



577306

LEGISLATIVE ACTION

Senate . House

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Floor: 1/AD/2R .

04/06/2010 09:45 AM .

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Senator Alexander moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

121.011 Florida Retirement System.—

(3) PRESERVATION OF RIGHTS.—

(d) ~~The rights of members of the retirement system
established by this chapter shall not be impaired by virtue of
the conversion of the Florida Retirement System to an employee
noncontributory system.~~ As of July 1, 1974, the rights of



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14 members of the retirement system established by this chapter are
15 declared to be of a contractual nature, entered into between the
16 member and the state, and such rights shall be legally
17 enforceable as valid contract rights and shall not be abridged
18 in any way.

19 (h) Effective January 1, 2011, this system shall require
20 employee and employer contributions as provided in s. 121.071
21 and part III of this chapter. As of January 1, 2011, the rights
22 of members of the retirement system established by this chapter
23 are declared to be of a contractual nature, entered into between
24 the member and the state, and such rights shall be legally
25 enforceable as valid contract rights and shall not be abridged
26 in any way.

27 Section 2. Paragraph (a) of subsection (19) and subsections
28 (39), (55), and (59) of section 121.021, Florida Statutes, are
29 amended to read:

30 121.021 Definitions.—The following words and phrases as
31 used in this chapter have the respective meanings set forth
32 unless a different meaning is plainly required by the context:

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

34 (a) Service for which the member had credit under one of
35 the existing systems and received a refund of his or her
36 contributions upon termination of employment. Prior service
37 shall also include that service ~~between December 1, 1970, and~~
38 ~~the date the system becomes noncontributory~~ for which the member
39 had credit under the Florida Retirement System and received a
40 refund of his or her contributions upon termination of
41 employment.

42 (39) (a) "Termination" occurs, except as provided in



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43 paragraph (b), when a member ceases all employment relationships
44 with an employer, however:

45 1. For retirements effective before July 1, 2010, if a
46 member is employed by any such employer within the next calendar
47 month, termination shall be deemed not to have occurred. A leave
48 of absence constitutes a continuation of the employment
49 relationship, except that a leave of absence without pay due to
50 disability may constitute termination if such member makes
51 application for and is approved for disability retirement in
52 accordance with s. 121.091(4). The department or state board may
53 require other evidence of termination as it deems necessary.

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

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

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



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72 2. For termination dates occurring on or after July 1,
73 2010, if the participant becomes employed by any such employer
74 within the next 6 calendar months, termination will be deemed
75 not to have occurred, except as provided in s.
76 121.091(13)(b)4.c. A leave of absence constitutes a continuation
77 of the employment relationship.

78 (c) Effective January 1, 2011, "termination" for a member
79 receiving a refund of employee contributions occurs when a
80 member ceases all employment relationships with an employer for
81 3 calendar months.

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

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

88 Section 3. Paragraphs (b) and (d) of subsection (2) and
89 subsection (3) of section 121.051, Florida Statutes, are amended
90 to read:

91 121.051 Participation in the system.—

92 (2) OPTIONAL PARTICIPATION.—

93 (b)1. The governing body of any municipality, metropolitan
94 planning organization, or special district in the state may
95 elect to participate in the system upon proper application to
96 the administrator and may cover all or any of its units as
97 approved by the Secretary of Health and Human Services and the
98 administrator. The department shall adopt rules establishing
99 provisions for the submission of documents necessary for such
100 application. Prior to being approved for participation in the



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101 Florida Retirement System, the governing body of any such
102 municipality, metropolitan planning organization, or special
103 district that has a local retirement system shall submit to the
104 administrator a certified financial statement showing the
105 condition of the local retirement system as of a date within 3
106 months prior to the proposed effective date of membership in the
107 Florida Retirement System. The statement must be certified by a
108 recognized accounting firm that is independent of the local
109 retirement system. All required documents necessary for
110 extending Florida Retirement System coverage must be received by
111 the department for consideration at least 15 days prior to the
112 proposed effective date of coverage. If the municipality,
113 metropolitan planning organization, or special district does not
114 comply with this requirement, the department may require that
115 the effective date of coverage be changed.

116 2. Any city, metropolitan planning organization, or special
117 district that has an existing retirement system covering the
118 employees in the units that are to be brought under the Florida
119 Retirement System may participate only after holding a
120 referendum in which all employees in the affected units have the
121 right to participate. Only those employees electing coverage
122 under the Florida Retirement System by affirmative vote in said
123 referendum shall be eligible for coverage under this chapter,
124 and those not participating or electing not to be covered by the
125 Florida Retirement System shall remain in their present systems
126 and shall not be eligible for coverage under this chapter. After
127 the referendum is held, all future employees shall be compulsory
128 members of the Florida Retirement System.

129 3. At the time of joining the Florida Retirement System,



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130 the governing body of any city, metropolitan planning
131 organization, or special district complying with subparagraph 1.
132 may elect to provide, or not provide, benefits based on past
133 service of officers and employees as described in s. 121.081(1).
134 However, if such employer elects to provide past service
135 benefits, such benefits must be provided for all officers and
136 employees of its covered group.

137 4. Once this election is made and approved it may not be
138 revoked, except pursuant to subparagraphs 5. and 6., and all
139 present officers and employees electing coverage under this
140 chapter and all future officers and employees shall be
141 compulsory members of the Florida Retirement System.

142 5. Subject to the conditions set forth in subparagraph 6.,
143 the governing body of any hospital licensed under chapter 395
144 which is governed by the board of a special district as defined
145 in s. 189.403(1) or by the board of trustees of a public health
146 trust created under s. 154.07, hereinafter referred to as
147 "hospital district," and which participates in the system, may
148 elect to cease participation in the system with regard to future
149 employees in accordance with the following procedure:

150 a. No more than 30 days and at least 7 days before adopting
151 a resolution to partially withdraw from the Florida Retirement
152 System and establish an alternative retirement plan for future
153 employees, a public hearing must be held on the proposed
154 withdrawal and proposed alternative plan.

155 b. From 7 to 15 days before such hearing, notice of intent
156 to withdraw, specifying the time and place of the hearing, must
157 be provided in writing to employees of the hospital district
158 proposing partial withdrawal and must be published in a



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159 newspaper of general circulation in the area affected, as
160 provided by ss. 50.011-50.031. Proof of publication of such
161 notice shall be submitted to the Department of Management
162 Services.

163 c. The governing body of any hospital district seeking to
164 partially withdraw from the system must, before such hearing,
165 have an actuarial report prepared and certified by an enrolled
166 actuary, as defined in s. 112.625(3), illustrating the cost to
167 the hospital district of providing, through the retirement plan
168 that the hospital district is to adopt, benefits for new
169 employees comparable to those provided under the Florida
170 Retirement System.

171 d. Upon meeting all applicable requirements of this
172 subparagraph, and subject to the conditions set forth in
173 subparagraph 6., partial withdrawal from the system and adoption
174 of the alternative retirement plan may be accomplished by
175 resolution duly adopted by the hospital district board. The
176 hospital district board must provide written notice of such
177 withdrawal to the division by mailing a copy of the resolution
178 to the division, postmarked no later than December 15, 1995. The
179 withdrawal shall take effect January 1, 1996.

180 6. Following the adoption of a resolution under sub-
181 subparagraph 5.d., all employees of the withdrawing hospital
182 district who were participants in the Florida Retirement System
183 prior to January 1, 1996, shall remain as participants in the
184 system for as long as they are employees of the hospital
185 district, and all rights, duties, and obligations between the
186 hospital district, the system, and the employees shall remain in
187 full force and effect. Any employee who is hired or appointed on



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188 or after January 1, 1996, may not participate in the Florida
189 Retirement System, and the withdrawing hospital district shall
190 have no obligation to the system with respect to such employees.

191 (d) The governing body of a charter school or a charter
192 technical career center may elect to participate in the system
193 upon proper application to the administrator and shall cover its
194 units as approved by the Secretary of Health and Human Services
195 and the administrator. At the time of joining the Florida
196 Retirement System, the governing body of the charter school may
197 elect to provide, or not provide, benefits based on past service
198 of officers and employees as described in s. 121.081(1). Once
199 this election is made and approved, it may not be revoked, and
200 all present officers and employees selecting coverage under this
201 chapter and all future officers and employees shall be
202 compulsory members of the Florida Retirement System.

203 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
204 shall be provided for all officers and employees who become
205 members under the provisions of subsection (1) or subsection
206 (2). Any modification of the present agreement with the Social
207 Security Administration, or referendum required under the Social
208 Security Act, for the purpose of providing social security
209 coverage for any member shall be requested by the state agency
210 in compliance with the applicable provisions of the Social
211 Security Act governing such coverage. However, retroactive
212 social security coverage for service prior to December 1, 1970,
213 with the employer shall not be provided for any member who was
214 not covered under the agreement as of November 30, 1970. The
215 employer-paid employee contributions specified in s. 121.71(2)
216 are subject to taxes imposed under the Federal Insurance



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217 Contributions Act, 26 U.S.C. ss. 3101-3128.

218 Section 4. Paragraph (b) of subsection (5) of section
219 121.0515, Florida Statutes, is amended to read:

220 121.0515 Special risk membership.—

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

227 (b) Contributions for upgrading the additional special risk
228 credit pursuant to this subsection shall be equal to the
229 difference in the employer and, if applicable, employee
230 contributions paid and the special risk percentage rate of gross
231 salary in effect at the time of purchase for the period being
232 claimed, plus interest thereon at the rate of 4 percent a year
233 compounded annually from the date of such service until July 1,
234 1975, and 6.5 percent a year thereafter until the date of
235 payment. This past service may be purchased by the member or by
236 the employer on behalf of the member.

237 Section 5. Paragraphs (a) and (d) of subsection (4) and
238 paragraph (b) of subsection (7) of section 121.052, Florida
239 Statutes, are amended, present paragraph (c) of subsection (7)
240 of that section is redesignated as paragraph (d), and a new
241 paragraph (c) is added to that subsection, to read:

242 121.052 Membership class of elected officers.—

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

245 (a) Any duly elected officer whose term of office was



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246 shortened by legislative or judicial apportionment pursuant to
247 the provisions of s. 16, Art. III of the State Constitution may,
248 after the term of office to which he or she was elected is
249 completed, pay into the System Trust Fund the amount of
250 contributions that would have been made by the officer or the
251 officer's employer on his or her behalf, plus 4 percent interest
252 compounded annually from the date he or she left office until
253 July 1, 1975, and 6.5 percent interest compounded annually
254 thereafter, and may receive service credit for the length of
255 time the officer would have served if such term had not been
256 shortened by apportionment.

257 (d)1. Any justice or judge, or any retired justice or judge
258 who retired before July 1, 1993, who has attained the age of 70
259 years and who is prevented under s. 8, Art. V of the State
260 Constitution from completing his or her term of office because
261 of age may elect to purchase credit for all or a portion of the
262 months he or she would have served during the remainder of the
263 term of office, but he or she may claim those months only after
264 the date the service would have occurred. The justice or judge
265 must pay into the System Trust Fund the amount of contributions
266 that would have been made by the employer on his or her behalf
267 for the period of time being claimed, plus 6.5 percent interest
268 thereon compounded each June 30 from the date he or she left
269 office, in order to receive service credit in this class for the
270 period of time being claimed. After the date the service would
271 have occurred, and upon payment of the required contributions,
272 the retirement benefit of a retired justice or judge will be
273 adjusted prospectively to include this additional creditable
274 service; however, such adjustment may be made only once.



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275 2. Any justice or judge who does not seek election to a
276 subsequent term of office because he or she would be prevented
277 under s. 8, Art. V of the State Constitution from completing
278 such term of office upon attaining the age of 70 years may elect
279 to purchase service credit for service as a temporary judge as
280 assigned by the court if the temporary assignment follows
281 immediately the last full term of office served and the purchase
282 is limited to the number of months of service needed to vest
283 retirement benefits. To receive retirement credit for such
284 temporary service beyond termination, the justice or judge must
285 pay into the System Trust Fund the amount of contributions that
286 would have been made by the justice or judge and the employer on
287 his or her behalf had he or she continued in office for the
288 period of time being claimed, plus 6.5 percent interest thereon
289 compounded each June 30 from the date he or she left office.

290 (7) CONTRIBUTIONS.—

291 (b) The employer paying the salary of a member of the
292 Elected Officers' Class shall contribute an amount as specified
293 in this subsection or s. 121.71, as appropriate, which shall
294 constitute the ~~entire~~ employer retirement contribution with
295 respect to such member. The employer shall also withhold one-
296 half of the entire contribution of the member required for
297 social security coverage. Effective January 1, 2011, each member
298 of the Elected Officers' Class shall pay retirement
299 contributions as specified in s. 121.71.

300 (c) If a member of the Elected Officer' Class ceases to
301 fill an office covered by this class for 3 calendar months for
302 any reason other than retirement, the member shall be entitled
303 to a full refund of the contributions he or she has made prior



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304 or subsequent to participation in the noncontributory plan,
305 subject to the restrictions otherwise provided in this chapter.
306 The refund shall not include any interest earnings on the
307 contributions for a participant of the defined benefit program.
308 Employer contributions made on behalf of the member are not
309 refundable. By obtaining a refund of contributions, a member
310 waives all rights under the Florida Retirement System, including
311 the health insurance subsidy, to the service credit represented
312 by the refunded contributions, except the right to purchase his
313 or her prior service credit in accordance with s. 121.081(2).

314 Section 6. Paragraph (a) of subsection (7) of section
315 121.053, Florida Statutes, is amended to read:

316 121.053 Participation in the Elected Officers' Class for
317 retired members.—

318 (7) A member who is elected or appointed to an elective
319 office and who is participating in the Deferred Retirement
320 Option Program is not subject to termination as defined in s.
321 121.021, or reemployment limitations as provided in s.
322 121.091(9), until the end of his or her current term of office
323 or, if the officer is consecutively elected or reelected to an
324 elective office eligible for coverage under the Florida
325 Retirement System, until he or she no longer holds an elective
326 office, as follows:

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

328 1. The officer's DROP account may not accrue additional
329 monthly benefits, but does continue to earn interest as provided
330 in s. 121.091(13). However, an officer whose DROP participation
331 begins on or after July 1, 2010, may not continue to earn such
332 interest.



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333 2. Retirement contributions are not required of the officer
334 or the employer of the elected officer and additional retirement
335 credit may not be earned under the Florida Retirement System.

336 Section 7. Paragraph (j) of subsection (1), paragraph (b)
337 of subsection (3), and paragraphs (d) and (e) of subsection (6)
338 of section 121.055, Florida Statutes, are amended, present
339 paragraph (c) of subsection (3) of that section is redesignated
340 as paragraph (d), and a new paragraph (c) is added to that
341 subsection, to read:

342 121.055 Senior Management Service Class.—There is hereby
343 established a separate class of membership within the Florida
344 Retirement System to be known as the "Senior Management Service
345 Class," which shall become effective February 1, 1987.

346 (1)

347 (j) Except as may otherwise be provided, any member of the
348 Senior Management Service Class may purchase additional
349 retirement credit in such class for creditable service within
350 the purview of the Senior Management Service Class retroactive
351 to February 1, 1987, and may upgrade retirement credit for such
352 service, to the extent of 2 percent of the member's average
353 monthly compensation as specified in paragraph (4) (d) for such
354 service. Contributions for upgrading the additional Senior
355 Management Service credit pursuant to this paragraph shall be
356 equal to the difference in the employer and, if applicable,
357 employee contributions paid and the Senior Management Service
358 Class contribution rate as a percentage of gross salary in
359 effect for the period being claimed, plus interest thereon at
360 the rate of 6.5 percent a year, compounded annually until the
361 date of payment. This service credit may be purchased by the



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362 employer on behalf of the member.

363 (3)

364 (b) The employer paying the salary of a member of the
365 Senior Management Service Class shall contribute an amount as
366 specified in this section or s. 121.71, as appropriate, which
367 shall constitute the entire employer retirement contribution
368 with respect to such member. The employer shall also withhold
369 one-half of the entire contribution of the member required for
370 social security coverage. Effective January 1, 2011, each
371 employee shall pay retirement contributions as specified in s.
372 121.71.

