

By Senator Ring

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1                   A bill to be entitled  
2           An act relating to retirement; amending s. 110.123,  
3           F.S.; conforming provisions to changes made by the  
4           act; amending ss. 112.0801, 112.363, and 112.65, F.S.;  
5           conforming provisions to changes made by the act;  
6           amending s. 121.011, F.S.; requiring employee and  
7           employer contributions to the retirement system by a  
8           certain date; amending s. 121.021, F.S.; redefining  
9           the terms "system," "prior service," "compensation,"  
10          "average final compensation," "benefit," and "payee";  
11          amending s. 121.051, F.S.; conforming provisions to  
12          changes made by the act; clarifying that employer-paid  
13          employee contributions are subject to certain taxes;  
14          amending s. 121.0515, F.S.; providing that special  
15          risk employee contributions be used, if applicable,  
16          when purchasing credit for past service; conforming a  
17          cross-reference; amending s. 121.052, F.S., relating  
18          to the membership class of elected officers;  
19          conforming provisions to changes made by the act;  
20          providing for a refund of contributions under certain  
21          circumstances for an officer who leaves office;  
22          prohibiting such refund if an approved qualified  
23          domestic relations order is filed against the  
24          participant's retirement account; providing that a  
25          member who obtains a refund of contributions waives  
26          certain rights under the Florida Retirement System;  
27          conforming a cross-reference; amending s. 121.053,  
28          F.S.; conforming provisions to changes made by the  
29          act; amending s. 121.055, F.S., relating to the Senior

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

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59 domestic relations order is filed against the  
60 participant's retirement account; providing that a  
61 member who obtains a refund of contributions waives  
62 certain rights under the Florida Retirement System;  
63 requiring repayment plus interest of an invalid  
64 refund; conforming provisions to changes made by the  
65 act; revising the age at which a member can elect to  
66 participate in the Deferred Retirement Option Program  
67 after a certain date; amending s. 121.121, F.S.,  
68 relating to the purchase of creditable service  
69 following an authorized leave of absence; requiring  
70 that service credit be purchased at the employee and  
71 employer contribution rates in effect during the leave  
72 of absence; reducing the interest rate on benefits  
73 payable under the Deferred Retirement Option Program  
74 for employees hired after a certain date; amending s.  
75 121.125, F.S.; conforming provisions to changes made  
76 by the act; amending s. 121.35, F.S., relating to the  
77 optional retirement program for the State University  
78 System; conforming provisions to changes made by the  
79 act; requiring employee and employer contributions for  
80 participants in the optional retirement program after  
81 a certain date; deleting certain requirements  
82 governing employer contributions to conform to changes  
83 made by the act; conforming cross-references; amending  
84 s. 121.4501, F.S.; changing the name of the Public  
85 Employee Optional Retirement Program to the Florida  
86 Retirement System Investment Plan; limiting the option  
87 of enrolling in the State Retirement System's defined

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88 benefit program or defined contribution program to  
89 public employees employed before a certain date;  
90 requiring public employees employed on or after a  
91 certain date to enroll in the defined contribution  
92 program; requiring that participants in the plan make  
93 contributions to the plan based on the employee's  
94 membership class; revising definitions; deleting  
95 obsolete provisions relating to the 2002 optional  
96 transfer of public employees from the defined benefit  
97 program to the defined contribution program;  
98 conforming provisions to changes made by the act  
99 relating to the commencement of retirement benefits;  
100 providing for past employees who reenter the system;  
101 providing for contribution adjustments as a result of  
102 errors or corrections; requiring an employer to  
103 receive a credit for excess contributions and to  
104 reimburse an employee for excess contributions,  
105 subject to certain limitations; providing for a  
106 participant to retain his or her prior plan choice  
107 following a return to employment; excluding certain  
108 retirees from renewed membership in the Florida  
109 Retirement System; limiting certain refunds of  
110 contributions which exceed the amount that would have  
111 accrued had the member remained in the defined benefit  
112 program; providing certain requirements and  
113 limitations with respect to contributions; clarifying  
114 that participant and employer contributions are  
115 earmarked for specified purposes; providing duties of  
116 the third-party administrator; providing that a

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117 participant is vested immediately with respect to  
118 employee contributions paid by the participant;  
119 providing for the forfeiture of nonvested employer  
120 contributions and service credit based on years of  
121 service; amending s. 121.4502, F.S.; conforming  
122 provisions to changes made by the act; amending s.  
123 121.4503, F.S.; providing for the deposit of  
124 participant contributions into the Florida Retirement  
125 System Contributions Clearing Trust Fund; amending s.  
126 121.571, F.S.; conforming provisions to changes made  
127 by the act; providing requirements for submitting  
128 participant contributions; amending s. 121.591, F.S.;  
129 limiting the payment of benefits prior to a  
130 participant's termination of employment; providing for  
131 the forfeiture of nonvested accumulations upon payment  
132 of certain vested benefits; providing that the  
133 distribution payment method selected by the  
134 participant or beneficiary is irrevocable at the time  
135 of distribution; prohibiting a distribution of  
136 employee contributions if a qualified domestic  
137 relations order is filed against the participant's  
138 account; providing for the distribution of a  
139 participant's contributions if the participant dies  
140 before being vested; providing for the establishment  
141 of a death benefits program in the Florida Retirement  
142 System Trust Fund and the payment of benefits if the  
143 participant dies in the line of duty; conforming  
144 provisions to changes made by the act; amending ss.  
145 121.5911 and 121.70, F.S.; conforming provisions to

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146 changes made by the act; amending s. 121.71, F.S.;

147 providing for employee contributions to be deducted

148 from the employee's monthly salary, beginning on a

149 specified date, and treated as employer contributions

150 under certain provisions of federal law; clarifying

151 that an employee may not receive such contributions

152 directly; specifying the required employee

153 contribution rates for the membership of each

154 membership class and subclass of the Florida

155 Retirement System; specifying the required employer

156 retirement contribution rates for each membership

157 class and subclass of the system in order to address

158 unfunded actuarial liabilities of the system;

159 requiring an assessment to be imposed if the employee

160 contributions remitted are less than the amount

161 required; providing for the employer to receive a

162 credit for excess contributions remitted; conforming

163 cross-references; amending s. 121.72, F.S.; revising

164 certain requirements governing allocations to optional

165 retirement program participant accounts; conforming

166 cross-references; amending s. 121.73, F.S., relating

167 to disability coverage for participants in the

168 optional retirement program; conforming provisions to

169 changes made by the act; amending s. 121.74, F.S.;

170 conforming provisions to changes made by the act;

171 conforming cross-references; amending s. 121.77, F.S.;

172 conforming provisions to changes made by the act;

173 amending s. 121.78, F.S.; revising certain

174 requirements for administering the payment and

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175 distribution of contributions; requiring that certain  
176 fees be imposed for delinquent payment; providing that  
177 an employer is responsible for recovering any refund  
178 provided to an employee in error; revising the terms  
179 of an authorized waiver of delinquency; requiring an  
180 employer to receive a credit for excess contributions  
181 and to reimburse an employee for excess contributions,  
182 subject to certain limitations; amending s. 1012.875,  
183 F.S.; requiring employee and employer contributions  
184 for participants in the State Community College System  
185 Optional Retirement Program on a certain date;  
186 conforming cross-references; requiring the state  
187 actuary to consider additional factors when conducting  
188 the annual actuarial study on the Florida Retirement  
189 System; providing that the act fulfills an important  
190 state interest; providing a directive to the Division  
191 of Statutory Revision; providing appropriations to and  
192 authorizing additional positions for the Division of  
193 Retirement within the Department of Management  
194 Services; requiring the State Board of Administration  
195 and the Department of Management Services to request a  
196 private letter ruling from the United States Internal  
197 Revenue Service regarding this act; providing for  
198 severability; providing effective dates.

