County Elected Officers	16.20%
3877	Senior Management Service Class	10.95%
3878	Section 19. Section 121.73, Florida Statutes, is amended	
3879	to read:	
3880	121.73 Allocations for <u>defined contribution</u> optional	
3881	retirement program participant disability coverage; percentage	
3882	amounts.—	
3883	(1) The allocations established in subsection (3) shall be	
3884	used to provide disability coverage for participants in the	
3885	<u>defined contribution</u> optional retirement program and shall be	
3886	transferred monthly by the Division of Retirement from the	

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3887 Florida Retirement System Contributions Clearing Trust Fund to
 3888 the disability account of the Florida Retirement System Trust
 3889 Fund.

3890 (2) The allocations are stated as a percentage of each
 3891 defined contribution ~~optional retirement~~ program participant's
 3892 gross compensation for the calendar month. A change in a
 3893 contribution percentage is effective the first day of the month
 3894 for which a full month's employer contribution may be made on or
 3895 after the beginning date of the change. Contribution percentages
 3896 may be modified by general law.

3897 (3) Effective July 1, 2002, allocations from the Florida
 3898 Retirement System ~~FRS~~ Contribution Clearing Fund to provide
 3899 disability coverage for participants in the defined contribution
 3900 ~~optional retirement~~ program, and to offset the costs of
 3901 administering said coverage, shall be as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	0.25%
Special Risk Class	1.33%
Special Risk Administrative Support Class	0.45%
Elected Officers' Class-	0.41%

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Legislators, Governor,
 Lt. Governor, Cabinet Officers,
 State Attorneys, Public Defenders

3907

Elected Officers' Class— 0.73%
 Justices, Judges

3908

Elected Officers' Class— 0.41%
 County Elected Officers

3909

Senior Management Service Class 0.26%

3910

3911 Section 20. Section 121.74, Florida Statutes, is amended
 3912 to read:

3913 121.74 Administrative and educational expenses.—In
 3914 addition to contributions required under s. 121.71, employers
 3915 participating in the Florida Retirement System shall contribute
 3916 an amount equal to 0.05 percent of the payroll reported for each
 3917 class or subclass of Florida Retirement System membership, which
 3918 amount shall be transferred by the Division of Retirement from
 3919 the Florida Retirement System Contributions Clearing Trust Fund
 3920 to the state board's ~~State Board of Administration's~~
 3921 Administrative Trust Fund to offset the costs of administering
 3922 the defined contribution ~~optional retirement~~ program and the
 3923 costs of providing educational services to participants in the
 3924 defined benefit program and the defined contribution ~~optional~~
 3925 ~~retirement~~ program. Approval of the Trustees of the State Board
 3926 of Administration is required prior to the expenditure of these

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3927 funds. Payments for third-party administrative or educational
 3928 expenses shall be made only pursuant to the terms of the
 3929 approved contracts for such services.

3930 Section 21. Section 121.77, Florida Statutes, is amended
 3931 to read:

3932 121.77 Deductions from participant accounts.—The state
 3933 board ~~of Administration~~ may authorize the third-party
 3934 administrator to deduct reasonable fees and apply appropriate
 3935 charges to defined contribution ~~optional retirement~~ program
 3936 participant accounts. In no event may ~~shall~~ administrative and
 3937 educational expenses exceed the portion of employer
 3938 contributions earmarked for such expenses under this part,
 3939 except for reasonable administrative charges assessed against
 3940 participant accounts of persons for whom no employer
 3941 contributions are made during the calendar quarter. Investment
 3942 management fees shall be deducted from participant accounts,
 3943 pursuant to the terms of the contract between the provider and
 3944 the state board.