373 (c) Upon termination of employment for 3 calendar months
374 for any reason other than retirement, a member shall be entitled
375 to a full refund of the contributions he or she has made prior
376 or subsequent to participation in the noncontributory plan,
377 subject to the restrictions otherwise provided in this chapter.
378 The refund shall not include any interest earnings on the
379 contributions for a participant of the defined benefit program.
380 Employer contributions made on behalf of the member are not
381 refundable. By obtaining a refund of contributions, a member
382 waives all rights under the Florida Retirement System, including
383 the health insurance subsidy, to the service credit represented
384 by the refunded contributions, except the right to purchase his
385 or her prior service credit in accordance with s. 121.081(2).

386 (6)

387 (d) *Contributions.*—

388 1.a. Through June 30, 2001, each employer shall contribute
389 on behalf of each participant in the Senior Management Service
390 Optional Annuity Program an amount equal to the normal cost



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391 portion of the employer retirement contribution which would be
392 required if the participant were a Senior Management Service
393 Class member of the Florida Retirement System defined benefit
394 program, plus the portion of the contribution rate required in
395 s. 112.363(8) that would otherwise be assigned to the Retiree
396 Health Insurance Subsidy Trust Fund. For the period Effective
397 July 1, 2001, through December 31, 2010, each employer shall
398 contribute on behalf of each participant in the optional program
399 an amount equal to 12.49 percent of the participant's gross
400 monthly compensation.

401 b. Effective January 1, 2011, each member participating in
402 the Senior Management Service Optional Annuity Program shall
403 contribute an amount equal to the employee contribution required
404 in s. 121.71(3). Effective January 1, 2011, each employer shall
405 contribute on behalf of each participant in the optional program
406 an amount equal to the difference between 12.49 percent of the
407 participant's gross monthly compensation and the amount equal to
408 the employee's required contribution based on the employee's
409 gross monthly compensation.

410
411 The department shall deduct an amount approved by the
412 Legislature to provide for the administration of this program.
413 The payment of the contributions to the optional program which
414 is required by this subparagraph for each participant shall be
415 made by the employer to the department, which shall forward the
416 contributions to the designated company or companies contracting
417 for payment of benefits for the participant under the program.

418 2. Each employer shall contribute on behalf of each
419 participant in the Senior Management Service Optional Annuity



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420 Program an amount equal to the unfunded actuarial accrued
421 liability portion of the employer contribution which would be
422 required for members of the Senior Management Service Class in
423 the Florida Retirement System. This contribution shall be paid
424 to the department for transfer to the Florida Retirement System
425 Trust Fund.

426 3. An Optional Annuity Program Trust Fund shall be
427 established in the State Treasury and administered by the
428 department to make payments to provider companies on behalf of
429 the optional annuity program participants, and to transfer the
430 unfunded liability portion of the state optional annuity program
431 contributions to the Florida Retirement System Trust Fund.

432 4. Contributions required for social security by each
433 employer and each participant, in the amount required for social
434 security coverage as now or hereafter may be provided by the
435 federal Social Security Act shall be maintained for each
436 participant in the Senior Management Service retirement program
437 and shall be in addition to the retirement contributions
438 specified in this paragraph.

439 5. Each participant in the Senior Management Service
440 Optional Annuity Program may contribute by way of salary
441 reduction or deduction a percentage amount of the participant's
442 gross compensation not to exceed the percentage amount
443 contributed by the employer to the optional annuity program.
444 Payment of the participant's contributions shall be made by the
445 employer to the department, which shall forward the
446 contributions to the designated company or companies contracting
447 for payment of benefits for the participant under the program.

448 (e) *Benefits.*—



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449 1. Benefits under the Senior Management Service Optional
450 Annuity Program are payable only to participants in the program,
451 or their beneficiaries as designated by the participant in the
452 contract with the provider company, and must be paid by the
453 designated company in accordance with the terms of the annuity
454 contract applicable to the participant. A participant must be
455 terminated from all employment relationships with Florida
456 Retirement System employers as provided in s. 121.021(39) to
457 begin receiving the employer-funded benefit. Benefits funded by
458 employer contributions are payable under the terms of the
459 contract to the participant, his or her beneficiary, or his or
460 her estate, in addition to:

461 a. A lump-sum payment to the beneficiary upon the death of
462 the participant;

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

469 c. A mandatory distribution of a de minimis account of a
470 former participant who has been terminated for a minimum of 6
471 calendar months from the employment that entitled him or her to
472 optional annuity program participation as authorized by the
473 department; or

474 d. A lump-sum direct rollover distribution whereby all
475 accrued benefits, plus interest and investment earnings, are
476 paid from the participant's account directly to the custodian of
477 an eligible retirement plan, as defined in s. 402(c)(8)(B) of



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478 the Internal Revenue Code, on behalf of the participant.

479 2. Benefits are not payable under the Senior Management
480 Service Optional Annuity Program prior to termination of
481 employment for employee hardships, unforeseeable emergencies,
482 loans, medical expenses, educational expenses, purchase of a
483 principal residence, payments necessary to prevent eviction or
484 foreclosure on an employee's principal residence, or for any
485 other reason.

486 ~~3.2.~~ The benefits payable to any person under the Senior
487 Management Service Optional Annuity Program, and any
488 contribution accumulated under such program, are not subject to
489 assignment, execution, or attachment or to any legal process
490 whatsoever.

491 ~~4.3.~~ Except as provided in subparagraph 5. 4., a
492 participant who terminates employment and receives a
493 distribution, including a rollover or trustee-to-trustee
494 transfer, funded by employer contributions shall be deemed to be
495 retired from a state-administered retirement system if the
496 participant is subsequently employed with an employer that
497 participates in the Florida Retirement System.

498 ~~5.4.~~ A participant who receives optional annuity program
499 benefits funded by employer contributions as a mandatory
500 distribution of a de minimis account authorized by the
501 department is not considered a retiree.

502
503 As used in this paragraph, a "de minimis account" means an
504 account with a provider company containing employer
505 contributions and accumulated earnings of not more than \$5,000
506 made under this chapter.



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507 Section 8. Subsections (2) and (5) and paragraph (c) of
508 subsection (6) of section 121.071, Florida Statutes, are
509 amended, present paragraph (d) of subsection (6) of that section
510 is redesignated as paragraph (e), and a new paragraph (d) is
511 added to that subsection, to read:

512 121.071 Contributions.—Contributions to the system shall be
513 made as follows:

514 (2) (a) Effective January 1, 1975, or October 1, 1975, as
515 applicable, and through December 31, 2010, each employer shall
516 accomplish the contribution required by subsection (1) by a
517 procedure in which no employee's gross salary shall be reduced.
518 Effective January 1, 2011, each employee and employer shall pay
519 retirement contributions as specified in s. 121.71.

520 (b) Upon termination of employment for 3 calendar months
521 for any reason other than retirement, a member shall be entitled
522 to a full refund of the contributions he or she has made prior
523 or subsequent to participation in the noncontributory plan,
524 subject to the restrictions otherwise provided in this chapter.
525 The refund shall not include any interest earnings on the
526 contributions for a participant of the defined benefit program.
527 Employer contributions made on behalf of the member are not
528 refundable. A member may not receive a refund of employee
529 contributions if an approved qualified domestic relations order
530 is filed against his or her retirement account.

531 (5) Contributions made in accordance with subsections (1),
532 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
533 into the system trust funds in accordance with rules adopted by
534 the administrator pursuant to chapter 120, except as may be
535 otherwise specified herein. Effective July 1, 2002,



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536 contributions paid under subsections (1) and (4) and
537 accompanying payroll data are due and payable no later than the
538 5th working day of the month immediately following the month
539 during which the payroll period ended.

540 (6)

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

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

552 Section 9. Paragraphs (b) and (c) of subsection (1) and
553 subsection (2) of section 121.081, Florida Statutes, are amended
554 to read:

555 121.081 Past service; prior service; contributions.—
556 Conditions under which past service or prior service may be
557 claimed and credited are:

558 (1)

559 (b) Past service earned after January 1, 1975, may be
560 claimed by officers or employees of a municipality, metropolitan
561 planning organization, charter school, charter technical career
562 center, or special district who become a covered group under
563 this system. The governing body of a covered group may elect to
564 provide benefits for past service earned after January 1, 1975,



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565 in accordance with this chapter, and the cost for such past
566 service is established by applying the following formula: The
567 employer shall contribute an amount equal to the employer
568 contribution rate in effect at the time the service was earned,
569 and, if applicable, the employee contribution rate, multiplied
570 by the employee's gross salary for each year of past service
571 claimed, plus 6.5-percent interest thereon, compounded annually,
572 figured on each year of past service, with interest compounded
573 from date of annual salary earned until date of payment.

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

578 (2) Prior service, as defined in s. 121.021(19), may be
579 claimed as creditable service under the Florida Retirement
580 System after a member has been reemployed for 1 complete year of
581 creditable service ~~within a period of 12 consecutive months,~~
582 except as provided in paragraph (c). Service performed as a
583 participant of the optional retirement program for the State
584 University System under s. 121.35 or the Senior Management
585 Service Optional Annuity Program under s. 121.055 may be used to
586 satisfy the reemployment requirement of 1 complete year of
587 creditable service. The member shall not be permitted to make
588 any contributions for prior service until after completion of
589 the 1 year of creditable service. If a member does not wish to
590 claim credit for all of his or her prior service, the service
591 the member claims must be the most recent period of service. The
592 required contributions for claiming the various types of prior
593 service are:



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594 (a) For prior service performed prior to the date the
595 system becomes noncontributory for the member and for which the
596 member had credit under one of the existing retirement systems
597 and received a refund of contributions upon termination of
598 employment, the member shall contribute 4 percent of all salary
599 received during the period being claimed, plus 4-percent
600 interest compounded annually from date of refund until July 1,
601 1975, and 6.5-percent interest compounded annually thereafter,
602 until full payment is made to the Retirement Trust Fund, and
603 shall receive credit in the Regular Class. A member who elected
604 to transfer to the Florida Retirement System from an existing
605 system may receive credit for prior service under the existing
606 system if he or she was eligible under the existing system to
607 claim the prior service at the time of the transfer.
608 Contributions for such prior service shall be determined by the
609 applicable provisions of the system under which the prior
610 service is claimed and shall be paid by the member, with
611 matching contributions paid by the employer at the time the
612 service was performed. Effective July 1, 1978, the account of a
613 person who terminated under s. 238.05(3) may not be charged
614 interest for contributions that remained on deposit in the
615 Annuity Savings Trust Fund established under chapter 238, upon
616 retirement under this chapter or chapter 238.

617 (b) For prior service performed prior to the date the
618 system becomes noncontributory for the member and for which the
619 member had credit under the Florida Retirement System and
620 received a refund of contributions upon termination of
621 employment, the member shall contribute at the rate that was
622 required of him or her during the period of service being



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623 claimed, on all salary received during such period, plus 4-
624 percent interest compounded annually from date of refund until
625 July 1, 1975, and 6.5-percent interest compounded annually
626 thereafter, until the full payment is made to the Retirement
627 Trust Fund, and shall receive credit in the membership class in
628 which the member participated during the period claimed.

629 (c) For prior service as defined in s. 121.021(19) (b) and
630 (c) during which no contributions were made because the member
631 did not participate in a retirement system, the member shall
632 contribute 14.38 percent of all salary received during such
633 period or 14.38 percent of \$100 per month during such period,
634 whichever is greater, plus 4-percent interest compounded
635 annually from the first year of service claimed until July 1,
636 1975, and 6.5-percent interest compounded annually thereafter,
637 until full payment is made to the Retirement Trust Fund, and
638 shall receive credit in the Regular Class.

639 (d) In order to claim credit for prior service as defined
640 in s. 121.021(19) (d) for which no retirement contributions were
641 paid during the period of such service, the member shall
642 contribute the total employee and employer contributions which
643 were required to be made to the Highway Patrol Pension Trust
644 Fund, as provided in chapter 321, during the period claimed,
645 plus 4-percent interest compounded annually from the first year
646 of service until July 1, 1975, and 6.5-percent interest
647 compounded annually thereafter, until full payment is made to
648 the Retirement Trust Fund. However, any governmental entity
649 which employed such member may elect to pay up to 50 percent of
650 the contributions and interest required to purchase this prior
651 service credit. The service shall be credited in accordance with



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652 the provisions of the Highway Patrol Pension Plan in effect
653 during the period claimed unless the member terminated and
654 withdrew his or her retirement contributions and was thereafter
655 enrolled in the State and County Officers and Employees'
656 Retirement System or the Florida Retirement System, in which
657 case the service shall be credited as Regular Class service.

658 (e) For service performed under the Florida Retirement
659 System after December 1, 1970, that was never reported to the
660 division or the department due to error, retirement credit may
661 be claimed by a member of the Florida Retirement System. The
662 department shall adopt rules establishing criteria for claiming
663 such credit and detailing the documentation required to
664 substantiate the error.

665 (f) For prior service performed on or after January 1,
666 2011, for which the member had credit under the Florida
667 Retirement System and received a refund of contributions upon
668 termination of employment for 3 calendar months, the member
669 shall contribute at the rate that was required of him or her
670 during the period of service being claimed, plus 6.5 percent
671 interest, compounded annually on each June 30 from date of
672 refund until the full payment is made to the Florida Retirement
673 System Trust Fund, and shall receive credit in the membership
674 class in which the member participated during the period
675 claimed.

676 (g) ~~(f)~~ The employer may not ~~be required to~~ make
677 contributions for prior service credit for any member, except
678 that the employer shall pay the employer portion of
679 contributions for any legislator who elects to withdraw from the
680 Florida Retirement System and later rejoins the system and pays



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681 any employee contributions required in accordance with s.
682 121.052(3)(d).

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

685 121.091 Benefits payable under the system.—Benefits may not
686 be paid under this section unless the member has terminated
687 employment as provided in s. 121.021(39)(a) or begun
688 participation in the Deferred Retirement Option Program as
689 provided in subsection (13), and a proper application has been
690 filed in the manner prescribed by the department. The department
691 may cancel an application for retirement benefits when the
692 member or beneficiary fails to timely provide the information
693 and documents required by this chapter and the department's
694 rules. The department shall adopt rules establishing procedures
695 for application for retirement benefits and for the cancellation
696 of such application when the required information or documents
697 are not received.

698 (5) TERMINATION BENEFITS.—A member whose employment is
699 terminated prior to retirement retains membership rights to
700 previously earned member-noncontributory service credit, and to
701 member-contributory service credit, if the member leaves the
702 member contributions on deposit in his or her retirement
703 account. If a terminated member receives a refund of member
704 contributions, such member may reinstate membership rights to
705 the previously earned service credit represented by the refund
706 by completing 1 year of creditable service and repaying the
707 refunded member contributions, plus interest.

708 (a) A member whose employment is terminated for any reason
709 other than death or retirement prior to becoming vested is



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710 entitled to the return of his or her accumulated contributions
711 as of the date of termination. Effective January 1, 2011, a
712 member is eligible for the return of his or her employee
713 contributions after being terminated for 3 calendar months.