199

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

201

202 Section 1. Paragraph (g) of subsection (2) of section  
203 110.123, Florida Statutes, is amended to read:

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204 110.123 State group insurance program.—

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

206 (g) "Retired state officer or employee" or "retiree" means  
 207 a any state, or state university, officer or employee who  
 208 retires under a state retirement system or a state optional  
 209 annuity or retirement program or is placed on disability  
 210 retirement, ~~and~~ who was insured under the state group insurance  
 211 program at the time of retirement, and who begins receiving  
 212 retirement benefits immediately after retirement from state or  
 213 state university office or employment. The term also includes ~~In~~  
 214 ~~addition to these requirements,~~ any state officer or ~~state~~  
 215 employee who retires under the defined contribution Public  
 216 ~~Employee Optional Retirement~~ program established under part II  
 217 of chapter 121 ~~shall be considered a "retired state officer or~~  
 218 ~~employee" or "retiree" as used in this section~~ if he or she:

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

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

223 Section 2. Section 112.0801, Florida Statutes, is amended  
 224 to read:

225 112.0801 Group insurance; participation by retired  
 226 employees.—

227 ~~(1)~~ Any state agency, county, municipality, special  
 228 district, community college, or district school board that ~~which~~  
 229 provides life, health, accident, hospitalization, or annuity  
 230 insurance, or all of any kinds of such insurance, for its  
 231 officers and employees and their dependents upon a group  
 232 insurance plan or self-insurance plan shall allow all former



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233 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as  
234 well as those who retire on or after such date, and their  
235 eligible dependents, the option of continuing to participate in  
236 the ~~such~~ group insurance plan or self-insurance plan. Retirees  
237 and their eligible dependents shall be offered the same health  
238 and hospitalization insurance coverage as is offered to active  
239 employees at a premium cost of no more than the premium cost  
240 applicable to active employees. For ~~the~~ retired employees and  
241 their eligible dependents, the cost of ~~any such~~ continued  
242 participation ~~in any type of plan or any of the cost thereof~~ may  
243 be paid by the employer or by the retired employees. To  
244 determine health and hospitalization plan costs, the employer  
245 shall commingle the claims experience of the retiree group with  
246 the claims experience of the active employees; and, for other  
247 types of coverage, the employer may commingle the claims  
248 experience of the retiree group with the claims experience of  
249 active employees. Retirees covered under Medicare may be  
250 experience-rated separately from the retirees not covered by  
251 Medicare and from active employees if, ~~provided that~~ the total  
252 premium does not exceed that of the active group and coverage is  
253 basically the same as for the active group.

254 ~~(2)~~ For purposes of this section, the term "retiree" has  
255 the same meaning as in s. 110.123(2) ~~means any officer or~~  
256 ~~employee who retires under a state retirement system or a state~~  
257 ~~optional annuity or retirement program or is placed on~~  
258 ~~disability retirement and who begins receiving retirement~~  
259 ~~benefits immediately after retirement from employment. In~~  
260 ~~addition to these requirements, any officer or employee who~~  
261 ~~retires under the Public Employee Optional Retirement Program~~

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262 established under part II of chapter 121 shall be considered a  
263 "retired officer or employee" or "retiree" as used in this  
264 section if he or she:

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

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

269 Section 3. Paragraph (b) of subsection (2) and paragraph  
270 (e) of subsection (3) of section 112.363, Florida Statutes, are  
271 amended to read:

272 112.363 Retiree health insurance subsidy.—

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

274 (b) For purposes of this section, a person is deemed  
275 retired from a state-administered retirement system when he or  
276 she terminates employment with all employers participating in  
277 the Florida Retirement System as described in s. 121.021(39)  
278 and:

279 1. For a participant of the defined contribution Public  
280 ~~Employee Optional Retirement~~ program established under part II  
281 of chapter 121, the participant meets the age or service  
282 requirements to qualify for normal retirement as set forth in s.  
283 121.021(29) and meets the definition of retiree in s.  
284 121.4501(2).

285 2. For a member of the ~~Florida Retirement System~~ defined  
286 benefit program, or any employee who maintains creditable  
287 service under ~~both~~ the defined benefit program and the defined  
288 contribution Public Employee Optional Retirement program, the  
289 member begins drawing retirement benefits from the defined  
290 benefit program ~~of the Florida Retirement System.~~

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291 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

292 (e)1. Beginning July 1, 2001, each eligible retiree of the  
293 defined benefit program of the Florida Retirement System, or, if  
294 the retiree is deceased, his or her beneficiary who is receiving  
295 a monthly benefit from such retiree's account and who is a  
296 spouse, or a person who meets the definition of joint annuitant  
297 in s. 121.021(28), shall receive a monthly retiree health  
298 insurance subsidy payment equal to the number of years of  
299 creditable service, as defined in s. 121.021(17), completed at  
300 the time of retirement multiplied by \$5; however, an ~~ne~~ eligible  
301 retiree or beneficiary may not receive a subsidy payment of more  
302 than \$150 or less than \$30. If there are multiple beneficiaries,  
303 the total payment may ~~must~~ not be greater than the payment to  
304 which the retiree was entitled. The health insurance subsidy  
305 amount payable to any person receiving the retiree health  
306 insurance subsidy payment on July 1, 2001, may ~~shall~~ not be  
307 reduced solely by operation of this subparagraph.

308 2. Beginning July 1, 2002, each eligible participant of the  
309 defined contribution ~~Public Employee Optional Retirement~~ program  
310 of the Florida Retirement System who has met the requirements of  
311 this section, or, if the participant is deceased, his or her  
312 spouse who is the participant's designated beneficiary, shall  
313 receive a monthly retiree health insurance subsidy payment equal  
314 to the number of years of creditable service, as provided in  
315 this subparagraph, completed at the time of retirement,  
316 multiplied by \$5; however, an ~~ne~~ eligible retiree or beneficiary  
317 may not receive a subsidy payment of more than \$150 or less than  
318 \$30. For purposes of determining a participant's creditable  
319 service used to calculate the health insurance subsidy, a

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320 participant's years of service credit or fraction thereof must  
321 ~~shall~~ be based on the participant's work year as defined in s.  
322 121.021(54). Credit must ~~shall~~ be awarded for a full work year  
323 if ~~whenever~~ health insurance subsidy contributions have been  
324 made ~~as required by law~~ for each month in the participant's work  
325 year. In addition, all years of creditable service retained  
326 under the Florida Retirement System defined benefit program must  
327 ~~shall~~ be included as creditable service for purposes of this  
328 section. Notwithstanding any other provision in this section ~~to~~  
329 ~~the contrary~~, the spouse at the time of death is ~~shall be~~ the  
330 participant's beneficiary unless such participant has designated  
331 a different beneficiary subsequent to the participant's most  
332 recent marriage.