3945 Section 22. Subsection (3) of section 121.78, Florida
 3946 Statutes, is amended to read:

3947 121.78 Payment and distribution of contributions.—

3948 (3) (a) Employer contributions and accompanying payroll
 3949 data received after the 5th working day of the month shall be
 3950 considered late. The employer shall be assessed by the Division
 3951 of Retirement a penalty of 1 percent of the contributions due
 3952 for each calendar month or part thereof that the contributions
 3953 or accompanying payroll data are late. Proceeds from the 1-
 3954 percent assessment against contributions made on behalf of

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3955 participants of the defined benefit program must ~~shall~~ be
 3956 deposited in the Florida Retirement System Trust Fund, and
 3957 proceeds from the 1-percent assessment against contributions
 3958 made on behalf of participants of the defined contribution
 3959 ~~optional retirement~~ program shall be transferred to the third-
 3960 party administrator for deposit into participant accounts, as
 3961 provided in paragraph (b).

3962 (b) If contributions made by an employer on behalf of
 3963 participants of the defined contribution ~~optional retirement~~
 3964 program or accompanying payroll data are not received within the
 3965 calendar month they are due, including, but not limited to,
 3966 contribution adjustments as a result of employer errors or
 3967 corrections, and if that delinquency results in market losses to
 3968 participants, the employer shall reimburse each participant's
 3969 account for market losses resulting from the late contributions.
 3970 If a participant has terminated employment and taken a
 3971 distribution, the participant is responsible for returning any
 3972 excess contributions erroneously provided by employers, adjusted
 3973 for any investment gain or loss incurred during the period such
 3974 excess contributions were in the participant's ~~Public Employee~~
 3975 ~~Optional Retirement Program~~ account. The state board of
 3976 ~~Administration~~ or its designated agent shall communicate to
 3977 terminated participants any obligation to repay such excess
 3978 contribution amounts. However, the state board of
 3979 ~~Administration~~, its designated agents, the Public Employee
 3980 ~~Optional Retirement~~ Investment Program Trust Fund, the
 3981 Department of Management Services, or the Florida Retirement
 3982 System Trust Fund may ~~shall~~ not incur any loss or gain as a

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3983 result of an employer's correction of such excess contributions.
 3984 The third-party administrator, hired by the state board pursuant
 3985 to s. 121.4501(8), shall calculate the market losses for each
 3986 affected participant. If ~~When~~ contributions made on behalf of
 3987 participants of the defined contribution ~~optional retirement~~
 3988 program or accompanying payroll data are not received within the
 3989 calendar month due, the employer shall also pay the cost of the
 3990 third-party administrator's calculation and reconciliation
 3991 adjustments resulting from the late contributions. The third-
 3992 party administrator shall notify the employer of the results of
 3993 the calculations and the total amount due from the employer for
 3994 such losses and the costs of calculation and reconciliation. The
 3995 employer shall remit to the division the amount due within 10
 3996 working days after the date of the penalty notice sent by the
 3997 division. The Division of Retirement shall transfer said amount
 3998 to the third-party administrator, which ~~who~~ shall deposit
 3999 proceeds from the 1-percent assessment and from individual
 4000 market losses into participant accounts, as appropriate. The
 4001 state board is authorized to adopt rules to implement the
 4002 provisions regarding late contributions, late submission of
 4003 payroll data, the process for reimbursing participant accounts
 4004 for resultant market losses, and the penalties charged to the
 4005 employers.

4006 (c) Delinquency fees may be waived by the Division of
 4007 Retirement, with regard to defined benefit program
 4008 contributions, and by the state board ~~of Administration~~, with
 4009 regard to defined contribution ~~optional retirement~~ program
 4010 contributions, only if ~~when~~, in the opinion of the division or

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4011 the state board, as appropriate, exceptional circumstances
4012 beyond the employer's control prevented remittance by the
4013 prescribed due date, notwithstanding the employer's good faith
4014 efforts to effect delivery. Such a waiver of delinquency may be
4015 granted an employer only one time each state fiscal year.

4016 Section 23. The Division of Statutory Revision is directed
4017 to redesignate the title of part II of chapter 121, Florida
4018 Statutes, as "Public Employee Retirement Investment Program."

4019 Section 24. This act shall take effect July 1, 2010.