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

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

722 121.121 Authorized leaves of absence.-

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

726 (a) The member has completed a minimum of 6 years of
727 creditable service, excluding periods for which a leave of
728 absence was authorized;

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

731 (c) The member returns to active employment performing
732 service with a Florida Retirement System employer in a regularly
733 established position immediately upon termination of the leave
734 of absence and remains on the employer's payroll for 1 calendar
735 month, except that a member who retires on disability while on a
736 medical leave of absence shall not be required to return to
737 employment. A member whose work year is less than 12 months and
738 whose leave of absence terminates between school years is



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739 eligible to receive credit for the leave of absence as long as
740 he or she returns to the employment of his or her employer at
741 the beginning of the next school year and remains on the
742 employer's payroll for 1 calendar month; and

743 (d) The member makes the required contributions for service
744 credit during the leave of absence, which shall be 8 percent
745 until January 1, 1975, and 9 percent thereafter of his or her
746 rate of monthly compensation in effect immediately prior to the
747 commencement of such leave for each month of such period, plus 4
748 percent interest until July 1, 1975, and 6.5 percent interest
749 thereafter on such contributions, compounded annually each June
750 30 from the due date of the contribution to date of payment.
751 Effective July 1, 1980, any leave of absence purchased pursuant
752 to this section shall be at the contribution rates specified in
753 s. 121.071 or s. 121.71 in effect at the time the leave is
754 granted for the class of membership from which the leave of
755 absence was granted; however, any member who purchased leave-of-
756 absence credit prior to July 1, 1980, for a leave of absence
757 from a position in a class other than the regular membership
758 class, may pay the appropriate additional contributions plus
759 compound interest thereon and receive creditable service for
760 such leave of absence in the membership class from which the
761 member was granted the leave of absence. Effective January 1,
762 2011, any leave of absence purchased pursuant to this section
763 shall be at the employee and employer contribution rates
764 specified in s. 121.71 in effect during the leave for the class
765 of membership from which the leave of absence was granted.

766 Section 12. Section 121.125, Florida Statutes, is amended
767 to read:



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768 121.125 Credit for workers' compensation payment periods.—A
769 member of the retirement system created by this chapter who has
770 been eligible or becomes eligible to receive workers'
771 compensation payments for an injury or illness occurring during
772 his or her employment while a member of any state retirement
773 system shall, upon return to active employment with a covered
774 employer for 1 calendar month or upon approval for disability
775 retirement in accordance with s. 121.091(4), receive full
776 retirement credit for the period prior to such return to active
777 employment or disability retirement for which the workers'
778 compensation payments were received. However, no member may
779 receive retirement credit for any such period occurring after
780 the earlier of the date of maximum medical improvement as
781 defined in s. 440.02 or the date termination has occurred as
782 defined in s. 121.021(39). The employer of record at the time of
783 the worker's compensation injury or illness shall make the
784 required employee and employer retirement contributions based on
785 the member's rate of monthly compensation immediately prior to
786 his or her receiving workers' compensation payments for
787 retirement credit received by the member. The employer of record
788 at the time of the worker's compensation injury or illness shall
789 be assessed by the division a penalty of 1 percent of the
790 contributions on all contributions not paid on the first payroll
791 report after the member becomes eligible to receive credit. This
792 delinquent assessment may not be waived.

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

795 121.35 Optional retirement program for the State University
796 System.—



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797 (4) CONTRIBUTIONS.—

798 (a)1. Through June 30, 2001, each employer shall contribute
799 on behalf of each participant in the optional retirement program
800 an amount equal to the normal cost portion of the employer
801 retirement contribution which would be required if the
802 participant were a regular member of the Florida Retirement
803 System defined benefit program, plus the portion of the
804 contribution rate required in s. 112.363(8) that would otherwise
805 be assigned to the Retiree Health Insurance Subsidy Trust Fund.
806 For the period Effective July 1, 2001, through December 31,
807 2010, each employer shall contribute on behalf of each
808 participant in the optional program an amount equal to 10.43
809 percent of the participant's gross monthly compensation.

810 2. Effective January 1, 2011, each member participating in
811 the State University System Optional Retirement Program shall
812 contribute an amount equal to the employee contribution required
813 in s. 121.71(3). Effective January 1, 2011, each employer shall
814 contribute on behalf of each participant in the optional program
815 an amount equal to the difference between 10.43 percent of the
816 participant's gross monthly compensation and the amount equal to
817 the employee's required contribution based on the employee's
818 gross monthly compensation.

819
820 The department shall deduct an amount approved by the
821 Legislature to provide for the administration of this program.
822 The payment of the contributions to the optional program which
823 is required by this paragraph for each participant shall be made
824 by the employer to the department, which shall forward the
825 contributions to the designated company or companies contracting



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826 for payment of benefits for the participant under the program.
827 However, such contributions paid on behalf of an employee
828 described in paragraph (3)(c) shall not be forwarded to a
829 company and shall not begin to accrue interest until the
830 employee has executed a contract and notified the department.

831 (b) Each employer shall contribute on behalf of each
832 participant in the optional retirement program an amount equal
833 to the unfunded actuarial accrued liability portion of the
834 employer contribution which would be required for members of the
835 Florida Retirement System. This contribution shall be paid to
836 the department for transfer to the Florida Retirement System
837 Trust Fund.

838 (c) An Optional Retirement Program Trust Fund shall be
839 established in the State Treasury and administered by the
840 department to make payments to the provider companies on behalf
841 of the optional retirement program participants, and to transfer
842 the unfunded liability portion of the state optional retirement
843 program contributions to the Florida Retirement System Trust
844 Fund.

845 (d) Contributions required for social security by each
846 employer and each participant, in the amount required for social
847 security coverage as now or hereafter may be provided by the
848 federal Social Security Act, shall be maintained for each
849 participant in the optional retirement program and shall be in
850 addition to the retirement contributions specified in this
851 subsection.

852 ~~(e) Each participant in the optional retirement program who~~
853 ~~has executed a contract may contribute by way of salary~~
854 ~~reduction or deduction a percentage amount of the participant's~~



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855 ~~gross compensation not to exceed the percentage amount~~
856 ~~contributed by the employer to the optional program, but in no~~
857 ~~case may such contribution exceed federal limitations. Payment~~
858 ~~of the participant's contributions shall be made by the~~
859 ~~financial officer of the employer to the division which shall~~
860 ~~forward the contributions to the designated company or companies~~
861 ~~contracting for payment of benefits for the participant under~~
862 ~~the program. A participant may not make, through salary~~
863 ~~reduction, any voluntary employee contributions to any other~~
864 ~~plan under s. 403(b) of the Internal Revenue Code, with the~~
865 ~~exception of a custodial account under s. 403(b)(7) of the~~
866 ~~Internal Revenue Code, until he or she has made an employee~~
867 ~~contribution to his or her optional program equal to the~~
868 ~~employer contribution. A participant is responsible for~~
869 ~~monitoring his or her individual tax-deferred income to ensure~~
870 ~~he or she does not exceed the maximum deferral amounts permitted~~
871 ~~under the Internal Revenue Code.~~

872 ~~(f) The Optional Retirement Trust Fund may accept for~~
873 ~~deposit into participant contracts contributions in the form of~~
874 ~~rollovers or direct trustee-to-trustee transfers by or on behalf~~
875 ~~of participants who are reasonably determined by the department~~
876 ~~to be eligible for rollover or transfer to the optional~~
877 ~~retirement program pursuant to the Internal Revenue Code, if~~
878 ~~such contributions are made in accordance with rules adopted by~~
879 ~~the department. Such contributions shall be accounted for in~~
880 ~~accordance with any applicable requirements of the Internal~~
881 ~~Revenue Code and rules of the department.~~

882 ~~(e)(g)~~ Effective July 1, 2008, for purposes of paragraph
883 (a) and notwithstanding s. 121.021(22)(b)1., the term



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884 "participant's gross monthly compensation" includes salary
885 payments made to eligible clinical faculty from a state
886 university using funds provided by a faculty practice plan
887 authorized by the Board of Governors of the State University
888 System if:

889 1. There is not any employer contribution from the state
890 university to any other retirement program with respect to such
891 salary payments; and

892 2. The employer contribution on behalf of the participant
893 in the optional retirement program with respect to such salary
894 payments is made using funds provided by the faculty practice
895 plan.

896 (5) BENEFITS.—

897 (a) Benefits are payable under the optional retirement
898 program only to vested participants in the program, or their
899 beneficiaries as designated by the participant in the contract
900 with a provider company, and such benefits shall be paid only by
901 the designated company in accordance with s. 403(b) of the
902 Internal Revenue Code and the terms of the annuity contract or
903 contracts applicable to the participant. Benefits accrue in
904 individual accounts that are participant-directed, portable, and
905 funded by employer contributions and the earnings thereon. The
906 participant must be terminated from all employment relationships
907 with all Florida Retirement System employers, as provided in s.
908 121.021(39), to begin receiving the employer-funded benefit.
909 Benefits funded by employer contributions are payable in
910 accordance with the following terms and conditions:

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



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913 participant.

914 2. Benefits shall be paid by the provider company or
915 companies in accordance with the law, the provisions of the
916 contract, and any applicable department rule or policy.

917 3. In the event of a participant's death, moneys
918 accumulated by, or on behalf of, the participant, less
919 withholding taxes remitted to the Internal Revenue Service, if
920 any, shall be distributed to the participant's designated
921 beneficiary or beneficiaries, or to the participant's estate, as
922 if the participant retired on the date of death, as provided in
923 paragraph (d) ~~(e)~~. No other death benefits are available to
924 survivors of participants under the optional retirement program
925 except for such benefits, or coverage for such benefits, as are
926 separately afforded by the employer, at the employer's
927 discretion.

928 (b) Benefits are not payable under the optional retirement
929 program prior to termination of employment for employee
930 hardships, unforeseeable emergencies, loans, medical expenses,
931 educational expenses, purchase of a principal residence,
932 payments necessary to prevent eviction or foreclosure on an
933 employee's principal residence, or for any other reason

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

- 937 1. A lump-sum distribution to the participant;
- 938 2. A lump-sum direct rollover distribution whereby all
939 accrued benefits, plus interest and investment earnings, are
940 paid from the participant's account directly to an eligible
941 retirement plan, as defined in s. 402(c)(8)(B) of the Internal



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942 Revenue Code, on behalf of the participant;
943 3. Periodic distributions;
944 4. A partial lump-sum payment whereby a portion of the
945 accrued benefit is paid to the participant and the remaining
946 amount is transferred to an eligible retirement plan, as defined
947 in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of
948 the participant; or
949 5. Such other distribution options as are provided for in
950 the participant's optional retirement program contract.
951 (d)~~(e)~~ Survivor benefits shall be payable as:
952 1. A lump-sum distribution payable to the beneficiaries or
953 to the deceased participant's estate;
954 2. An eligible rollover distribution on behalf of the
955 surviving spouse of a deceased participant, whereby all accrued
956 benefits, plus interest and investment earnings, are paid from
957 the deceased participant's account directly to an eligible
958 retirement plan, as described in s. 402(c)(8)(B) of the Internal
959 Revenue Code, on behalf of the surviving spouse;
960 3. Such other distribution options as are provided for in
961 the participant's optional retirement program contract; or
962 4. A partial lump-sum payment whereby a portion of the
963 accrued benefit is paid to the deceased participant's surviving
964 spouse or other designated beneficiaries, less withholding taxes
965 remitted to the Internal Revenue Service, if any, and the
966 remaining amount is transferred directly to an eligible
967 retirement plan, as described in s. 402(c)(8)(B) of the Internal
968 Revenue Code, on behalf of the surviving spouse. The proportions
969 must be specified by the participant or the surviving
970 beneficiary.



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971

972 This paragraph does not abrogate other applicable provisions of
973 state or federal law providing payment of death benefits.

974 (e)~~(d)~~ The benefits payable to any person under the
975 optional retirement program, and any contribution accumulated
976 under such program, shall not be subject to assignment,
977 execution, or attachment or to any legal process whatsoever.

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

983 (g)~~(f)~~ Benefits funded by the participant's personal
984 contributions may be paid out at any time and in any form within
985 the limits provided in the contract between the participant and
986 his or her provider company. The participant shall notify the
987 provider company regarding the date and provisions under which
988 he or she wants to receive the employee-funded portion of the
989 plan.

990 (h)~~(g)~~ For purposes of this section, "retiree" means a
991 former participant of the optional retirement program who has
992 terminated employment and has taken a distribution as provided
993 in this subsection, except for a mandatory distribution of a de
994 minimis account authorized by the department.

995 Section 14. Subsection (1), paragraph (j) of subsection
996 (2), paragraph (c) of subsection (3), subsections (4), (5), (6),
997 (7), paragraph (b) of subsection (8), subsection (11), paragraph
998 (c) of subsection (13), and paragraph (b) of subsection (21) of
999 section 121.4501, Florida Statutes, are amended, and paragraph



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1000 (n) is added to subsection (2) of that section, to read:
1001 121.4501 Public Employee Optional Retirement Program.—
1002 (1) The Trustees of the State Board of Administration shall
1003 establish an optional defined contribution retirement program
1004 for members of the Florida Retirement System under which
1005 retirement benefits will be provided for eligible employees who
1006 elect to participate in the program. The benefits to be provided
1007 for or on behalf of participants in such optional retirement
1008 program shall be provided through employee-directed investments,
1009 in accordance with s. 401(a) of the Internal Revenue Code and
1010 its related regulations. Participants and ~~The~~ employers shall
1011 contribute, as provided in this section, ss. 121.571, and 121.71
1012 to the Public Employee Optional Retirement Program Trust Fund
1013 toward the funding of such optional benefits.
1014 (2) DEFINITIONS.—As used in this part, the term:
1015 (j) "Retiree" means a former participant of the Florida
1016 Retirement System Public Employee Optional Retirement Program
1017 who has terminated employment and has taken any ~~a~~ distribution
1018 of vested participant or employer contributions as provided in
1019 s. 121.591, except for a mandatory distribution of a de minimis
1020 account authorized by the state board.
1021 (n) "Participant contributions" mean the sum of all amounts
1022 deducted from the salary of a participant by his or her employer
1023 in accordance with s. 121.71(2) and credited to his or her
1024 individual account in the Public Employee Optional Retirement
1025 Program, plus any earnings on such amounts and any contributions
1026 specified in paragraph (5) (e).
1027 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT.—
1028 (c)1. Notwithstanding paragraph (b), each eligible employee



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1029 who elects to participate in the Public Employee Optional
1030 Retirement Program and establishes one or more individual
1031 participant accounts under the optional program may elect to
1032 transfer to the optional program a sum representing the present
1033 value of the employee's accumulated benefit obligation under the
1034 defined benefit retirement program of the Florida Retirement
1035 System. Upon such transfer, all service credit previously earned
1036 under the defined benefit program of the Florida Retirement
1037 System shall be nullified for purposes of entitlement to a
1038 future benefit under the defined benefit program of the Florida
1039 Retirement System. A participant is precluded from transferring
1040 the accumulated benefit obligation balance from the defined
1041 benefit program upon the expiration of the period afforded to
1042 enroll in the optional program.

1043 2. For purposes of this subsection, the present value of
1044 the member's accumulated benefit obligation is based upon the
1045 member's estimated creditable service and estimated average
1046 final compensation under the defined benefit program, subject to
1047 recomputation under subparagraph 3. For state employees
1048 enrolling under subparagraph (4)(a)1., initial estimates will be
1049 based upon creditable service and average final compensation as
1050 of midnight on June 30, 2002; for district school board
1051 employees enrolling under subparagraph (4)(b)1., initial
1052 estimates will be based upon creditable service and average
1053 final compensation as of midnight on September 30, 2002; and for
1054 local government employees enrolling under subparagraph
1055 (4)(c)1., initial estimates will be based upon creditable
1056 service and average final compensation as of midnight on
1057 December 31, 2002. The dates respectively specified above shall



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1058 be construed as the "estimate date" for these employees. The
1059 actuarial present value of the employee's accumulated benefit
1060 obligation shall be based on the following:

1061 a. The discount rate and other relevant actuarial
1062 assumptions used to value the Florida Retirement System Trust
1063 Fund at the time the amount to be transferred is determined,
1064 consistent with the factors provided in sub-subparagraphs b. and
1065 c.

1066 b. A benefit commencement age, based on the member's
1067 estimated creditable service as of the estimate date. The
1068 benefit commencement age shall be the younger of the following,
1069 but shall not be younger than the member's age as of the
1070 estimate date:

1071 (I) Age 62; or

1072 (II) The age the member would attain if the member
1073 completed 30 years of service with an employer, assuming the
1074 member worked continuously from the estimate date, and
1075 disregarding any vesting requirement that would otherwise apply
1076 under the defined benefit program of the Florida Retirement
1077 System.