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

335 112.65 Limitation of benefits.—

336 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit  
337 or pension payable to a retiree who becomes a member of a any  
338 retirement system or plan and who has not previously  
339 participated in such plan, on or after January 1, 1980, may  
340 ~~shall~~ not exceed 100 percent of his or her average final  
341 compensation. However, ~~nothing contained in this section~~ does  
342 not ~~shall~~ apply to supplemental retirement benefits or to  
343 pension increases attributable to cost-of-living increases or  
344 adjustments. For the purposes of this section, benefits accruing  
345 in individual participant accounts established under the defined  
346 contribution ~~Public Employee Optional Retirement~~ program  
347 established in part II of chapter 121 are considered  
348 supplemental benefits. As used in this section, the term

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349 "average final compensation" means the average of the member's  
350 earnings over a period of time which the governmental entity  
351 establishes ~~has established~~ by statute, charter, or ordinance.

352 Section 5. Paragraph (h) is added to subsection (3) of  
353 section 121.011, Florida Statutes, to read:

354 121.011 Florida Retirement System.—

355 (3) PRESERVATION OF RIGHTS.—

356 (h) Effective July 1, 2011, the retirement system shall  
357 require employee and employer contributions as provided in s.  
358 121.071 and part III of this chapter.

359 Section 6. Subsection (3), paragraph (a) of subsection  
360 (19), paragraphs (a) and (b) of subsection (22), and subsections  
361 (24), (55), and (59) of section 121.021, Florida Statutes, are  
362 amended to read:

363 121.021 Definitions.—The following words and phrases as  
364 used in this chapter have the respective meanings set forth  
365 unless a different meaning is plainly required by the context:

366 (3) "System" means the general retirement system  
367 established by this chapter to be known and cited as the  
368 "Florida Retirement System," including, but not limited to, the  
369 defined benefit ~~retirement~~ program administered under ~~the~~  
370 ~~provisions of part I of this part chapter~~ and the defined  
371 contribution ~~retirement~~ program known as the ~~Public Employee~~  
372 ~~Optional Retirement Program~~ and administered under ~~the~~  
373 ~~provisions of part II of this chapter.~~

374 (19) "Prior service" ~~under this chapter~~ means:

375 (a) Service for which the member had credit under one of  
376 the existing systems and received a refund of his or her  
377 contributions upon termination of employment. Prior service

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378 shall also includes ~~include~~ that service between December 1,  
379 1970, and the date the system becomes noncontributory for which  
380 the member had credit under the Florida Retirement System and  
381 received a refund of his or her contributions upon termination  
382 of employment.

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

386 (a) Compensation includes ~~shall include~~:

387 ~~1. Overtime payments paid from a salary fund.~~

388 ~~2. Accumulated annual leave payments.~~

389 ~~1.3.~~ Payments in addition to the employee's base rate of  
390 pay if ~~all~~ the following apply:

391 a. The payments are paid according to a formal written  
392 policy that applies to all eligible employees equally;

393 b. The policy provides that payments ~~shall~~ commence by ~~no~~  
394 ~~later than~~ the 11th year of employment;

395 c. The payments are paid for as long as the employee  
396 continues his or her employment; and

397 d. The payments are paid at least annually.

398 ~~2.4.~~ Amounts withheld for tax sheltered annuities or  
399 deferred compensation programs, or any other type of salary  
400 reduction plan authorized under the Internal Revenue Code.

401 ~~3.5.~~ Payments made in lieu of a permanent increase in the  
402 base rate of pay, whether made annually or in 12 or 26 equal  
403 payments within a 12-month period, if ~~when~~ the member's base pay  
404 is at the maximum of his or her pay range. If ~~When~~ a portion of  
405 a member's annual increase raises his or her pay range and the  
406 excess is paid as a lump sum payment, the ~~such~~ lump sum payment

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407 is considered ~~shall be~~ compensation for retirement purposes.

408 (b) ~~Under no circumstances shall~~ Compensation for a member  
 409 participating in the defined benefit ~~retirement~~ program or the  
 410 Florida Public Employee Optional Retirement System Investment  
 411 Plan Program of the Florida Retirement System may not include:

412 1. Fees paid professional persons for special or particular  
 413 services or ~~include~~ salary payments made from a faculty practice  
 414 plan authorized by the Board of Governors of the State  
 415 University System for eligible clinical faculty at a college in  
 416 a state university that has a faculty practice plan; or

417 2. Any bonuses or other payments prohibited from inclusion  
 418 in the member's average final compensation ~~and defined in~~  
 419 ~~subsection (47)~~.

420 (24) "Average final compensation" means the average of the  
 421 5 highest fiscal years of compensation for creditable service  
 422 prior to retirement, termination, or death. For in-line-of-duty  
 423 disability benefits, if less than 5 years of creditable service  
 424 have been completed, the term "~~average final compensation~~" means  
 425 the average annual compensation of the total number of years of  
 426 creditable service. Each year used to calculate ~~in the~~  
 427 ~~calculation of~~ average final compensation commences ~~shall~~  
 428 ~~commence~~ on July 1.

429 (a) The average final compensation includes ~~shall include~~:

430 1. ~~Accumulated annual leave payments, not to exceed 500~~  
 431 ~~hours; and~~

432 2. ~~all payments defined as compensation in subsection (22)~~.

433 (b) The average final compensation does ~~shall~~ not include:

434 1. Compensation paid to professional persons for special or  
 435 particular services;

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436 2. Payments for accumulated sick leave made due to  
437 retirement or termination;

438 3. Payments for accumulated annual leave ~~in excess of 500~~  
439 ~~hours~~;

440 4. Overtime payments paid from a salary fund.

441 ~~5.4. Bonuses as defined in subsection (47);~~

442 ~~6.5. Third-party~~ Third party payments made on and after  
443 July 1, 1990; or

444 ~~7.6. Fringe benefits, such as (for example, automobile~~  
445 ~~allowances or housing allowances).~~

446 (55) "Benefit" means any pension payment, lump-sum or  
447 periodic, to a member, retiree, or beneficiary, based ~~partially~~  
448 ~~or entirely~~ on employer and employee contributions as  
449 applicable.

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

452 Section 7. Paragraphs (b), (c), and (d) of subsection (2)  
453 of section 121.051, Florida Statutes, are amended, present  
454 paragraphs (e) and (f) of that subsection are redesignated as  
455 subsections (f) and (g), respectively, a new subsection (e) is  
456 added to that subsection, and subsection (3) of that section is  
457 amended, to read:

458 121.051 Participation in the system.—

459 (2) OPTIONAL PARTICIPATION.—

460 (b)1. The governing body of any municipality, metropolitan  
461 planning organization, or special district in the state may  
462 elect to participate in the Florida Retirement System upon  
463 proper application to the administrator and may cover all ~~or any~~  
464 of its units as approved by the Secretary of Health and Human



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465 Services and the administrator. The department shall adopt rules  
466 establishing procedures ~~provisions~~ for the submission of  
467 documents necessary for such application. Before ~~Prior to~~ being  
468 approved for participation ~~in the Florida Retirement System~~, the  
469 governing body of a ~~any such~~ municipality, metropolitan planning  
470 organization, or special district that has a local retirement  
471 system must ~~shall~~ submit to the administrator a certified  
472 financial statement showing the condition of the local  
473 retirement system ~~as of a date~~ within 3 months before ~~prior to~~  
474 the proposed effective date of membership in the ~~Florida~~  
475 ~~Retirement~~ system. The statement must be certified by a  
476 recognized accounting firm that is independent of the local  
477 retirement system. All required documents ~~necessary for~~  
478 ~~extending Florida Retirement System coverage~~ must be received by  
479 the department for consideration at least 15 days before ~~prior~~  
480 ~~to~~ the proposed effective date of coverage. If the governing  
481 body ~~municipality, metropolitan planning organization, or~~  
482 ~~special district~~ does not comply with this requirement, the  
483 department may require that the effective date of coverage be  
484 changed.

485 2. A municipality ~~Any city~~, metropolitan planning  
486 organization, or special district that has an existing  
487 retirement system covering the employees in the units that are  
488 to be brought under the Florida Retirement System may  
489 participate only after holding a referendum in which all  
490 employees in the affected units have the right to participate.  
491 Only those employees electing coverage under the Florida  
492 Retirement System by affirmative vote in the said ~~the~~ referendum are  
493 ~~shall be~~ eligible for coverage under this chapter, and those not

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494 participating or electing not to be covered by the Florida  
495 Retirement System shall remain in their present systems and are  
496 ~~shall~~ not be eligible for coverage under this chapter. After the  
497 referendum is held, all future employees are ~~shall be~~ compulsory  
498 members of the Florida Retirement System.

499 3. At the time of joining the Florida Retirement System,  
500 the governing body of a municipality ~~any city~~, metropolitan  
501 planning organization, or special district complying with  
502 subparagraph 1. may elect to provide, or not provide, benefits  
503 based on past service of officers and employees as described in  
504 s. 121.081(1). However, if such employer elects to provide past  
505 service benefits, such benefits must be provided for all  
506 officers and employees of its covered group.

507 4. Once this election is made and approved it may not be  
508 revoked, except pursuant to subparagraphs 5. and 6., and all  
509 present officers and employees electing coverage ~~under this~~  
510 ~~chapter~~ and all future officers and employees are ~~shall be~~  
511 compulsory members of the Florida Retirement System.

512 5. Subject to ~~the conditions set forth in~~ subparagraph 6.,  
513 the governing body of a ~~any~~ hospital licensed under chapter 395  
514 which is governed by the board of a special district as defined  
515 in s. 189.403~~(1)~~ or by the board of trustees of a public health  
516 trust created under s. 154.07, hereinafter referred to as  
517 "hospital district," and which participates in the Florida  
518 Retirement System, may elect to cease participation in the  
519 system with regard to future employees in accordance with the  
520 following ~~procedure~~:

521 a. No more than 30 days and at least 7 days before  
522 adopting a resolution to partially withdraw from the ~~Florida~~

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523 ~~Retirement~~ system and establish an alternative retirement plan  
524 for future employees, a public hearing must be held on the  
525 proposed withdrawal and proposed alternative plan.

526 b. From 7 to 15 days before such hearing, notice of intent  
527 to withdraw, specifying the time and place of the hearing, must  
528 be provided in writing to employees of the hospital district  
529 proposing partial withdrawal and must be published in a  
530 newspaper of general circulation in the area affected, as  
531 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~  
532 ~~notice shall~~ be submitted to the department ~~of Management~~  
533 ~~Services~~.

534 c. The governing body of a ~~any~~ hospital district seeking to  
535 partially withdraw from the system must, before such hearing,  
536 have an actuarial report prepared and certified by an enrolled  
537 actuary, as defined in s. 112.625~~(3)~~, illustrating the cost to  
538 the hospital district of providing, through the retirement plan  
539 that the hospital district is to adopt, benefits for new  
540 employees comparable to those provided under the ~~Florida~~  
541 ~~Retirement~~ system.

542 d. Upon meeting all applicable requirements of this  
543 subparagraph, and subject to ~~the conditions set forth in~~  
544 subparagraph 6., partial withdrawal from the system and adoption  
545 of the alternative retirement plan may be accomplished by  
546 resolution ~~duly~~ adopted by the hospital district board. The  
547 hospital district board must provide written notice of such  
548 withdrawal to the Division of Retirement by mailing a copy of  
549 the resolution to the division, postmarked by ~~no later than~~  
550 December 15, 1995. The withdrawal shall take effect January 1,  
551 1996.

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552           6. Following the adoption of a resolution under sub-  
553 subparagraph 5.d., all employees of the withdrawing hospital  
554 district who were participants in the ~~Florida Retirement~~ system  
555 before ~~prior to~~ January 1, 1996, shall remain as participants in  
556 the system for as long as they are employees of the hospital  
557 district, and all rights, duties, and obligations between the  
558 hospital district, the system, and the employees ~~shall~~ remain in  
559 full force and effect. Any employee who is hired or appointed on  
560 or after January 1, 1996, may not participate in the ~~Florida~~  
561 ~~Retirement~~ system, and the withdrawing hospital district has  
562 ~~shall have~~ no obligation to the system with respect to such  
563 employees.

564           (c) Employees of public community colleges or charter  
565 technical career centers sponsored by public community colleges,  
566 designated in s. 1000.21(3), who are members of the Regular  
567 Class of the Florida Retirement System and who comply with the  
568 criteria set forth in this paragraph and s. 1012.875 may, in  
569 lieu of participating in the Florida Retirement System, elect to  
570 withdraw from the system altogether and participate in the State  
571 Community College System Optional Retirement Program provided by  
572 the employing agency under s. 1012.875.

573           1. Through June 30, 2001, the cost to the employer for a  
574 benefit under the optional retirement program ~~such annuity~~  
575 equals the normal cost portion of the employer retirement  
576 contribution which would be required if the employee were a  
577 member of the Regular Class defined benefit program, plus the  
578 portion of the contribution rate required by s. 112.363(8) which  
579 would otherwise be assigned to the Retiree Health Insurance  
580 Subsidy Trust Fund. Effective July 1, 2001, each employer shall

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581 contribute on behalf of each participant in the optional program  
582 an amount equal to 10.43 percent of the participant's gross  
583 monthly compensation. The employer shall deduct an amount for  
584 the administration of the program. The employer shall contribute  
585 an additional amount to the Florida Retirement System Trust Fund  
586 equal to the unfunded actuarial accrued liability portion of the  
587 Regular Class contribution rate.

588 2. The decision to participate in the ~~an~~ optional  
589 retirement program is irrevocable as long as the employee holds  
590 a position eligible for participation, except as provided in  
591 subparagraph 3. Any service creditable under the Florida  
592 Retirement System is retained after the member withdraws from  
593 the system; however, additional service credit in the system may  
594 not be earned while a member of the optional retirement program.