1078 c. For members of the Special Risk Class and for members of
1079 the Special Risk Administrative Support Class entitled to retain
1080 special risk normal retirement date, the benefit commencement
1081 age shall be the younger of the following, but shall not be
1082 younger than the member's age as of the estimate date:

1083 (I) Age 55; or

1084 (II) The age the member would attain if the member
1085 completed 25 years of service with an employer, assuming the
1086 member worked continuously from the estimate date, and



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1087 disregarding any vesting requirement that would otherwise apply
1088 under the defined benefit program of the Florida Retirement
1089 System.

1090 d. The calculation shall disregard vesting requirements and
1091 early retirement reduction factors that would otherwise apply
1092 under the defined benefit retirement program.

1093 3. For each participant who elects to transfer moneys from
1094 the defined benefit program to his or her account in the
1095 optional program, the division shall recompute the amount
1096 transferred under subparagraph 2. not later than 60 days after
1097 the actual transfer of funds based upon the participant's actual
1098 creditable service and actual final average compensation as of
1099 the initial date of participation in the optional program. If
1100 the recomputed amount differs from the amount transferred under
1101 subparagraph 2. by \$10 or more, the division shall:

1102 a. Transfer, or cause to be transferred, from the Florida
1103 Retirement System Trust Fund to the participant's account in the
1104 optional program the excess, if any, of the recomputed amount
1105 over the previously transferred amount together with interest
1106 from the initial date of transfer to the date of transfer under
1107 this subparagraph, based upon effective annual interest equal to
1108 the assumed return on the actuarial investment which was used in
1109 the most recent actuarial valuation of the system, compounded
1110 annually.

1111 b. Transfer, or cause to be transferred, from the
1112 participant's account to the Florida Retirement System Trust
1113 Fund the excess, if any, of the previously transferred amount
1114 over the recomputed amount, together with interest from the
1115 initial date of transfer to the date of transfer under this



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1116 subparagraph, based upon 6 percent effective annual interest,
1117 compounded annually, pro rata based on the participant's
1118 allocation plan.

1119 4. If contribution adjustments are made as a result of
1120 employer errors or corrections, including plan corrections,
1121 following recomputation of the amount transferred under
1122 subparagraph 2., the participant is entitled to the additional
1123 contributions or is responsible for returning any excess
1124 contributions resulting from the correction, provided that any
1125 return of such erroneous excess pretax contribution by the
1126 program shall be made within 1 year after the making of such
1127 erroneous contributions or such other period as may be allowed
1128 by applicable Internal Revenue Service guidance. The present
1129 value of the member's accumulated benefit obligation shall not
1130 be recalculated.

1131 5.4. As directed by the participant, the board shall
1132 transfer or cause to be transferred the appropriate amounts to
1133 the designated accounts. The board shall establish transfer
1134 procedures by rule, but the actual transfer shall not be later
1135 than 30 days after the effective date of the member's
1136 participation in the optional program unless the major financial
1137 markets for securities available for a transfer are seriously
1138 disrupted by an unforeseen event which also causes the
1139 suspension of trading on any national securities exchange in the
1140 country where the securities were issued. In that event, such
1141 30-day period of time may be extended by a resolution of the
1142 trustees. Transfers are not commissionable or subject to other
1143 fees and may be in the form of securities or cash as determined
1144 by the state board. Such securities shall be valued as of the



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1145 date of receipt in the participant's account.

1146 ~~6.5.~~ If the board or the division receives notification
1147 from the United States Internal Revenue Service that this
1148 paragraph or any portion of this paragraph will cause the
1149 retirement system, or a portion thereof, to be disqualified for
1150 tax purposes under the Internal Revenue Code, then the portion
1151 that will cause the disqualification does not apply. Upon such
1152 notice, the state board and the division shall notify the
1153 presiding officers of the Legislature.

1154 (4) PARTICIPATION; ENROLLMENT.—

1155 (a)1. With respect to an eligible employee who is employed
1156 in a regularly established position on June 1, 2002, by a state
1157 employer:

1158 a. Any such employee may elect to participate in the Public
1159 Employee Optional Retirement Program in lieu of retaining his or
1160 her membership in the defined benefit program of the Florida
1161 Retirement System. The election must be made in writing or by
1162 electronic means and must be filed with the third-party
1163 administrator by August 31, 2002, or, in the case of an active
1164 employee who is on a leave of absence on April 1, 2002, by the
1165 last business day of the 5th month following the month the leave
1166 of absence concludes. This election is irrevocable, except as
1167 provided in paragraph (g) ~~(e)~~. Upon making such election, the
1168 employee shall be enrolled as a participant of the Public
1169 Employee Optional Retirement Program, the employee's membership
1170 in the Florida Retirement System shall be governed by the
1171 provisions of this part, and the employee's membership in the
1172 defined benefit program of the Florida Retirement System shall
1173 terminate. The employee's enrollment in the Public Employee



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1174 Optional Retirement Program shall be effective the first day of
1175 the month for which a full month's participant and employer
1176 contribution is made to the optional program.

1177 b. Any such employee who fails to elect to participate in
1178 the Public Employee Optional Retirement Program within the
1179 prescribed time period is deemed to have elected to retain
1180 membership in the defined benefit program of the Florida
1181 Retirement System, and the employee's option to elect to
1182 participate in the optional program is forfeited.

1183 2. With respect to employees who become eligible to
1184 participate in the Public Employee Optional Retirement Program
1185 by reason of employment in a regularly established position with
1186 a state employer commencing after April 1, 2002:

1187 a. Any such employee shall, by default, be enrolled in the
1188 defined benefit retirement program of the Florida Retirement
1189 System at the commencement of employment, and may, by the last
1190 business day of the 5th month following the employee's month of
1191 hire, elect to participate in the Public Employee Optional
1192 Retirement Program. The employee's election must be made in
1193 writing or by electronic means and must be filed with the third-
1194 party administrator. The election to participate in the optional
1195 program is irrevocable, except as provided in paragraph (g) ~~(e)~~.

1196 b. If the employee files such election within the
1197 prescribed time period, enrollment in the optional program shall
1198 be effective on the first day of employment. The participant and
1199 employer retirement contributions paid through the month of the
1200 employee plan change shall be transferred to the optional
1201 program, and, effective the first day of the next month, the
1202 participant and employer shall pay the applicable contributions



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1203 based on the employee membership class in the optional program.

1204 c. Any such employee who fails to elect to participate in
1205 the Public Employee Optional Retirement Program within the
1206 prescribed time period is deemed to have elected to retain
1207 membership in the defined benefit program of the Florida
1208 Retirement System, and the employee's option to elect to
1209 participate in the optional program is forfeited.

1210 3. With respect to employees who become eligible to
1211 participate in the Public Employee Optional Retirement Program
1212 pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), any such
1213 employee may elect to participate in the Public Employee
1214 Optional Retirement Program in lieu of retaining his or her
1215 participation in the State Community College System Optional
1216 Retirement Program or the State University System Optional
1217 Retirement Program. The election must be made in writing or by
1218 electronic means and must be filed with the third-party
1219 administrator. This election is irrevocable, except as provided
1220 in paragraph (g) ~~(e)~~. Upon making such election, the employee
1221 shall be enrolled as a participant of the Public Employee
1222 Optional Retirement Program, the employee's membership in the
1223 Florida Retirement System shall be governed by the provisions of
1224 this part, and the employee's participation in the State
1225 Community College System Optional Retirement Program or the
1226 State University System Optional Retirement Program shall
1227 terminate. The employee's enrollment in the Public Employee
1228 Optional Retirement Program shall be effective the first day of
1229 the month for which a full month's participant and employer
1230 contribution is made to the optional program.

1231 4. For purposes of this paragraph, "state employer" means



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1232 any agency, board, branch, commission, community college,
1233 department, institution, institution of higher education, or
1234 water management district of the state, which participates in
1235 the Florida Retirement System for the benefit of certain
1236 employees.

1237 (b)1. With respect to an eligible employee who is employed
1238 in a regularly established position on September 1, 2002, by a
1239 district school board employer:

1240 a. Any such employee may elect to participate in the Public
1241 Employee Optional Retirement Program in lieu of retaining his or
1242 her membership in the defined benefit program of the Florida
1243 Retirement System. The election must be made in writing or by
1244 electronic means and must be filed with the third-party
1245 administrator by November 30, or, in the case of an active
1246 employee who is on a leave of absence on July 1, 2002, by the
1247 last business day of the 5th month following the month the leave
1248 of absence concludes. This election is irrevocable, except as
1249 provided in paragraph (g) ~~(e)~~. Upon making such election, the
1250 employee shall be enrolled as a participant of the Public
1251 Employee Optional Retirement Program, the employee's membership
1252 in the Florida Retirement System shall be governed by the
1253 provisions of this part, and the employee's membership in the
1254 defined benefit program of the Florida Retirement System shall
1255 terminate. The employee's enrollment in the Public Employee
1256 Optional Retirement Program shall be effective the first day of
1257 the month for which a full month's participant and employer
1258 contribution is made to the optional program.

1259 b. Any such employee who fails to elect to participate in
1260 the Public Employee Optional Retirement Program within the



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1261 prescribed time period is deemed to have elected to retain
1262 membership in the defined benefit program of the Florida
1263 Retirement System, and the employee's option to elect to
1264 participate in the optional program is forfeited.

1265 2. With respect to employees who become eligible to
1266 participate in the Public Employee Optional Retirement Program
1267 by reason of employment in a regularly established position with
1268 a district school board employer commencing after July 1, 2002:

1269 a. Any such employee shall, by default, be enrolled in the
1270 defined benefit retirement program of the Florida Retirement
1271 System at the commencement of employment, and may, by the last
1272 business day of the 5th month following the employee's month of
1273 hire, elect to participate in the Public Employee Optional
1274 Retirement Program. The employee's election must be made in
1275 writing or by electronic means and must be filed with the third-
1276 party administrator. The election to participate in the optional
1277 program is irrevocable, except as provided in paragraph (g) ~~(e)~~.

1278 b. If the employee files such election within the
1279 prescribed time period, enrollment in the optional program shall
1280 be effective on the first day of employment. The participant and
1281 employer retirement contributions paid through the month of the
1282 employee plan change shall be transferred to the optional
1283 program, and, effective the first day of the next month, the
1284 participant and employer shall pay the applicable contributions
1285 based on the employee membership class in the optional program.

1286 c. Any such employee who fails to elect to participate in
1287 the Public Employee Optional Retirement Program within the
1288 prescribed time period is deemed to have elected to retain
1289 membership in the defined benefit program of the Florida



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1290 Retirement System, and the employee's option to elect to
1291 participate in the optional program is forfeited.

1292 3. For purposes of this paragraph, "district school board
1293 employer" means any district school board that participates in
1294 the Florida Retirement System for the benefit of certain
1295 employees, or a charter school or charter technical career
1296 center that participates in the Florida Retirement System as
1297 provided in s. 121.051(2)(d).

1298 (c)1. With respect to an eligible employee who is employed
1299 in a regularly established position on December 1, 2002, by a
1300 local employer:

1301 a. Any such employee may elect to participate in the Public
1302 Employee Optional Retirement Program in lieu of retaining his or
1303 her membership in the defined benefit program of the Florida
1304 Retirement System. The election must be made in writing or by
1305 electronic means and must be filed with the third-party
1306 administrator by February 28, 2003, or, in the case of an active
1307 employee who is on a leave of absence on October 1, 2002, by the
1308 last business day of the 5th month following the month the leave
1309 of absence concludes. This election is irrevocable, except as
1310 provided in paragraph (g) ~~(e)~~. Upon making such election, the
1311 employee shall be enrolled as a participant of the Public
1312 Employee Optional Retirement Program, the employee's membership
1313 in the Florida Retirement System shall be governed by the
1314 provisions of this part, and the employee's membership in the
1315 defined benefit program of the Florida Retirement System shall
1316 terminate. The employee's enrollment in the Public Employee
1317 Optional Retirement Program shall be effective the first day of
1318 the month for which a full month's participant and employer



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1319 contribution is made to the optional program.

1320 b. Any such employee who fails to elect to participate in
1321 the Public Employee Optional Retirement Program within the
1322 prescribed time period is deemed to have elected to retain
1323 membership in the defined benefit program of the Florida
1324 Retirement System, and the employee's option to elect to
1325 participate in the optional program is forfeited.

1326 2. With respect to employees who become eligible to
1327 participate in the Public Employee Optional Retirement Program
1328 by reason of employment in a regularly established position with
1329 a local employer commencing after October 1, 2002:

1330 a. Any such employee shall, by default, be enrolled in the
1331 defined benefit retirement program of the Florida Retirement
1332 System at the commencement of employment, and may, by the last
1333 business day of the 5th month following the employee's month of
1334 hire, elect to participate in the Public Employee Optional
1335 Retirement Program. The employee's election must be made in
1336 writing or by electronic means and must be filed with the third-
1337 party administrator. The election to participate in the optional
1338 program is irrevocable, except as provided in paragraph (g) ~~(e)~~.

1339 b. If the employee files such election within the
1340 prescribed time period, enrollment in the optional program shall
1341 be effective on the first day of employment. The participant and
1342 employer retirement contributions paid through the month of the
1343 employee plan change shall be transferred to the optional
1344 program, and, effective the first day of the next month, the
1345 participant and employer shall pay the applicable contributions
1346 based on the employee membership class in the optional program.

1347 c. Any such employee who fails to elect to participate in



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1348 the Public Employee Optional Retirement Program within the
1349 prescribed time period is deemed to have elected to retain
1350 membership in the defined benefit program of the Florida
1351 Retirement System, and the employee's option to elect to
1352 participate in the optional program is forfeited.

1353 3. For purposes of this paragraph, "local employer" means
1354 any employer not included in paragraph (a) or paragraph (b).

1355 (d) Contributions available for self-direction by a
1356 participant who has not selected one or more specific investment
1357 products shall be allocated as prescribed by the board. The
1358 third-party administrator shall notify any such participant at
1359 least quarterly that the participant should take an affirmative
1360 action to make an asset allocation among the optional program
1361 products.

1362 (e) On or after January 1, 2011, a participant of the
1363 defined benefit program who obtains a refund of employee
1364 contributions retains his or her prior plan choice upon return
1365 to employment in a regularly established position with an FRS-
1366 participating employer.

1367 (f) A participant of the Public Employee Optional
1368 Retirement Program who terminates FRS-covered employment and
1369 takes a distribution of any contributions from his Public
1370 Employee Optional Retirement Program account is considered a
1371 retiree. Upon reemployment in a regularly established position
1372 with an FRS-covered employer, the participant returns as a new
1373 hire and, if applicable, has the opportunity to participate in
1374 the Florida Retirement System. A retiree who is initially
1375 reemployed on or after July 1, 2010, is not eligible for renewed
1376 membership.



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1377 (g)~~(e)~~ After the period during which an eligible employee
1378 had the choice to elect the defined benefit program or the
1379 Public Employee Optional Retirement Program, or the month
1380 following the receipt of the eligible employee's plan election,
1381 if sooner, the employee shall have one opportunity, at the
1382 employee's discretion, to choose to move from the defined
1383 benefit program to the Public Employee Optional Retirement
1384 Program or from the Public Employee Optional Retirement Program
1385 to the defined benefit program. Eligible employees may elect to
1386 move between Florida Retirement System programs only if they are
1387 earning service credit in an employer-employee relationship
1388 consistent with the requirements under s. 121.021(17)(b),
1389 excluding leaves of absence without pay. Effective July 1, 2005,
1390 such elections shall be effective on the first day of the month
1391 following the receipt of the election by the third-party
1392 administrator and are not subject to the requirements regarding
1393 an employer-employee relationship or receipt of contributions
1394 for the eligible employee in the effective month, except that
1395 the employee must meet the conditions of the previous sentence
1396 when the election is received by the third-party administrator.
1397 This paragraph shall be contingent upon approval from the
1398 Internal Revenue Service for including the choice described
1399 herein within the programs offered by the Florida Retirement
1400 System.

1401 1. If the employee chooses to move to the Public Employee
1402 Optional Retirement Program, the applicable provisions of this
1403 section shall govern the transfer.