595 3. An employee who has elected to participate in the  
596 optional retirement program shall have one opportunity, at the  
597 employee's discretion, to transfer from the optional retirement  
598 program to the defined benefit program of the Florida Retirement  
599 System or to the defined contribution program established under  
600 part II of this chapter ~~Public Employee Optional Retirement~~  
601 ~~Program~~, subject to the terms of the applicable optional  
602 retirement program contracts.

603 a. If the employee chooses to move to the defined  
604 contribution ~~Public Employee Optional Retirement~~ program, any  
605 contributions, interest, and earnings creditable to the employee  
606 under the ~~State Community College System~~ optional retirement  
607 program are retained by the employee in the ~~State Community~~  
608 ~~College System~~ optional retirement program, and the applicable  
609 provisions of s. 121.4501(4) govern the election.

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610           b. If the employee chooses to move to the defined benefit  
611 program ~~of the Florida Retirement System~~, the employee shall  
612 receive service credit equal to his or her years of service  
613 under the ~~State Community College System~~ optional retirement  
614 program.

615           (I) The cost for such credit is the amount representing the  
616 present value of the employee's accumulated benefit obligation  
617 for the affected period of service. The cost shall be calculated  
618 as if the benefit commencement occurs on the first date the  
619 employee becomes eligible for unreduced benefits, using the  
620 discount rate and other relevant actuarial assumptions that were  
621 used to value the ~~Florida Retirement System~~ defined benefit  
622 program plan liabilities in the most recent actuarial valuation.  
623 The calculation must include any service already maintained  
624 under the defined benefit program plan in addition to the years  
625 under the ~~State Community College System~~ optional retirement  
626 program. The present value of any service already maintained  
627 must be applied as a credit to total cost resulting from the  
628 calculation. The division shall ensure that the transfer sum is  
629 prepared using a formula and methodology certified by an  
630 enrolled actuary.

631           (II) The employee must transfer from his or her ~~State~~  
632 ~~Community College System~~ optional retirement program account and  
633 from other employee moneys as necessary, a sum representing the  
634 present value of the employee's accumulated benefit obligation  
635 immediately following the time of such movement, determined  
636 assuming that attained service equals the sum of service in the  
637 defined benefit program and service in the ~~State Community~~  
638 ~~College System~~ optional retirement program.

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639 4. Participation in the optional retirement program is  
640 limited to employees who satisfy the following eligibility  
641 criteria:

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

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

649 (I) Instructional; or

650 (II) Executive Management, Instructional Management, or  
651 Institutional Management and the, ~~if a~~ community college  
652 determines that recruiting to fill a vacancy in the position is  
653 to be conducted in the national or regional market, and the  
654 duties and responsibilities of the position include the  
655 formulation, interpretation, or implementation of policies, or  
656 the performance of functions that are unique or specialized  
657 within higher education and that frequently support the mission  
658 of the community college.

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

662 5. Participants in the program are subject to the same  
663 reemployment limitations, renewed membership provisions, and  
664 forfeiture provisions ~~as are~~ applicable to regular members of  
665 the Florida Retirement System under ss. 121.091(9), 121.122, and  
666 121.091(5), respectively. A participant who receives a program  
667 distribution funded by employer contributions is ~~shall be~~ deemed

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668 to be retired from a state-administered retirement system if the  
669 participant is subsequently employed with an employer that  
670 participates in the Florida Retirement System.

671 6. Eligible community college employees are compulsory  
672 members of the Florida Retirement System until, pursuant to s.  
673 1012.875, a written election to withdraw from the system and  
674 participate in the ~~State Community College System~~ optional  
675 retirement program is filed with the program administrator and  
676 received by the division.

677 a. A community college employee whose program eligibility  
678 results from initial employment shall ~~must~~ be enrolled in the  
679 ~~State Community College System~~ optional retirement program  
680 retroactive to the first day of eligible employment. The  
681 employer retirement contributions paid through the month of the  
682 employee plan change shall be transferred to the community  
683 college to the employee's optional program account, and,  
684 effective the first day of the next month, the employer shall  
685 pay the applicable contributions based upon subparagraph 1.

686 b. A community college employee whose program eligibility  
687 is due to the subsequent designation of the employee's position  
688 as one of those specified in subparagraph 4., or due to the  
689 employee's appointment, promotion, transfer, or reclassification  
690 to a position specified in subparagraph 4., must be enrolled in  
691 the program on the first day of the first full calendar month  
692 that such change in status becomes effective. The employer  
693 retirement contributions paid from the effective date through  
694 the month of the employee plan change must be transferred to the  
695 community college to the employee's optional program account,  
696 and, effective the first day of the next month, the employer



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697 shall pay the applicable contributions based upon subparagraph  
698 1.

699 7. Effective July 1, 2003, through December 31, 2008, any  
700 participant in ~~of the State Community College System~~ optional  
701 retirement program who has service credit in the defined benefit  
702 program plan of the Florida Retirement System for the period  
703 between his or her first eligibility to transfer from the  
704 defined benefit program plan to the optional retirement program  
705 and the actual date of transfer may, during employment, transfer  
706 to the optional retirement program a sum representing the  
707 present value of the accumulated benefit obligation under the  
708 defined benefit retirement program for the period of service  
709 credit. Upon transfer, all service credit previously earned  
710 under the defined benefit program ~~of the Florida Retirement~~  
711 ~~System~~ during this period is nullified for purposes of  
712 entitlement to a future benefit under the defined benefit  
713 program ~~of the Florida Retirement System~~.

714 (d) The governing body of a charter school or a charter  
715 technical career center may elect to participate in the system  
716 upon proper application to the administrator and shall cover its  
717 units as approved by the Secretary of Health and Human Services  
718 and the administrator. At the time of joining the Florida  
719 Retirement System, but before July 1, 2011, the governing body  
720 of the charter school may elect to provide, or not provide,  
721 benefits based on the past service of officers and employees as  
722 described in s. 121.081(1). Once this election is made and  
723 approved, it may not be revoked, and all present officers and  
724 employees selecting coverage under this chapter and all future  
725 officers and employees shall be compulsory members of the

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726 Florida Retirement System.

727 (e) All eligible employees initially enrolled on or after  
728 July 1, 2011, become compulsory members of the defined  
729 contribution plan and membership in the defined benefit plan is  
730 not permitted. Employees initially enrolled on or after July 1,  
731 2011, may not use the election opportunity specified in s.  
732 121.4501(4)(e).

733 (3) SOCIAL SECURITY COVERAGE.—Social security coverage  
734 shall be provided for all officers and employees who become  
735 members under ~~the provisions of~~ subsection (1) or subsection  
736 (2). Any modification of the present agreement with the Social  
737 Security Administration, or referendum required under the Social  
738 Security Act, for the purpose of providing social security  
739 coverage for any member shall be requested by the state agency  
740 in compliance with the applicable provisions of the Social  
741 Security Act governing such coverage. However, retroactive  
742 social security coverage for service ~~prior to December 1, 1970,~~  
743 with the employer before December 1, 1970, may ~~shall~~ not be  
744 provided for a ~~any~~ member who was not covered under the  
745 agreement as of November 30, 1970. The employer-paid employee  
746 contributions specified in s. 121.71(2) are subject to taxes  
747 imposed under the Federal Insurance Contributions Act, 26 U.S.C.  
748 ss. 3101-3128.

749 Section 8. Paragraph (b) of subsection (5) and paragraph  
750 (a) of subsection (7) of section 121.0515, Florida Statutes, are  
751 amended to read:

752 121.0515 Special risk membership.—

753 (5) CREDIT FOR PAST SERVICE.—A special risk member may  
754 purchase retirement credit in the Special Risk Class based upon

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755 past service, and may upgrade retirement credit for such past  
756 service, to the extent of 2 percent of the member's average  
757 monthly compensation as specified in s. 121.091(1)(a) for such  
758 service as follows:

759 (b) Contributions for upgrading the additional special risk  
760 credit are ~~pursuant to this subsection~~ shall be equal to the  
761 difference in the employer and, if applicable, employee  
762 contributions paid and the special risk percentage rate of gross  
763 salary in effect at the time of purchase for the period being  
764 claimed, plus interest thereon at the rate of 4 percent a year  
765 compounded annually from the date of such service until July 1,  
766 1975, and 6.5 percent a year thereafter until the date of  
767 payment. ~~This~~ Past service may be purchased by the member or by  
768 the employer on behalf of the member.

769 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.—

770 (a) A special risk member who is moved or reassigned to a  
771 nonspecial risk law enforcement, firefighting, correctional, or  
772 emergency medical care administrative support position within  
773 ~~with~~ the same agency, or who is subsequently employed in such a  
774 position with any law enforcement, firefighting, correctional,  
775 or emergency medical care agency under the Florida Retirement  
776 System, shall participate in the Special Risk Administrative  
777 Support Class and ~~shall~~ earn credit for such service at the same  
778 percentage rate as that earned by a regular member.  
779 Notwithstanding ~~the provisions of~~ subsection (4), service in  
780 ~~such~~ an administrative support position ~~shall~~, for purposes of  
781 s. 121.091, applies ~~apply~~ toward satisfaction of the special  
782 risk normal retirement date, as defined in s. 121.021(29)(b) if,  
783 ~~provided that~~, while in such position, the member remains

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784 certified as a law enforcement officer, firefighter,  
785 correctional officer, emergency medical technician, or  
786 paramedic; remains subject to reassignment at any time to a  
787 position qualifying for special risk membership; and completes  
788 an aggregate of 6 or more years of service as a designated  
789 special risk member before ~~prior to~~ retirement.

790 Section 9. Paragraphs (a) and (d) of subsection (4) and  
791 paragraph (b) of subsection (7) of section 121.052, Florida  
792 Statutes, are amended, present paragraph (c) of subsection (7)  
793 of that section is redesignated as paragraph (d), a new  
794 paragraph (c) is added to that subsection, and subsection (8) of  
795 that section is amended, to read:

796 121.052 Membership class of elected officers.—

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

799 (a) An ~~Any~~ ~~duly~~ elected officer whose term of office was  
800 shortened by legislative or judicial apportionment pursuant to  
801 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,  
802 after the term of office to which he or she was elected is  
803 completed, pay into the Florida Retirement System Trust Fund the  
804 amount of contributions that would have been made by the officer  
805 or the officer's employer on his or her behalf, plus 4 percent  
806 interest compounded annually from the date he or she left office  
807 until July 1, 1975, and 6.5 percent interest compounded annually  
808 thereafter, and may receive service credit for the length of  
809 time the officer would have served if such term had not been  
810 shortened by apportionment.

811 (d)1. Any justice or judge, or any retired justice or judge  
812 who retired before July 1, 1993, who has attained the age of 70

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813 years and who is prevented under s. 8, Art. V of the State  
814 Constitution from completing his or her term of office because  
815 of age may elect to purchase credit for all or a portion of the  
816 months he or she would have served during the remainder of the  
817 term of office; however, ~~but~~ he or she may claim those months  
818 only after the date the service would have occurred. The justice  
819 or judge must pay into the Florida Retirement System Trust Fund  
820 the amount of contributions that would have been made by the  
821 employer on his or her behalf for the period of time being  
822 claimed, plus 6.5 percent interest thereon compounded each June  
823 30 from the date he or she left office, in order to receive  
824 service credit in this class for the period of time being  
825 claimed. After the date the service would have occurred, and  
826 upon payment of the required contributions, the retirement  
827 benefit of a retired justice or judge shall ~~will~~ be adjusted  
828 prospectively to include the ~~this~~ additional creditable service;  
829 however, such adjustment may be made only once.

830 2. Any justice or judge who does not seek election to a  
831 subsequent term of office because he or she would be prevented  
832 under s. 8, Art. V of the State Constitution from completing  
833 such term of office upon attaining the age of 70 years may elect  
834 to purchase service credit for service as a temporary judge as  
835 assigned by the court if the temporary assignment ~~follows~~  
836 immediately follows the last full term of office served and the  
837 purchase is limited to the number of months of service needed to  
838 vest retirement benefits. To receive retirement credit for ~~such~~  
839 temporary service beyond termination, the justice or judge must  
840 pay into the Florida Retirement System Trust Fund the amount of  
841 contributions that would have been made by the justice or judge

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842 and the employer on his or her behalf had he or she continued in  
843 office for the period of time being claimed, plus 6.5 percent  
844 interest thereon compounded each June 30 from the date he or she  
845 left office.

846 (7) CONTRIBUTIONS.—

847 (b) The employer paying the salary of a member of the  
848 Elected Officers' Class shall contribute an amount as specified  
849 in this subsection or s. 121.71, as appropriate, which shall  
850 constitute the ~~entire~~ employer retirement contribution with  
851 respect to such member. The employer shall also withhold one-  
852 half of the entire contribution of the member required for  
853 social security coverage. Effective July 1, 2011, each member of  
854 the Elected Officers' Class hired on or after that date shall  
855 pay retirement contributions as specified in s. 121.71.

856 (c) If a member of the Elected Officers' Class ceases to  
857 fill an office covered by this class for 3 calendar months for  
858 any reason other than retirement and has not been employed in  
859 any capacity with any participating employer for 3 calendar  
860 months, the member may receive a refund of all contributions he  
861 or she made to the defined benefit plan, subject to the  
862 restrictions otherwise provided in this chapter. Partial refunds  
863 are not permitted. The refund may not include any interest  
864 earnings on contributions to the defined benefit plan. Employer  
865 contributions made on behalf of the member are not refundable. A  
866 member may not receive a refund of employee contributions if a  
867 pending or an approved qualified domestic relations order is  
868 filed against the member's retirement account. By obtaining a  
869 refund of contributions, a member waives all rights under the  
870 Florida Retirement System, including the health insurance

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871 subsidy under this subsection, to the service credit represented  
872 by the refunded contributions, except the right to purchase  
873 prior service credit in accordance with s. 121.081(2).