1404 2. If the employee chooses to move to the defined benefit
1405 program, the employee must transfer from his or her Public



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1406 Employee Optional Retirement Program account and from other
1407 employee moneys as necessary, a sum representing the present
1408 value of that employee's accumulated benefit obligation
1409 immediately following the time of such movement, determined
1410 assuming that attained service equals the sum of service in the
1411 defined benefit program and service in the Public Employee
1412 Optional Retirement Program. Benefit commencement occurs on the
1413 first date the employee would become eligible for unreduced
1414 benefits, using the discount rate and other relevant actuarial
1415 assumptions that were used to value the Florida Retirement
1416 System defined benefit plan liabilities in the most recent
1417 actuarial valuation. For any employee who, at the time of the
1418 second election, already maintains an accrued benefit amount in
1419 the defined benefit plan, the then-present value of such accrued
1420 benefit shall be deemed part of the required transfer amount
1421 described in this subparagraph. The division shall ensure that
1422 the transfer sum is prepared using a formula and methodology
1423 certified by an enrolled actuary. A refund is not permitted of
1424 any member contributions or additional member payments made
1425 which exceed the employee contributions that would have accrued
1426 had the member remained in the defined benefit program and not
1427 transferred to the Public Employee Optional Retirement Program.

1428 3. Notwithstanding subparagraph 2., an employee who chooses
1429 to move to the defined benefit program and who became eligible
1430 to participate in the Public Employee Optional Retirement
1431 Program by reason of employment in a regularly established
1432 position with a state employer after June 1, 2002; a district
1433 school board employer after September 1, 2002; or a local
1434 employer after December 1, 2002, must transfer from his or her



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1435 Public Employee Optional Retirement Program account and, from
1436 other employee moneys as necessary, a sum representing that
1437 employee's actuarial accrued liability. A refund is not
1438 permitted of any member contributions or additional member
1439 payments made which exceed the employee contributions that would
1440 have accrued had the member remained in the defined benefit
1441 program and not transferred to the Public Employee Optional
1442 Retirement Program.

1443 4. Employees' ability to transfer from the Florida
1444 Retirement System defined benefit program to the Public Employee
1445 Optional Retirement Program pursuant to paragraphs (a)-(d), and
1446 the ability for current employees to have an option to later
1447 transfer back into the defined benefit program under
1448 subparagraph 2., shall be deemed a significant system amendment.
1449 Pursuant to s. 121.031(4), any such resulting unfunded liability
1450 arising from actual original transfers from the defined benefit
1451 program to the optional program shall be amortized within 30
1452 plan years as a separate unfunded actuarial base independent of
1453 the reserve stabilization mechanism defined in s. 121.031(3)(f).
1454 For the first 25 years, no direct amortization payment shall be
1455 calculated for this base. During this 25-year period, such
1456 separate base shall be used to offset the impact of employees
1457 exercising their second program election under this paragraph.
1458 It is the legislative intent that the actuarial funded status of
1459 the Florida Retirement System defined benefit plan is neither
1460 beneficially nor adversely impacted by such second program
1461 elections in any significant manner, after due recognition of
1462 the separate unfunded actuarial base. Following this initial 25-
1463 year period, any remaining balance of the original separate base



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1464 shall be amortized over the remaining 5 years of the required
1465 30-year amortization period.

1466 (5) CONTRIBUTIONS.—

1467 (a) The participant and ~~Each~~ employer shall make the
1468 required contributions to ~~contribute on behalf of each~~
1469 ~~participant in~~ the Public Employee Optional Retirement Program
1470 based on a percentage of the employee's gross monthly
1471 compensation, as provided in part III of this chapter.

1472 (b) Participant contributions shall be paid on a pretax
1473 basis, as provided in s. 401 of the Internal Revenue Code. In no
1474 case may such contribution exceed federal limitations. A
1475 participant is responsible for monitoring his or her individual
1476 contributions to ensure that he or she does not exceed the
1477 maximum deferral amounts permitted under the Internal Revenue
1478 Code.

1479 (c) The state board, acting as plan fiduciary, shall ensure
1480 that all plan assets are held in a trust, pursuant to s. 401 of
1481 the Internal Revenue Code. The fiduciary shall ensure that said
1482 contributions are allocated as follows:

1483 1. The participant and employer contribution portion
1484 earmarked for participant accounts shall be used to purchase
1485 interests in the appropriate investment vehicles for the
1486 accounts of each participant as specified by the participant, or
1487 in accordance with paragraph (4) (d).

1488 2. The employer contribution portion earmarked for
1489 administrative and educational expenses shall be transferred to
1490 the board.

1491 3. The employer contribution portion earmarked for
1492 disability benefits shall be transferred to the department.



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1493 (d) ~~(b)~~ The third-party administrator is ~~Employers are~~
1494 responsible for monitoring and notifying employers of the
1495 ~~participants regarding~~ maximum contribution levels permitted for
1496 participants under the Internal Revenue Code. If a participant
1497 contributes to any other tax-deferred plan, he or she is
1498 responsible for ensuring that total contributions made to the
1499 optional program and to any other such plan do not exceed
1500 federally permitted maximums.

1501 (e) ~~(c)~~ The Public Employee Optional Retirement Program may
1502 accept for deposit into participant accounts contributions in
1503 the form of rollovers or direct trustee-to-trustee transfers by
1504 or on behalf of participants, reasonably determined by the board
1505 to be eligible for rollover or transfer to the optional
1506 retirement program pursuant to the Internal Revenue Code, if
1507 such contributions are made in accordance with rules as may be
1508 adopted by the board. Such contributions shall be accounted for
1509 in accordance with any applicable Internal Revenue Code
1510 requirements and rules of the board.

1511 (6) VESTING REQUIREMENTS.—

1512 (a) With respect to employee contributions paid by the
1513 participant to the Public Employee Optional Retirement Program,
1514 plus interest and earnings thereon and less investment fees and
1515 administrative charges, a participant shall be fully and
1516 immediately vested.

1517 (b) ~~(a)~~1. With respect to employer contributions paid on
1518 behalf of the participant to the Public Employee Optional
1519 Retirement Program, plus interest and earnings thereon and less
1520 investment fees and administrative charges, a participant shall
1521 be vested after completing 1 work year, as defined in s.



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1522 121.021(54), with an employer, including any service while the
1523 participant was a member of the defined benefit retirement
1524 program or an optional retirement program authorized under s.
1525 121.051(2)(c) or s. 121.055(6).

1526 2. If the participant terminates employment prior to
1527 satisfying the vesting requirements, the nonvested accumulation
1528 shall be transferred from the participant's accounts to the
1529 state board for deposit and investment by the board in the
1530 suspense account of the Public Employee Optional Retirement
1531 Program Trust Fund of the board. If the terminated participant
1532 is reemployed as an eligible employee within 5 years, the state
1533 board shall transfer to the participant's account any amount of
1534 the moneys previously transferred from the participant's
1535 accounts to the suspense account of the Public Employee Optional
1536 Retirement Program Trust Fund, plus the actual earnings on such
1537 amount while in the suspense account.

1538 ~~(c)-(b)~~1. A participant shall be vested in the employer
1539 amount transferred from the defined benefit program, plus
1540 interest and earnings thereon and less administrative charges
1541 and investment fees, upon meeting the service requirements for
1542 the participant's membership class as set forth in s.
1543 121.021(29). The third-party administrator shall account for
1544 such amounts for each participant. The division shall notify the
1545 participant and the third-party administrator when the
1546 participant has satisfied the vesting period for Florida
1547 Retirement System purposes.

1548 2. If the participant terminates employment prior to
1549 satisfying the vesting requirements, the nonvested employer
1550 accumulation shall be transferred from the participant's



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1551 accounts to the state board for deposit and investment by the
1552 board in the suspense account of the Public Employee Optional
1553 Retirement Program Trust Fund of the board. If the terminated
1554 participant is reemployed as an eligible employee within 5
1555 years, the state board shall transfer to the participant's
1556 account any amount of the moneys previously transferred from the
1557 participant's accounts to the suspense account of the Public
1558 Employee Optional Retirement Program Trust Fund, plus the actual
1559 earnings on such amount while in the suspense account.

1560 (d) ~~(e)~~ Any nonvested accumulations transferred from a
1561 participant's account to the suspense account shall be forfeited
1562 by the participant if the participant is not reemployed as an
1563 eligible employee within 5 years after termination.

1564 (e) If the participant elects to receive any of his or her
1565 vested employee or employer contributions upon termination of
1566 employment as defined in s. 121.021, the participant shall
1567 forfeit all nonvested employer contributions, and accompanying
1568 service credit, paid on behalf of the participant to the Public
1569 Employee Optional Retirement Program.

1570 (7) BENEFITS.—Under the Public Employee Optional Retirement
1571 Program:

1572 (a) Benefits shall be provided in accordance with s. 401(a)
1573 of the Internal Revenue Code.

1574 (b) Benefits shall accrue in individual accounts that are
1575 participant-directed, portable, and funded by participant and
1576 employer contributions and earnings thereon.

1577 (c) Benefits shall be payable in accordance with the
1578 provisions of s. 121.591.

1579 (8) ADMINISTRATION OF PROGRAM.—



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1580 (b)1. The state board shall select and contract with one
1581 third-party administrator to provide administrative services if
1582 those services cannot be competitively and contractually
1583 provided by the Division of Retirement within the Department of
1584 Management Services. With the approval of the state board, the
1585 third-party administrator may subcontract with other
1586 organizations or individuals to provide components of the
1587 administrative services. As a cost of administration, the board
1588 may compensate any such contractor for its services, in
1589 accordance with the terms of the contract, as is deemed
1590 necessary or proper by the board. The third-party administrator
1591 may not be an approved provider or be affiliated with an
1592 approved provider.

1593 2. These administrative services may include, but are not
1594 limited to, enrollment of eligible employees, collection of
1595 participant and employer contributions, disbursement of such
1596 contributions to approved providers in accordance with the
1597 allocation directions of participants; services relating to
1598 consolidated billing; individual and collective recordkeeping
1599 and accounting; asset purchase, control, and safekeeping; and
1600 direct disbursement of funds to and from the third-party
1601 administrator, the division, the board, employers, participants,
1602 approved providers, and beneficiaries. This section does not
1603 prevent or prohibit a bundled provider from providing any
1604 administrative or customer service, including accounting and
1605 administration of individual participant benefits and
1606 contributions; individual participant recordkeeping; asset
1607 purchase, control, and safekeeping; direct execution of the
1608 participant's instructions as to asset and contribution



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1609 allocation; calculation of daily net asset values; direct access
1610 to participant account information; or periodic reporting to
1611 participants, at least quarterly, on account balances and
1612 transactions, if these services are authorized by the board as
1613 part of the contract.

1614 3. The state board shall select and contract with one or
1615 more organizations to provide educational services. With
1616 approval of the board, the organizations may subcontract with
1617 other organizations or individuals to provide components of the
1618 educational services. As a cost of administration, the board may
1619 compensate any such contractor for its services in accordance
1620 with the terms of the contract, as is deemed necessary or proper
1621 by the board. The education organization may not be an approved
1622 provider or be affiliated with an approved provider.

1623 4. Educational services shall be designed by the board and
1624 department to assist employers, eligible employees,
1625 participants, and beneficiaries in order to maintain compliance
1626 with United States Department of Labor regulations under s.
1627 404(c) of the Employee Retirement Income Security Act of 1974
1628 and to assist employees in their choice of defined benefit or
1629 defined contribution retirement alternatives. Educational
1630 services include, but are not limited to, disseminating
1631 educational materials; providing retirement planning education;
1632 explaining the differences between the defined benefit
1633 retirement plan and the defined contribution retirement plan;
1634 and offering financial planning guidance on matters such as
1635 investment diversification, investment risks, investment costs,
1636 and asset allocation. An approved provider may also provide
1637 educational information, including retirement planning and



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1638 investment allocation information concerning its products and
1639 services.

1640 (11) PARTICIPANT INFORMATION REQUIREMENTS.—The board shall
1641 ensure that each participant is provided a quarterly statement
1642 that accounts for the participant and employer contributions
1643 made on behalf of such participant; the interest and investment
1644 earnings thereon; and any fees, penalties, or other deductions
1645 that apply thereto. At a minimum, such statements must:

1646 (a) Indicate the participant's investment options.

1647 (b) State the market value of the account at the close of
1648 the current quarter and previous quarter.

1649 (c) Show account gains and losses for the period and
1650 changes in account accumulation unit values for the period.

1651 (d) Itemize account contributions for the quarter.

1652 (e) Indicate any account changes due to adjustment of
1653 contribution levels, reallocation of contributions, balance
1654 transfers, or withdrawals.

1655 (f) Set forth any fees, charges, penalties, and deductions
1656 that apply to the account.

1657 (g) Indicate the amount of the account in which the
1658 participant is fully vested and the amount of the account in
1659 which the participant is not vested.

1660 (h) Indicate each investment product's performance relative
1661 to an appropriate market benchmark.

1662

1663 The third-party administrator shall provide quarterly and annual
1664 summary reports to the board and any other reports requested by
1665 the department or the board. In any solicitation or offer of
1666 coverage under an optional retirement program, a provider



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1667 company shall be governed by the contract readability provisions
1668 of s. 627.4145, notwithstanding s. 627.4145(6)(c). In addition,
1669 all descriptive materials must be prepared under the assumption
1670 that the participant is an unsophisticated investor. Provider
1671 companies must maintain an internal system of quality assurance,
1672 have proven functional systems that are date-calculation
1673 compliant, and be subject to a due-diligence inquiry that proves
1674 their capacity and fitness to undertake service
1675 responsibilities.

1676 (13) FEDERAL REQUIREMENTS.—

1677 (c) Participant and employer contributions payable under
1678 this section for any limitation year may not exceed the maximum
1679 amount allowable for qualified defined contribution pension
1680 plans under applicable provisions of the Internal Revenue Code.
1681 If an employee who has elected to participate in the Public
1682 Employee Optional Retirement Program participates in any other
1683 plan that is maintained by the participating employer, benefits
1684 that accrue under the Public Employee Optional Retirement
1685 Program shall be considered primary for any aggregate limitation
1686 applicable under s. 415 of the Internal Revenue Code.

1687 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
1688 PROGRAM PARTICIPANTS.—Notwithstanding any provision of law to
1689 the contrary, participants in the Deferred Retirement Option
1690 Program offered under part I may, after conclusion of their
1691 participation in the program, elect to roll over or authorize a
1692 direct trustee-to-trustee transfer to an account under the
1693 Public Employee Optional Retirement Program of their Deferred
1694 Retirement Option Program proceeds distributed as provided under
1695 s. 121.091(13)(c)5. The transaction must constitute an "eligible



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1696 rollover distribution" within the meaning of s. 402(c)(4) of the
1697 Internal Revenue Code.

1698 (b) The affected participant shall direct the investment of
1699 his or her investment account; however, unless he or she becomes
1700 a renewed member of the Florida Retirement System under s.
1701 121.122 and elects to participate in the Public Employee
1702 Optional Retirement Program, participant and employer
1703 contributions may not be made to the participant's account as
1704 provided under paragraph (5)(a).

1705 Section 15. Subsections (1) and (3) of section 121.4503,
1706 Florida Statutes, are amended to read:

1707 121.4503 Florida Retirement System Contributions Clearing
1708 Trust Fund.—

1709 (1) The Florida Retirement System Contributions Clearing
1710 Trust Fund is created as a clearing fund for disbursing
1711 participant and employer contributions to the component plans of
1712 the Florida Retirement System and shall be administered by the
1713 Department of Management Services. Funds shall be credited to
1714 the trust fund as provided in this chapter and shall be held in
1715 trust for the contributing participants and employers until such
1716 time as the assets are transferred by the department to the
1717 Florida Retirement System Trust Fund, the Public Employee
1718 Optional Retirement Program Trust Fund, or other trust funds as
1719 authorized by law, to be used for the purposes of this chapter.
1720 The trust fund is exempt from the service charges imposed by s.
1721 215.20.

1722 (3) The Department of Management Services may adopt rules
1723 governing the receipt and disbursement of amounts received by
1724 the Florida Retirement System Contributions Clearing Trust Fund



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1725 from employees and employers contributing to the component plans
1726 of the Florida Retirement System.

1727 Section 16. Subsection (1) of section 121.571, Florida
1728 Statutes, is amended to read:

1729 121.571 Contributions.—Contributions to the Public Employee
1730 Optional Retirement Program shall be made as follows:

1731 (1) CONTRIBUTORY NONCONTRIBUTORY PLAN.—Each participant and
1732 employer shall submit ~~accomplish the~~ contributions as required
1733 by s. 121.71 ~~by a procedure in which no employee's gross salary~~
1734 ~~shall be reduced.~~

1735 Section 17. Section 121.591, Florida Statutes, is amended
1736 to read:

1737 121.591 Benefits payable under the Public Employee Optional
1738 Retirement Program of the Florida Retirement System.—Benefits
1739 may not be paid under this section unless the member has
1740 terminated employment as provided in s. 121.021(39) (a) or is
1741 deceased and a proper application has been filed in the manner
1742 prescribed by the state board or the department. Benefits are
1743 not payable under the Public Employee Optional Retirement
1744 Program prior to termination of employment as provided in s.
1745 121.021(39) (a) for employee hardships, unforeseeable
1746 emergencies, loans, medical expenses, educational expenses,
1747 purchase of a principal residence, payments necessary to prevent
1748 eviction or foreclosure on an employee's principal residence, or
1749 for any other reason. The state board or department, as
1750 appropriate, may cancel an application for retirement benefits
1751 when the member or beneficiary fails to timely provide the
1752 information and documents required by this chapter and the rules
1753 of the state board and department. In accordance with their



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1754 respective responsibilities as provided herein, the State Board
1755 of Administration and the Department of Management Services
1756 shall adopt rules establishing procedures for application for
1757 retirement benefits and for the cancellation of such application
1758 when the required information or documents are not received. The
1759 State Board of Administration and the Department of Management
1760 Services, as appropriate, are authorized to cash out a de
1761 minimis account of a participant who has been terminated from
1762 Florida Retirement System covered employment for a minimum of 6
1763 calendar months. A de minimis account is an account containing
1764 participant and employer contributions and accumulated earnings
1765 of not more than \$5,000 made under the provisions of this
1766 chapter. Such cash-out must either be a complete lump-sum
1767 liquidation of the account balance, subject to the provisions of
1768 the Internal Revenue Code, or a lump-sum direct rollover
1769 distribution paid directly to the custodian of an eligible
1770 retirement plan, as defined by the Internal Revenue Code, on
1771 behalf of the participant. Any nonvested accumulations,
1772 including amounts transferred to the suspense account of the
1773 Public Employee Optional Retirement Program Trust Fund
1774 authorized under s. 121.4501(6), shall be forfeited upon payment
1775 of any vested benefit to a participant or beneficiary, except
1776 for de minimis distributions or minimum required distributions
1777 as provided under this section. If any financial instrument
1778 issued for the payment of retirement benefits under this section
1779 is not presented for payment within 180 days after the last day
1780 of the month in which it was originally issued, the third-party
1781 administrator or other duly authorized agent of the State Board
1782 of Administration shall cancel the instrument and credit the



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1783 amount of the instrument to the suspense account of the Public
1784 Employee Optional Retirement Program Trust Fund authorized under
1785 s. 121.4501(6). Any such amounts transferred to the suspense
1786 account are payable upon a proper application, not to include
1787 earnings thereon, as provided in this section, within 10 years
1788 after the last day of the month in which the instrument was
1789 originally issued, after which time such amounts and any
1790 earnings attributable to employer contributions thereon shall be
1791 forfeited. Any such forfeited amounts are assets of the Public
1792 Employee Optional Retirement Program Trust Fund and are not
1793 subject to the provisions of chapter 717.

1794 (1) NORMAL BENEFITS.—Under the Public Employee Optional
1795 Retirement Program:

1796 (a) Benefits in the form of vested accumulations as
1797 described in s. 121.4501(6) are payable under this subsection in
1798 accordance with the following terms and conditions:

1799 1. To the extent vested, benefits are payable only to a
1800 participant.

1801 2. Benefits shall be paid by the third-party administrator
1802 or designated approved providers in accordance with the law, the
1803 contracts, and any applicable board rule or policy.

1804 3. To receive benefits, the participant must be terminated
1805 from all employment with all Florida Retirement System
1806 employers, as provided in s. 121.021(39).

1807 4. Benefit payments may not be made until the participant
1808 has been terminated for 3 calendar months, except that the board
1809 may authorize by rule for the distribution of up to 10 percent
1810 of the participant's account after being terminated for 1
1811 calendar month if the participant has reached the normal



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1812 retirement date as defined in s. 121.021 of the defined benefit
1813 plan.

1814 5. If a member or former member of the Florida Retirement
1815 System receives an invalid distribution from the Public Employee
1816 Optional Retirement Program Trust Fund, such person must repay
1817 the full invalid distribution to the trust fund within 90 days
1818 after receipt of final notification by the state board or the
1819 third-party administrator that the distribution was invalid. If
1820 such person fails to repay the full invalid distribution within
1821 90 days after receipt of final notification, the person may be
1822 deemed retired from the optional retirement program by the state
1823 board, as provided pursuant to s. 121.4501(2)(j), and is subject
1824 to s. 121.122. If such person is deemed retired by the state
1825 board, any joint and several liability set out in s.

1826 121.091(9)(d)2. becomes null and void, and the state board, the
1827 department, or the employing agency is not liable for gains on
1828 payroll contributions that have not been deposited to the
1829 person's account in the retirement program, pending resolution
1830 of the invalid distribution. The member or former member who has
1831 been deemed retired or who has been determined by the board to
1832 have taken an invalid distribution may appeal the agency
1833 decision through the complaint process as provided under s.
1834 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
1835 distribution" means any distribution from an account in the
1836 optional retirement program which is taken in violation of this
1837 section, s. 121.091(9), or s. 121.4501.

1838 (b) If a participant elects to receive his or her benefits
1839 upon termination of employment as defined in s. 121.021, the
1840 participant must submit a written application or an equivalent



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1841 form to the third-party administrator indicating his or her
1842 preferred distribution date and selecting an authorized method
1843 of distribution as provided in paragraph (c). The participant
1844 may defer receipt of benefits until he or she chooses to make
1845 such application, subject to federal requirements.

1846 (c) Upon receipt by the third-party administrator of a
1847 properly executed application for distribution of benefits, the
1848 total accumulated benefit shall be payable to the participant
1849 pro rata across all FRS benefit sources, as:

1850 1. A lump-sum or partial distribution to the participant;

1851 2. A lump-sum direct rollover distribution whereby all
1852 accrued benefits, plus interest and investment earnings, are
1853 paid from the participant's account directly to the custodian of
1854 an eligible retirement plan, as defined in s. 402(c)(8)(B) of
1855 the Internal Revenue Code, on behalf of the participant; or

1856 3. Periodic distributions, as authorized by the state
1857 board.

1858 (d) The distribution payment method selected by the
1859 participant or beneficiary, and the retirement of the
1860 participant or beneficiary, shall be final and irrevocable at
1861 the time a benefit distribution payment is cashed, deposited, or
1862 transferred to another financial institution. Any additional
1863 service that remains unclaimed at retirement may not be claimed
1864 or purchased, and the type of retirement may not be changed,
1865 except that if a participant recovers from a disability, the
1866 participant may subsequently request normal service benefits
1867 under subsection (2).

1868 (e) A participant may not receive a distribution of
1869 employee contributions if a pending qualified domestic relations



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1870 order is filed against the participant's Public Employee
1871 Optional Retirement Program account.

1872 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
1873 this subsection are payable in lieu of the benefits which would
1874 otherwise be payable under the provisions of subsection (1).
1875 Such benefits shall be funded ~~entirely~~ from employer
1876 contributions made under s. 121.571, transferred participant
1877 contributions and funds accumulated pursuant to paragraph (a),
1878 and interest and earnings thereon. Pursuant thereto:

1879 (a) *Transfer of funds.*—To qualify to receive monthly
1880 disability benefits under this subsection:

1881 1. All moneys accumulated in the participant's Public
1882 Employee Optional Retirement Program accounts, including vested
1883 and nonvested accumulations as described in s. 121.4501(6),
1884 shall be transferred from such individual accounts to the
1885 Division of Retirement for deposit in the disability account of
1886 the Florida Retirement System Trust Fund. Such moneys shall be
1887 separately accounted for. Earnings shall be credited on an
1888 annual basis for amounts held in the disability accounts of the
1889 Florida Retirement System Trust Fund based on actual earnings of
1890 the Florida Retirement System Trust Fund.

1891 2. If the participant has retained retirement credit he or
1892 she had earned under the defined benefit program of the Florida
1893 Retirement System as provided in s. 121.4501(3)(b), a sum
1894 representing the actuarial present value of such credit within
1895 the Florida Retirement System Trust Fund shall be reassigned by
1896 the Division of Retirement from the defined benefit program to
1897 the disability program as implemented under this subsection and
1898 shall be deposited in the disability account of the Florida



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1899 Retirement System Trust Fund. Such moneys shall be separately
1900 accounted for.

1901 (b) *Disability retirement; entitlement.*—

1902 1. A participant of the Public Employee Optional Retirement
1903 Program who becomes totally and permanently disabled, as defined
1904 in s. 121.091(4)(b), after completing 8 years of creditable
1905 service, or a participant who becomes totally and permanently
1906 disabled in the line of duty regardless of his or her length of
1907 service, shall be entitled to a monthly disability benefit as
1908 provided herein.

1909 2. In order for service to apply toward the 8 years of
1910 service required to vest for regular disability benefits, or
1911 toward the creditable service used in calculating a service-
1912 based benefit as provided for under paragraph (g), the service
1913 must be creditable service as described below:

1914 a. The participant's period of service under the Public
1915 Employee Optional Retirement Program will be considered
1916 creditable service, except as provided in subparagraph d.

1917 b. If the participant has elected to retain credit for his
1918 or her service under the defined benefit program of the Florida
1919 Retirement System as provided under s. 121.4501(3)(b), all such
1920 service will be considered creditable service.

1921 c. If the participant has elected to transfer to his or her
1922 participant accounts a sum representing the present value of his
1923 or her retirement credit under the defined benefit program as
1924 provided under s. 121.4501(3)(c), the period of service under
1925 the defined benefit program represented in the present value
1926 amounts transferred will be considered creditable service for
1927 purposes of vesting for disability benefits, except as provided



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1928 in subparagraph d.

1929 d. Whenever a participant has terminated employment and has
1930 taken distribution of his or her funds as provided in subsection
1931 (1), all creditable service represented by such distributed
1932 funds is forfeited for purposes of this subsection.

1933 (c) *Disability retirement effective date.*—The effective
1934 retirement date for a participant who applies and is approved
1935 for disability retirement shall be established as provided under
1936 s. 121.091(4)(a)2. and 3.

1937 (d) *Total and permanent disability.*—A participant shall be
1938 considered totally and permanently disabled if, in the opinion
1939 of the division, he or she is prevented, by reason of a
1940 medically determinable physical or mental impairment, from
1941 rendering useful and efficient service as an officer or
1942 employee.

1943 (e) *Proof of disability.*—The division, before approving
1944 payment of any disability retirement benefit, shall require
1945 proof that the participant is totally and permanently disabled
1946 in the same manner as provided for members of the defined
1947 benefit program of the Florida Retirement System under s.
1948 121.091(4)(c).

1949 (f) *Disability retirement benefit.*—Upon the disability
1950 retirement of a participant under this subsection, the
1951 participant shall receive a monthly benefit that shall begin to
1952 accrue on the first day of the month of disability retirement,
1953 as approved by the division, and shall be payable on the last
1954 day of that month and each month thereafter during his or her
1955 lifetime and continued disability. All disability benefits
1956 payable to such member shall be paid out of the disability



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1957 account of the Florida Retirement System Trust Fund established
1958 under this subsection.

1959 (g) *Computation of disability retirement benefit.*—The
1960 amount of each monthly payment shall be calculated in the same
1961 manner as provided for members of the defined benefit program of
1962 the Florida Retirement System under s. 121.091(4)(f). For such
1963 purpose, creditable service under both the defined benefit
1964 program and the Public Employee Optional Retirement Program of
1965 the Florida Retirement System shall be applicable as provided
1966 under paragraph (b).

1967 (h) *Reapplication.*—A participant whose initial application
1968 for disability retirement has been denied may reapply for
1969 disability benefits in the same manner, and under the same
1970 conditions, as provided for members of the defined benefit
1971 program of the Florida Retirement System under s. 121.091(4)(g).

1972 (i) *Membership.*—Upon approval of an application for
1973 disability benefits under this subsection, the applicant shall
1974 be transferred to the defined benefit program of the Florida
1975 Retirement System, effective upon his or her disability
1976 retirement effective date.

1977 (j) *Option to cancel.*—Any participant whose application for
1978 disability benefits is approved may cancel his or her
1979 application for disability benefits, provided that the
1980 cancellation request is received by the division before a
1981 disability retirement warrant has been deposited, cashed, or
1982 received by direct deposit. Upon such cancellation:

1983 1. The participant's transfer to the defined benefit
1984 program under paragraph (i) shall be nullified;

1985 2. The participant shall be retroactively reinstated in the



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1986 Public Employee Optional Retirement Program without hiatus;
1987 3. All funds transferred to the Florida Retirement System
1988 Trust Fund under paragraph (a) shall be returned to the
1989 participant accounts from which such funds were drawn; and
1990 4. The participant may elect to receive the benefit payable
1991 under the provisions of subsection (1) in lieu of disability
1992 benefits as provided under this subsection.
1993 (k) *Recovery from disability.*—
1994 1. The division may require periodic reexaminations at the
1995 expense of the disability program account of the Florida
1996 Retirement System Trust Fund. Except as otherwise provided in
1997 subparagraph 2., the requirements, procedures, and restrictions
1998 relating to the conduct and review of such reexaminations,
1999 discontinuation or termination of benefits, reentry into
2000 employment, disability retirement after reentry into covered
2001 employment, and all other matters relating to recovery from
2002 disability shall be the same as are set forth under s.
2003 121.091(4)(h).
2004 2. Upon recovery from disability, any recipient of
2005 disability retirement benefits under this subsection shall be a
2006 compulsory member of the Public Employee Optional Retirement
2007 Program of the Florida Retirement System. The net difference
2008 between the recipient's original account balance transferred to
2009 the Florida Retirement System Trust Fund, including earnings,
2010 under paragraph (a) and total disability benefits paid to such
2011 recipient, if any, shall be determined as provided in sub-
2012 subparagraph a.
2013 a. An amount equal to the total benefits paid shall be
2014 subtracted from that portion of the transferred account balance



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2015 consisting of vested accumulations as described under s.
2016 121.4501(6), if any, and an amount equal to the remainder of
2017 benefit amounts paid, if any, shall then be subtracted from any
2018 remaining portion consisting of nonvested accumulations as
2019 described under s. 121.4501(6).

2020 b. Amounts subtracted under sub-subparagraph a. shall be
2021 retained within the disability account of the Florida Retirement
2022 System Trust Fund. Any remaining account balance shall be
2023 transferred to the third-party administrator for disposition as
2024 provided under sub-subparagraph c. or sub-subparagraph d., as
2025 appropriate.

2026 c. If the recipient returns to covered employment,
2027 transferred amounts shall be deposited in individual accounts
2028 under the Public Employee Optional Retirement Program, as
2029 directed by the participant. Vested and nonvested amounts shall
2030 be separately accounted for as provided in s. 121.4501(6).

2031 d. If the recipient fails to return to covered employment
2032 upon recovery from disability:

2033 (I) Any remaining vested amount shall be deposited in
2034 individual accounts under the Public Employee Optional
2035 Retirement Program, as directed by the participant, and shall be
2036 payable as provided in subsection (1).

2037 (II) Any remaining nonvested amount shall be held in a
2038 suspense account and shall be forfeitable after 5 years as
2039 provided in s. 121.4501(6).