874 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member  
875 of the Elected Officers' Class has ~~shall have~~ the same normal  
876 retirement date as defined in s. 121.021(29) for a member of the  
877 regular class of the Florida Retirement System. A ~~Any~~ public  
878 service commissioner who was removed from the Elected State  
879 Officers' Class on July 1, 1979, after attaining at least 8  
880 years of creditable service in that class is ~~shall be~~ considered  
881 to have reached the normal retirement date upon attaining the  
882 required age as provided ~~62 as required~~ in s. 121.021(29)(a).

883 Section 10. Paragraph (a) of subsection (7) of section  
884 121.053, Florida Statutes, is amended to read:

885 121.053 Participation in the Elected Officers' Class for  
886 retired members.—

887 (7) A member who is elected or appointed to an elective  
888 office and who is participating in the Deferred Retirement  
889 Option Program is not subject to termination as defined in s.  
890 121.021, or reemployment limitations as provided in s.  
891 121.091(9), until the end of his or her current term of office  
892 or, if the officer is consecutively elected or reelected to an  
893 elective office eligible for coverage under the Florida  
894 Retirement System, until he or she no longer holds an elective  
895 office, as follows:

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

897 1. The officer's DROP account may not accrue additional  
898 monthly benefits, but does continue to earn interest as provided  
899 in s. 121.091(13). However, an officer whose DROP participation

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900 begins on or after July 1, 2010, may not continue to earn such  
901 interest.

902 2. Except for unfunded actuarial liability and health  
903 insurance subsidy contributions required under ss. 121.71(5) and  
904 121.76, retirement contributions are not required of the officer  
905 or the employer of the elected officer and additional retirement  
906 credit may not be earned under the Florida Retirement System.

907 Section 11. Paragraphs (b) and (j) of subsection (1),  
908 paragraph (b) of subsection (3), and paragraphs (d) and (e) of  
909 subsection (6) of section 121.055, Florida Statutes, are  
910 amended, present paragraph (c) of subsection (3) of that section  
911 is redesignated as paragraph (d), and a new paragraph (c) is  
912 added to that subsection, to read:

913 121.055 Senior Management Service Class.—There is hereby  
914 established a separate class of membership within the Florida  
915 Retirement System to be known as the "Senior Management Service  
916 Class," which shall become effective February 1, 1987.

917 (1)

918 (b)1. Except as provided in subparagraph 2., effective  
919 January 1, 1990, participation in the Senior Management Service  
920 Class is ~~shall be~~ compulsory for the president of each community  
921 college, the manager of each participating city or county, and  
922 all appointed district school superintendents. Effective January  
923 1, 1994, additional positions may be designated for inclusion in  
924 the Senior Management Service Class if ~~of the Florida Retirement~~  
925 ~~System, provided that:~~

926 a. Positions to be included in the class are ~~shall be~~  
927 designated by the local agency employer. Notice of intent to  
928 designate positions for inclusion in the class must ~~shall~~ be



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929 published once a week for 2 consecutive weeks in a newspaper of  
 930 general circulation published in the county or counties  
 931 affected, as provided under ~~in~~ chapter 50.

932 b. Up to 10 nonelective full-time positions may be  
 933 designated for each local agency employer reporting to the  
 934 department ~~of Management Services~~; for local agencies with 100  
 935 or more regularly established positions, additional nonelective  
 936 full-time positions may be designated, up to not to exceed 1  
 937 percent of the regularly established positions within the  
 938 agency.

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

943 (I) Heads an organizational unit; or

944 (II) Has responsibility to effect or recommend personnel,  
 945 budget, expenditure, or policy decisions in his or her areas of  
 946 responsibility.

947 2. In lieu of participation in the Senior Management  
 948 Service Class, members of the ~~Senior Management Service~~ class,  
 949 pursuant to ~~the provisions of~~ subparagraph 1., l may withdraw from  
 950 the Florida Retirement System altogether. The decision to  
 951 withdraw from the ~~Florida Retirement~~ system is ~~shall be~~  
 952 irrevocable ~~for~~ as long as the employee holds the ~~such a~~  
 953 position. Any service creditable under the Senior Management  
 954 Service Class shall be retained after the member withdraws from  
 955 the ~~Florida Retirement~~ system; however, additional service  
 956 credit in the Senior Management Service Class may ~~shall~~ not be  
 957 earned after such withdrawal. Such members are ~~shall not be~~

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958 eligible to participate in the Senior Management Service  
959 Optional Annuity Program.

960 3. Effective January 1, 2006, through June 30, 2006, an  
961 employee who has withdrawn from the Florida Retirement System  
962 under subparagraph 2. has one opportunity to elect to  
963 participate in either the defined benefit program or the defined  
964 contribution program ~~Public Employee Optional Retirement Program~~  
965 of the Florida Retirement System.

966 a. If the employee elects to participate in the defined  
967 contribution ~~Public Employee Optional Retirement~~ program,  
968 membership is ~~shall be~~ prospective, and the applicable  
969 provisions of s. 121.4501(4) shall govern the election.

970 b. If the employee elects to participate in the defined  
971 benefit program ~~of the Florida Retirement System~~, the employee  
972 shall, upon payment to the system trust fund of the amount  
973 calculated under sub-sub-subparagraph (I), receive service  
974 credit for prior service based upon the time during which the  
975 employee had withdrawn from the system.

976 (I) The cost for such credit shall be an amount  
977 representing the actuarial accrued liability for the affected  
978 period of service. The cost shall be calculated using the  
979 discount rate and other relevant actuarial assumptions that were  
980 used to value the Florida Retirement System defined benefit plan  
981 liabilities in the most recent actuarial valuation. The  
982 calculation must ~~shall~~ include any service already maintained  
983 under the defined benefit plan in addition to the period of  
984 withdrawal. The actuarial accrued liability attributable to any  
985 service already maintained under the defined benefit plan shall  
986 be applied as a credit to the total cost resulting from the

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987 calculation. The division must ~~shall~~ ensure that the transfer  
988 sum is prepared using a formula and methodology certified by an  
989 actuary.

990 (II) The employee must transfer a sum representing the net  
991 cost owed for the actuarial accrued liability in sub-sub-  
992 subparagraph (I) immediately following the time of such  
993 movement, determined assuming that attained service equals the  
994 sum of service in the defined benefit program and the period of  
995 withdrawal.

996 (j) Except as may otherwise be provided, a ~~any~~ member of  
997 the Senior Management Service Class may purchase additional  
998 retirement credit in such class for creditable service within  
999 the purview of the Senior Management Service Class retroactive  
1000 to February 1, 1987, and may upgrade retirement credit for such  
1001 service, to the extent of 2 percent of the member's average  
1002 monthly compensation as specified in paragraph (4) (d) for such  
1003 service. Contributions for upgrading ~~the~~ additional Senior  
1004 Management Service credit are pursuant to this paragraph shall  
1005 ~~be~~ equal to the difference in the employer and, if applicable,  
1006 employee contributions paid and the Senior Management Service  
1007 Class contribution rate as a percentage of gross salary in  
1008 effect for the period being claimed, plus interest thereon at  
1009 the rate of 6.5 percent a year, compounded annually until the  
1010 date of payment. The ~~This~~ service credit may be purchased by the  
1011 employer on behalf of the member.