2040 3. If present value was reassigned from the defined benefit
2041 program to the disability program of the Florida Retirement
2042 System as provided under subparagraph (a)2., the full present
2043 value amount shall be returned to the defined benefit account



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2044 within the Florida Retirement System Trust Fund and the affected
2045 individual's associated retirement credit under the defined
2046 benefit program shall be reinstated in full. Any benefit based
2047 upon such credit shall be calculated as provided in s.
2048 121.091(4)(h)1.

2049 (l) *Nonadmissible causes of disability.*—A participant shall
2050 not be entitled to receive a disability retirement benefit if
2051 the disability results from any injury or disease sustained or
2052 inflicted as described in s. 121.091(4)(i).

2053 (m) *Disability retirement of justice or judge by order of*
2054 *Supreme Court.*—

2055 1. If a participant is a justice of the Supreme Court,
2056 judge of a district court of appeal, circuit judge, or judge of
2057 a county court who has served for 6 years or more as an elected
2058 constitutional judicial officer, including service as a judicial
2059 officer in any court abolished pursuant to Art. V of the State
2060 Constitution, and who is retired for disability by order of the
2061 Supreme Court upon recommendation of the Judicial Qualifications
2062 Commission pursuant to the provisions of Art. V of the State
2063 Constitution, the participant's Option 1 monthly disability
2064 benefit amount as provided in s. 121.091(6)(a)1. shall be two-
2065 thirds of his or her monthly compensation as of the
2066 participant's disability retirement date. Such a participant may
2067 alternatively elect to receive an actuarially adjusted
2068 disability retirement benefit under any other option as provided
2069 in s. 121.091(6)(a), or to receive the normal benefit payable
2070 under the Public Employee Optional Retirement Program as set
2071 forth in subsection (1).

2072 2. If any justice or judge who is a participant of the



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2073 Public Employee Optional Retirement Program of the Florida
2074 Retirement System is retired for disability by order of the
2075 Supreme Court upon recommendation of the Judicial Qualifications
2076 Commission pursuant to the provisions of Art. V of the State
2077 Constitution and elects to receive a monthly disability benefit
2078 under the provisions of this paragraph:

2079 a. Any present value amount that was transferred to his or
2080 her program account and all participant and employer
2081 contributions made to such account on his or her behalf, plus
2082 interest and earnings thereon, shall be transferred to and
2083 deposited in the disability account of the Florida Retirement
2084 System Trust Fund; and

2085 b. The monthly benefits payable under this paragraph for
2086 any affected justice or judge retired from the Florida
2087 Retirement System pursuant to Art. V of the State Constitution
2088 shall be paid from the disability account of the Florida
2089 Retirement System Trust Fund.

2090 (n) *Death of retiree or beneficiary.*—Upon the death of a
2091 disabled retiree or beneficiary thereof who is receiving monthly
2092 benefits under this subsection, the monthly benefits shall be
2093 paid through the last day of the month of death and shall
2094 terminate, or be adjusted, if applicable, as of that date in
2095 accordance with the optional form of benefit selected at the
2096 time of retirement. The Department of Management Services may
2097 adopt rules necessary to administer this paragraph.

2098 (3) DEATH BENEFITS.—Under the Public Employee Optional
2099 Retirement Program:

2100 (a) Survivor benefits shall be payable in accordance with
2101 the following terms and conditions:



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2102 1. To the extent vested, benefits shall be payable only to
2103 a participant's beneficiary or beneficiaries as designated by
2104 the participant as provided in s. 121.4501(20).

2105 2. Benefits shall be paid by the third-party administrator
2106 or designated approved providers in accordance with the law, the
2107 contracts, and any applicable board rule or policy.

2108 3. To receive benefits under this subsection, the
2109 participant must be deceased.

2110 (b) In the event of a participant's death, all vested
2111 accumulations as described in s. 121.4501(6), less withholding
2112 taxes remitted to the Internal Revenue Service, shall be
2113 distributed, as provided in paragraph (c) or as described in s.
2114 121.4501(20), as if the participant retired on the date of
2115 death. No other death benefits shall be available for survivors
2116 of participants under the Public Employee Optional Retirement
2117 Program, except for such benefits, or coverage for such
2118 benefits, as are otherwise provided by law or are separately
2119 afforded by the employer, at the employer's discretion.

2120 (c) Upon receipt by the third-party administrator of a
2121 properly executed application for distribution of benefits, the
2122 total accumulated benefit shall be payable by the third-party
2123 administrator to the participant's surviving beneficiary or
2124 beneficiaries, as:

2125 1. A lump-sum distribution payable to the beneficiary or
2126 beneficiaries, or to the deceased participant's estate;

2127 2. An eligible rollover distribution, if permitted, on
2128 behalf of the surviving spouse of a deceased participant,
2129 whereby all accrued benefits, plus interest and investment
2130 earnings, are paid from the deceased participant's account



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2131 directly to the custodian of an eligible retirement plan, as
2132 described in s. 402(c)(8)(B) of the Internal Revenue Code, on
2133 behalf of the surviving spouse; or

2134 3. A partial lump-sum payment whereby a portion of the
2135 accrued benefit is paid to the deceased participant's surviving
2136 spouse or other designated beneficiaries, less withholding taxes
2137 remitted to the Internal Revenue Service, and the remaining
2138 amount is transferred directly to the custodian of an eligible
2139 retirement plan, if permitted, as described in s. 402(c)(8)(B)
2140 of the Internal Revenue Code, on behalf of the surviving spouse.
2141 The proportions must be specified by the participant or the
2142 surviving beneficiary.

2143
2144 This paragraph does not abrogate other applicable provisions of
2145 state or federal law providing for payment of death benefits.

2146 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
2147 any person under the Public Employee Optional Retirement
2148 Program, and any contributions accumulated under such program,
2149 are not subject to assignment, execution, attachment, or any
2150 legal process, except for qualified domestic relations orders by
2151 a court of competent jurisdiction, income deduction orders as
2152 provided in s. 61.1301, and federal income tax levies.

2153 Section 18. Subsection (1) of section 121.70, Florida
2154 Statutes, is amended to read:

2155 121.70 Legislative purpose and intent.—

2156 (1) This part provides for a uniform system for funding
2157 benefits provided under the Florida Retirement System defined
2158 benefit program established under part I of this chapter
2159 (referred to in this part as the defined benefit program) and



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2160 under the Public Employee Optional Retirement Program
2161 established under part II of this chapter (referred to in this
2162 part as the optional retirement program). The Legislature
2163 recognizes and declares that the Florida Retirement System is a
2164 single retirement system, consisting of two retirement plans and
2165 other nonintegrated programs. Employees and employers
2166 participating in the Florida Retirement System collectively
2167 shall be responsible for making contributions to support the
2168 benefits afforded under both plans. As provided in this part,
2169 employees and employers participating in the Florida Retirement
2170 System shall make contributions based upon uniform contribution
2171 rates determined as a percentage of the employee's gross monthly
2172 compensation ~~total payroll~~ for the employee's each class or
2173 subclass of Florida Retirement System membership, irrespective
2174 of which retirement plan individual employees may elect. This
2175 shall be known as a uniform or blended contribution rate system.

2176 Section 19. Subsection (2) of section 121.71, Florida
2177 Statutes, is amended, present subsections (3) and (4) of that
2178 section are renumbered as subsections (4) and (7), respectively,
2179 and new subsections (3), (5), and (6) are added to that section,
2180 to read:

2181 121.71 Uniform rates; process; calculations; levy.—

2182 (2) Based on the uniform rates set forth in subsections
2183 ~~subsection~~ (3), (4), and (5), employees and employers shall make
2184 monthly contributions to the Division of Retirement as required
2185 in s. 121.061(1), which shall initially deposit the funds into
2186 the Florida Retirement System Contributions Clearing Trust Fund.
2187 A change in a contribution rate is effective the first day of
2188 the month for which a full month's employee and employer



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2189 contribution may be made on or after the beginning date of the
2190 change. Beginning January 1, 2011, each employee shall
2191 contribute to the plan the contributions required in subsection
2192 (3). The employer shall deduct the contribution from the
2193 employee's monthly salary, and the contribution shall be
2194 submitted to the Division of Retirement. These contributions
2195 shall be reported as employer-paid employee contributions, and
2196 shall be credited to the account of the employee. The
2197 contributions shall be deducted from the employee's salary
2198 before the computation of applicable federal taxes and shall be
2199 treated as employer contributions under 26 U.S.C. 414(b) (2). The
2200 contributions, although designated as employee contributions,
2201 are being paid by the employers in lieu of contributions by the
2202 employee. The employee shall not have the option of choosing to
2203 receive the contributed amounts directly instead of having them
2204 paid by the employer to the plan. Such contributions are
2205 mandatory and each employee shall be considered to consent to
2206 payroll deductions. Payment of an employee's salary or wages,
2207 less the contribution, is a full and complete discharge and
2208 satisfaction of all claims and demands for the service rendered
2209 by employees during the period covered by the payment, except
2210 their claims to the benefits to which they may be entitled under
2211 the provisions of this chapter.

2212 (3) Required employee retirement contribution rates for
2213 each membership class and subclass of the Florida Retirement
2214 System for both retirement plans are as follows:

<u>Membership Class</u>	<u>Percentage of Gross Compensation,</u> <u>Effective January 1, 2011</u>
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2215



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2216	<u>Regular Class</u>	<u>0.25%</u>
2217	<u>Special Risk Class</u>	<u>0.25%</u>
2218	<u>Special Risk</u> <u>Administrative</u> <u>Support Class</u>	<u>0.25%</u>
2219	<u>Elected Officers' Class -</u> <u>Legislators, Governor,</u> <u>Lt. Governor,</u> <u>Cabinet Officers,</u> <u>State Attorneys,</u> <u>Public Defenders</u>	<u>0.25%</u>
2220	<u>Elected Officers' Class -</u> <u>Justices, Judges</u>	<u>0.25%</u>
2221	<u>Elected Officers' Class -</u> <u>County Elected Officers</u>	<u>0.25%</u>
2222	<u>Senior Management Class</u>	<u>0.25%</u>
2223	<u>DROP</u>	<u>0.25%</u>
2224	(4) (3) Required employer retirement contribution rates for	
2225	each membership class and subclass of the Florida Retirement	
2226	System for both retirement plans are as follows:	



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	Percentage of Gross Compensation, Effective July 1, <u>2010</u> 2009	Percentage of Gross Compensation, Effective <u>January</u> <u>1, 2011</u> July 1, 2010
2227 Membership Class		
2228 Regular Class	<u>9.76%</u> 8.69%	<u>9.54%</u> 9.63%
2229 Special Risk Class	<u>22.15%</u> 19.76%	<u>21.92%</u> 22.11%
Special Risk Administrative Support Class	<u>11.24%</u> 11.39%	<u>11.02%</u> 12.10%
2230 Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>14.38%</u> 13.32%	<u>14.16%</u> 15.20%
2231 Elected Officers' Class - Justices, Judges	<u>19.39%</u> 18.40%	<u>19.15%</u> 20.65%
2232 Elected Officers' Class - County Elected Officers	<u>16.62%</u> 15.37%	<u>16.39%</u> 17.50%
2233 Senior Management Class	<u>11.70%</u> 11.96%	<u>11.49%</u> 13.43%



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2234

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

2235

2236

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

2237

2238

2239

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2010</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>
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2240

<u>Regular Class</u>	<u>0.00%</u>	<u>1.58%</u>
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2241

<u>Special Risk Class</u>	<u>0.00%</u>	<u>5.97%</u>
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2242

<u>Special Risk Administrative Support Class</u>	<u>0.00%</u>	<u>15.97%</u>
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2243

<u>Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	<u>0.00%</u>	<u>17.05%</u>
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2244

<u>Elected Officers' Class -</u>	<u>0.00%</u>	<u>11.00%</u>
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Justices, Judges

2245

Elected Officers' Class -

<u>County Elected Officers</u>	<u>0.00%</u>	<u>19.75%</u>
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2246

<u>Senior Management Class</u>	<u>0.00%</u>	<u>9.26%</u>
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2247

<u>DROP</u>	<u>0.00%</u>	<u>4.97%</u>
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2248

2249 (6) If a member is reported under an incorrect membership
2250 class and the amount of contributions reported and remitted are
2251 less than the amount required, the employer shall owe the
2252 difference, plus the delinquent fee, of 1 percent for each
2253 calendar month or part thereof that the contributions should
2254 have been paid. This delinquent assessment may not be waived. If
2255 the contributions reported and remitted are more than the amount
2256 required, the employer shall receive a credit to be applied
2257 against future contributions owed.

2258 (7)~~(4)~~ The state actuary shall recognize and use an
2259 appropriate level of available excess assets of the Florida
2260 Retirement System Trust Fund to offset the difference between
2261 the normal costs of the Florida Retirement System and the
2262 statutorily prescribed contribution rates.

2263 Section 20. Subsections (2), (3), and (4) of section
2264 121.72, Florida Statutes, are amended to read:

2265 121.72 Allocations to optional retirement program
2266 participant accounts; percentage amounts.—

2267 (2) The allocations are stated as a percentage of each
2268 optional retirement program participant's gross compensation for



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2269 the calendar month. A change in a contribution percentage is
2270 effective the first day of the month for which retirement
2271 contributions ~~a full month's employer contribution~~ may be made
2272 on or after the beginning date of the change. Contribution
2273 percentages may be modified by general law.

2274 (3) Employer and participant contributions to participant
2275 accounts shall be accounted for separately. ~~Participant~~
2276 ~~contributions may be made only if expressly authorized by law.~~
2277 Interest and investment earnings on contributions shall accrue
2278 on a tax-deferred basis until proceeds are distributed.

2279 (4) Effective January 1, 2011 ~~July 1, 2002~~, allocations
2280 from the Florida Retirement System Contributions Clearing Trust
2281 Fund to optional retirement program participant accounts,
2282 including employee contributions as required in s. 121.71(3),
2283 shall be as follows:

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



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Justices, Judges

2289

Elected Officers' Class -

County Elected Officers 16.20%

2290

Senior Management Service Class 10.95%

2291

2292 Section 21. Section 121.73, Florida Statutes, is amended to
2293 read:

2294 121.73 Allocations for optional retirement program
2295 participant disability coverage; percentage amounts.-

2296 (1) The allocations established in subsection (3) shall be
2297 used to provide disability coverage for participants in the
2298 optional retirement program and shall be transferred monthly by
2299 the Division of Retirement from the Florida Retirement System
2300 Contributions Clearing Trust Fund to the disability account of
2301 the Florida Retirement System Trust Fund.

2302 (2) The allocations are stated as a percentage of each
2303 optional retirement program participant's gross compensation for
2304 the calendar month. A change in a contribution percentage is
2305 effective the first day of the month for which retirement
2306 contributions ~~a full month's employer contribution~~ may be made
2307 on or after the beginning date of the change. Contribution
2308 percentages may be modified by general law.

2309 (3) Effective July 1, 2002, allocations from the FRS
2310 Contribution Clearing Fund to provide disability coverage for
2311 participants in the optional retirement program, and to offset
2312 the costs of administering said coverage, shall be as follows:

Membership Class	Percentage of Gross Compensation
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2313	Regular Class	0.25%
2314	Special Risk Class	1.33%
2315	Special Risk Administrative Support Class	0.45%
2316	Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
2317	Elected Officers' Class - Justices, Judges	0.73%
2318	Elected Officers' Class - County Elected Officers	0.41%
2319	Senior Management Service Class	0.26%

2320
2321 Section 22. Section 121.74, Florida Statutes, is amended to
2322 read:

2323 121.74 Administrative and educational expenses.—In addition
2324 to contributions required under ss. ~~s.~~ 121.71 and 121.73,
2325 effective July 1, 2010, through June 30, 2014, employers
2326 participating in the Florida Retirement System shall contribute
2327 an amount equal to 0.03 ~~0.05~~ percent of the payroll reported for
2328 each class or subclass of Florida Retirement System membership.
2329 Effective July 1, 2014, the contribution rate shall be 0.04



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2330 percent of the payroll reported for each class or subclass of
2331 membership. The, which amount contributed shall be transferred
2332 by the Division of Retirement from the Florida Retirement System
2333 Contributions Clearing Trust Fund to the State Board of
2334 Administration's Administrative Trust Fund to offset the costs
2335 of administering the optional retirement program and the costs
2336 of providing educational services to participants in the defined
2337 benefit program and the optional retirement program. Approval of
2338 the trustees ~~of the State Board of Administration~~ is required
2339 before ~~prior to~~ the expenditure of these funds. Payments for
2340 third-party administrative or educational expenses shall be made
2341 only pursuant to the terms of the approved contracts for such
2342 services.

2343 Section 23. Section 121.76, Florida Statutes, is amended to
2344 read:

2345 121.76 Contributions for social security and for retiree
2346 health insurance subsidy.—Contributions required under this part
2347 shall be made or deducted, as may be appropriate, for each pay
2348 period and are in addition to employer and member contributions
2349 required for social security and the Retiree Health Insurance
2350 Subsidy Trust Fund as provided under parts I and II of this
2351 chapter. The employer-paid employee contributions specified in
2352 s. 121.71(2) are subject to taxes imposed under the Federal
2353 Insurance Contributions Act, 26 U.S.C. ss. 3101-3128.

2354 Section 24. Subsections (1) and (3) of section 121.78,
2355 Florida Statutes, are amended to read:

2356 121.78 Payment and distribution of contributions.—

2357 (1) Contributions made pursuant to this part shall be paid
2358 by the employer, including the employee contribution, to the



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2359 Division of Retirement by electronic funds transfer no later
2360 than the 5th working day of the month immediately following the
2361 month during which the payroll period ended. Accompanying
2362 payroll data must be transmitted to the division concurrent with
2363 the contributions.

2364 (3) (a) Employee and employer contributions and accompanying
2365 payroll data received after the 5th working day of the month
2366 shall be considered late. The employer shall be assessed by the
2367 division a penalty of 1 percent of the contributions due for
2368 each calendar month or part thereof that the contributions or
2369 accompanying payroll data are late. Proceeds from the 1-percent
2370 assessment against contributions made on behalf of participants
2371 of the defined benefit program shall be deposited in the Florida
2372 Retirement System Trust Fund, and proceeds from the 1-percent
2373 assessment against contributions made on behalf of participants
2374 of the optional retirement program shall be transferred to the
2375 third-party administrator for deposit into participant accounts,
2376 as provided in paragraph (c) ~~(b)~~.

2377 (b) Retirement contributions paid for a prior period shall
2378 be charged a delinquent fee of 1 percent for each calendar month
2379 or part thereof that the contributions should have been paid.
2380 This includes prior period contributions due to incorrect wages
2381 and contributions from an earlier report or wages and
2382 contributions that should have been reported, but were not. This
2383 delinquent assessment may not be waived.

2384 (c) ~~(b)~~ If employee contributions or contributions made by
2385 an employer on behalf of participants of the optional retirement
2386 program or accompanying payroll data are not received within the
2387 calendar month they are due, including, but not limited to,



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2388 contribution adjustments as a result of employer errors or
2389 corrections, and if that delinquency results in market losses to
2390 participants, the employer shall reimburse each participant's
2391 account for market losses resulting from the late contributions.
2392 If a participant has terminated employment and taken a
2393 distribution, the participant is responsible for returning any
2394 excess contributions erroneously provided by employers, adjusted
2395 for any investment gain or loss incurred during the period such
2396 excess contributions were in the participant's Public Employee
2397 Optional Retirement Program account. The State Board of
2398 Administration or its designated agent shall communicate to
2399 terminated participants any obligation to repay such excess
2400 contribution amounts. However, the State Board of
2401 Administration, its designated agents, the Public Employee
2402 Optional Retirement Program Trust Fund, the Department of
2403 Management Services, or the Florida Retirement System Trust Fund
2404 shall not incur any loss or gain as a result of an employer's
2405 correction of such excess contributions. The third-party
2406 administrator, hired by the board pursuant to s. 121.4501(8),
2407 shall calculate the market losses for each affected participant.
2408 When contributions made on behalf of participants of the
2409 optional retirement program or accompanying payroll data are not
2410 received within the calendar month due, the employer shall also
2411 pay the cost of the third-party administrator's calculation and
2412 reconciliation adjustments resulting from the late
2413 contributions. The third-party administrator shall notify the
2414 employer of the results of the calculations and the total amount
2415 due from the employer for such losses and the costs of
2416 calculation and reconciliation. The employer shall remit to the



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2417 division the amount due within 10 working days after the date of
2418 the penalty notice sent by the division. The division shall
2419 transfer said amount to the third-party administrator, who shall
2420 deposit proceeds from the 1-percent assessment and from
2421 individual market losses into participant accounts, as
2422 appropriate. The board is authorized to adopt rules to implement
2423 the provisions regarding late contributions, late submission of
2424 payroll data, the process for reimbursing participant accounts
2425 for resultant market losses, and the penalties charged to the
2426 employers.

2427 (d) If employee contributions reported by an employer on
2428 behalf of participants are reduced as a result of employer
2429 errors or corrections, and the participant has terminated
2430 employment and taken a refund or distribution, the employer
2431 shall be billed and is responsible for recovering from the
2432 participant any excess contributions erroneously provided by the
2433 employer.

2434 (e)~~(e)~~ Delinquency fees specified in paragraph (a) may be
2435 waived by the division, with regard to defined benefit program
2436 contributions, and by the State Board of Administration, with
2437 regard to optional retirement program contributions, only when,
2438 in the opinion of the division or the board, as appropriate,
2439 exceptional circumstances beyond the employer's control
2440 prevented remittance by the prescribed due date notwithstanding
2441 the employer's good faith efforts to effect delivery. Such a
2442 waiver of delinquency may be granted an employer only one time
2443 each plan state fiscal year.

2444 (f) If the employer submits excess employer or employee
2445 contributions, the employer shall receive a credit to be applied



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2446 against future contributions owed. The employer is responsible
2447 for reimbursing the employee for any excess contributions
2448 submitted, provided that any return of such an erroneous excess
2449 pretax contribution by the program shall be made within 1 year
2450 after making erroneous contributions or such other period as may
2451 be allowed by applicable Internal Revenue guidance.

2452 Section 25. Paragraph (a) of subsection (4) of section
2453 1012.875, Florida Statutes, is amended to read:

2454 1012.875 State Community College System Optional Retirement
2455 Program.—Each community college may implement an optional
2456 retirement program, if such program is established therefor
2457 pursuant to s. 1001.64(20), under which annuity or other
2458 contracts providing retirement and death benefits may be
2459 purchased by, and on behalf of, eligible employees who
2460 participate in the program, in accordance with s. 403(b) of the
2461 Internal Revenue Code. Except as otherwise provided herein, this
2462 retirement program, which shall be known as the State Community
2463 College System Optional Retirement Program, may be implemented
2464 and administered only by an individual community college or by a
2465 consortium of community colleges.

2466 (4) (a) Through December 31, 2010, each college must
2467 contribute on behalf of each program participant an amount equal
2468 to 10.43 percent of the participant's gross monthly
2469 compensation. Effective January 1, 2011, each program
2470 participant shall contribute an amount equal to the employee
2471 contribution required in s. 121.71(3). Effective January 1,
2472 2011, each employer shall contribute on behalf of each program
2473 participant an amount equal to the difference between 10.43
2474 percent of the participant's gross monthly compensation and the



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2475 amount equal to the employee's required contribution based on
2476 the employee's gross monthly compensation. The college shall
2477 deduct an amount approved by the district board of trustees of
2478 the college to provide for the administration of the optional
2479 retirement program. Payment of this contribution must be made
2480 either directly by the college or through the program
2481 administrator to the designated company contracting for payment
2482 of benefits to the program participant.

2483 Section 26. The Legislature finds that a proper and
2484 legitimate state purpose is served when employees and retirees
2485 of the state and its political subdivisions, and the dependents,
2486 survivors, and beneficiaries of such employees and retirees, are
2487 extended the basic protections afforded by governmental
2488 retirement systems. These persons must be provided benefits that
2489 are fair and adequate and that are managed, administered, and
2490 funded in an actuarially sound manner, as required by s. 14,
2491 Article X of the State Constitution and part VII of chapter 112,
2492 Florida Statutes. Therefore, the Legislature determines and
2493 declares that this act fulfills an important state interest.

2494 Section 27. For the 2010-2011 fiscal year, the sums of
2495 \$414,109 of recurring funds and \$31,016 of nonrecurring funds
2496 from the Florida Retirement System Operating Trust Fund are
2497 appropriated to, and eight full-time equivalent positions and
2498 salary rate of 265,621 are authorized for, the Division of
2499 Retirement within the Department of Management Services for the
2500 purpose of implementing this act.

2501 Section 28. This act shall take effect July 1, 2010.

2502
2503 ===== T I T L E A M E N D M E N T =====



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2504 And the title is amended as follows:

2505 Delete everything before the enacting clause
2506 and insert:

2507 A bill to be entitled

2508 An act relating to the Florida Retirement System;
2509 amending s. 121.011, F.S.; deleting a provision
2510 ensuring certain rights of members of the system;
2511 providing for employee and employer contributions;
2512 providing that the rights of members are of a
2513 contractual nature; amending s. 121.021, F.S.;

2514 redefining the terms "prior service," "termination,"
2515 "benefit," and "payee"; amending s. 121.051, F.S.;

2516 requiring that a local governmental entity or the
2517 governing body of a charter school or charter
2518 technical career center make certain elections
2519 regarding benefits at the time the entity or governing
2520 body joins the Florida Retirement System; providing
2521 that employer-paid employee contributions are subject
2522 to certain taxes; amending s. 121.0515, F.S.;

2523 providing for employee contributions to be used, if
2524 applicable, when purchasing credit for past service;
2525 amending s. 121.052, F.S., relating to the membership
2526 class of elected officers; conforming provisions to
2527 changes made by the act; providing for a refund of
2528 contributions under certain circumstances for an
2529 officer who leaves office; providing that a member who
2530 obtains a refund of contributions waives certain
2531 rights under the Florida Retirement System; amending
2532 s. 121.053, F.S.; clarifying the contributions



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2533 required for a member in the Elected Officers' Class
2534 who participates in the Deferred Retirement Option
2535 Program; amending s. 121.055, F.S., relating to the
2536 Senior Management Service Class; conforming provisions
2537 to changes made by the act; providing for a refund of
2538 contributions under certain circumstances for a member
2539 who terminates employment; providing that a member who
2540 obtains a refund of contributions waives certain
2541 rights under the Florida Retirement System; requiring
2542 employee and employer contributions for participants
2543 in the Senior Management Service Optional Annuity
2544 Program, effective January 1, 2011, and thereafter;
2545 limiting the payment of benefits prior to a
2546 participant's termination of employment; amending s.
2547 121.071, F.S.; requiring employee and employer
2548 contributions to the retirement system effective
2549 January 1, 2011; providing for a refund of
2550 contributions under certain circumstances following
2551 termination of employment; prohibiting such refund if
2552 an approved qualified domestic relations order is
2553 filed against the participant's retirement account;
2554 requiring repayment plus interest of an invalid
2555 refund; amending s. 121.081, F.S.; providing
2556 requirements for contributions for prior service
2557 performed on or after January 1, 2011; amending s.
2558 121.091, F.S.; providing for the refund of accumulated
2559 contributions if a member's employment is terminated
2560 for any reason other than death or retirement;
2561 amending s. 121.121, F.S., relating to the purchase of



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2562 creditable service following an authorized leave of
2563 absence; requiring that service credit be purchased at
2564 the employee and employer contribution rates in effect
2565 during the leave of absence; amending s. 121.125,
2566 F.S.; requiring that the employer make the required
2567 employee and employer retirement contributions
2568 following an employee's workers' compensation injury
2569 or illness; requiring that a penalty be assessed
2570 against an employer that fails to pay the required
2571 contributions; amending s. 121.35, F.S., relating to
2572 the optional retirement program for the State
2573 University System; requiring employee and employer
2574 contributions for participants in the optional
2575 retirement program, effective January 1, 2011, and
2576 thereafter; deleting certain requirements governing
2577 employer contributions to conform to changes made by
2578 the act; limiting the payment of benefits prior to a
2579 participant's termination of employment; amending s.
2580 121.4501, F.S.; requiring that participants in the
2581 Public Employee Optional Retirement Program make
2582 certain contributions to the program trust fund based
2583 on the employee's membership class; redefining the
2584 term "retiree" and defining the term "participant
2585 contributions"; providing for contribution adjustments
2586 as a result of errors or corrections; requiring an
2587 employer to receive a credit for excess contributions
2588 and to reimburse an employee for excess contributions,
2589 subject to certain limitations; providing for a
2590 participant to retain his or her prior plan choice



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2591 following a return to employment; excluding certain
2592 retirees from renewed membership in the Florida
2593 Retirement System; limiting certain refunds of
2594 contributions which exceed the amount that would have
2595 accrued had the member remained in the defined benefit
2596 program; providing certain requirements and
2597 limitations with respect to contributions; clarifying
2598 that participant and employer contributions are
2599 earmarked for specified purposes; providing duties of
2600 the third-party administrator; providing that a
2601 participant is vested immediately with respect to
2602 employee contributions paid by the participant;
2603 providing for the forfeiture of nonvested employer
2604 contributions and service credit under certain
2605 circumstances; amending s. 121.4503, F.S.; providing
2606 for the deposit of participant contributions into the
2607 Florida Retirement System Contributions Clearing Trust
2608 Fund; amending s. 121.571, F.S.; providing
2609 requirements for submitting participant contributions;
2610 amending s. 121.591, F.S.; limiting the payment of
2611 benefits prior to a participant's termination of
2612 employment; providing for the forfeiture of nonvested
2613 accumulations upon payment of certain vested benefits;
2614 providing that the distribution payment method
2615 selected by the participant or beneficiary is
2616 irrevocable at the time of distribution; prohibiting a
2617 distribution of employee contributions if an qualified
2618 domestic relations order is filed against the
2619 participant's account; amending s. 121.70, F.S.;



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2620 revising legislative intent; amending s. 121.71, F.S.;
2621 requiring that employee contributions be deducted from
2622 the employee's monthly salary, beginning on a
2623 specified date, and treated as employer contributions
2624 under certain provisions of federal law; clarifying
2625 that an employee may not receive such contributions
2626 directly; specifying the required employee
2627 contribution rates for the membership of each
2628 membership class and subclass of the Florida
2629 Retirement System; specifying the required employer
2630 retirement contribution rates for each membership
2631 class and subclass of the system in order to address
2632 unfunded actuarial liabilities of the system;
2633 requiring an assessment to be imposed if the employee
2634 contributions remitted are less than the amount
2635 required; providing for the employer to receive a
2636 credit for excess contributions remitted; amending s.
2637 121.72, F.S.; revising certain requirements governing
2638 allocations to optional retirement program participant
2639 accounts; amending s. 121.73, F.S., relating to
2640 disability coverage for participants in the optional
2641 retirement program; conforming provisions to changes
2642 made by the act; amending s. 121.74, F.S.; revising
2643 the amount that employers are required to contribute
2644 for administrative and educational expenses; amending
2645 s. 121.76, F.S.; providing that employer-paid employee
2646 contributions are subject to certain taxes; amending
2647 s. 121.78, F.S.; revising certain requirements for
2648 administering the payment and distribution of



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2649 contributions; requiring that certain fees be imposed
2650 for delinquent payment; providing that an employer is
2651 responsible for recovering any refund provided to an
2652 employee in error; revising the terms of an authorized
2653 waiver of delinquency; requiring an employer to
2654 receive a credit for excess contributions and to
2655 reimburse an employee for excess contributions,
2656 subject to certain limitations; amending s. 1012.875,
2657 F.S.; requiring employee and employer contributions
2658 for participants in the State Community College System
2659 Optional Retirement Program, effective January 1,
2660 2011, and thereafter; providing that the act fulfills
2661 an important state interest; providing appropriations
2662 to and authorizing additional positions for the
2663 Division of Retirement within the Department of
2664 Management Services; providing an effective date.