1012 (3)

1013 (b) The employer or member of the Senior Management Service  
1014 Class, as applicable, ~~paying the salary of a member of the~~  
1015 ~~Senior Management Service Class~~ shall contribute an amount as

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1016 specified in this section or s. 121.71, as appropriate, which  
1017 shall constitute the entire ~~employer~~ retirement contribution  
1018 with respect to such member. The employer shall also withhold  
1019 one-half of the entire contribution of the member required for  
1020 social security coverage. Effective July 1, 2011, each member  
1021 shall pay employee contributions as specified in s. 121.71.

1022 (c) Three months after termination of employment for any  
1023 reason other than retirement, a member is entitled to a full  
1024 refund of the contributions he or she made before or after  
1025 participation in the noncontributory plan, subject to the  
1026 restrictions provided in this chapter. Employer contributions  
1027 made on behalf of the member are not refundable. The refund may  
1028 not include any interest earnings on the contributions to the  
1029 defined benefit program. A member may not receive a refund of  
1030 employee contributions if a pending or an approved qualified  
1031 domestic relations order is filed against the member's  
1032 retirement account. By obtaining a refund of contributions, a  
1033 member waives all rights under the Florida Retirement System,  
1034 including the health insurance subsidy under paragraph (d), to  
1035 the service credit represented by the refunded contributions,  
1036 except the right to purchase his or her prior service credit in  
1037 accordance with s. 121.081(2).

1038 (6)

1039 (d) *Contributions.*—

1040 1.a. Through June 30, 2001, each employer shall contribute  
1041 on behalf of each participant in the Senior Management Service  
1042 Optional Annuity Program an amount equal to the normal cost  
1043 portion of the employer retirement contribution which would be  
1044 required if the participant were a Senior Management Service

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1045 Class member of the Florida Retirement System defined benefit  
1046 program, plus the portion of the contribution rate required in  
1047 s. 112.363(8) which ~~that~~ would otherwise be assigned to the  
1048 Retiree Health Insurance Subsidy Trust Fund.

1049 b. Effective July 1, 2001, each employer shall contribute  
1050 on behalf of each participant in the optional annuity program an  
1051 amount equal to 12.49 percent of the participant's gross monthly  
1052 compensation.

1053 c. Effective July 1, 2011, each member who is participating  
1054 in the optional annuity program shall contribute an amount equal  
1055 to the employee contribution required in s. 121.71(3). The  
1056 employer shall contribute on behalf of each such participant an  
1057 amount equal to the difference between 12.49 percent of the  
1058 participant's gross monthly compensation and the amount equal to  
1059 the employee's required contribution based on the employee's  
1060 gross monthly compensation.

1061 ~~d. The department shall deduct an amount approved by the~~  
1062 ~~Legislature to provide for the administration of this program.~~  
1063 ~~The Payment of the contributions, including contributions made~~  
1064 ~~by the participant, to the optional program which is required by~~  
1065 ~~this subparagraph for each participant shall be made by the~~  
1066 ~~employer to the department, which shall forward the~~  
1067 ~~contributions to the designated company or companies contracting~~  
1068 ~~for payment of benefits for the participant under the optional~~  
1069 ~~annuity program. The department shall deduct an amount approved~~  
1070 ~~by the Legislature to provide for the administration of the~~  
1071 ~~program.~~

1072 2. Each employer shall contribute on behalf of each  
1073 participant in the Senior Management Service Optional Annuity

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1074 Program an amount equal to the unfunded actuarial accrued  
1075 liability portion of the employer contribution which would be  
1076 required for members of the Senior Management Service Class in  
1077 the Florida Retirement System. This contribution shall be paid  
1078 to the department for transfer to the Florida Retirement System  
1079 Trust Fund.

1080 3. An Optional Annuity Program Trust Fund shall be  
1081 established in the State Treasury and administered by the  
1082 department to make payments to provider companies on behalf of  
1083 the optional annuity program participants, and to transfer the  
1084 unfunded liability portion of the state optional annuity program  
1085 contributions to the Florida Retirement System Trust Fund.

1086 4. Contributions required for social security by each  
1087 employer and each participant under, ~~in the amount required for~~  
1088 ~~social security coverage as now or hereafter may be provided by~~  
1089 the federal Social Security Act shall be maintained for each  
1090 participant in the Senior Management Service retirement program  
1091 and are ~~shall be~~ in addition to the retirement contributions  
1092 specified in this paragraph.

1093 5. Each participant in the ~~Senior Management Service~~  
1094 optional annuity program may contribute by way of salary  
1095 reduction or deduction a percentage amount of the participant's  
1096 gross compensation not to exceed the percentage amount  
1097 contributed by the employer to the optional annuity program.  
1098 Payment of the participant's contributions shall be made by the  
1099 employer to the department, which shall forward the  
1100 contributions to the designated company or companies contracting  
1101 for payment of benefits for the participant under the program.

1102 (e) *Benefits.*—

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1103 1. Benefits under the Senior Management Service Optional  
1104 Annuity Program are payable only to participants in the program,  
1105 or their beneficiaries as designated by the participant in the  
1106 contract with the provider company, and must be paid by the  
1107 designated company in accordance with the terms of the annuity  
1108 contract applicable to the participant. A participant must be  
1109 terminated from all employment relationships with Florida  
1110 Retirement System employers as provided in s. 121.021(39) to  
1111 begin receiving the employer-funded benefit. Benefits funded by  
1112 employer contributions are ~~payable under the terms of the~~  
1113 ~~contract to the participant, his or her beneficiary, or his or~~  
1114 ~~her estate,~~ in addition to:

1115 a. A lump-sum payment to the beneficiary upon the death of  
1116 the participant;

1117 b. A cash-out of a de minimis account upon the request of a  
1118 former participant who has been terminated for a minimum of 6  
1119 calendar months from the employment that entitled him or her to  
1120 optional annuity program participation. Such cash-out must be a  
1121 complete liquidation of the account balance with that company  
1122 and is subject to the Internal Revenue Code;

1123 c. A mandatory distribution of a de minimis account of a  
1124 former participant who has been terminated for a minimum of 6  
1125 calendar months from the employment that entitled him or her to  
1126 optional annuity program participation as authorized by the  
1127 department; or

1128 d. A lump-sum direct rollover distribution whereby all  
1129 accrued benefits, plus interest and investment earnings, are  
1130 paid from the participant's account directly to the custodian of  
1131 an eligible retirement plan, as defined in s. 402(c)(8)(B) of

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1132 the Internal Revenue Code, on behalf of the participant.

1133 2. The benefits payable to any person under the ~~Senior~~  
1134 ~~Management Service~~ optional annuity program, and any  
1135 contribution accumulated under such program, are not subject to  
1136 assignment, execution, or attachment or to any legal process  
1137 ~~whatsoever~~.

1138 3. Except as provided in subparagraph 4., a participant who  
1139 terminates employment and receives a distribution, including a  
1140 rollover or trustee-to-trustee transfer, funded by employer or  
1141 participant contributions ~~is shall be~~ deemed to be retired from  
1142 a state-administered retirement system if the participant is  
1143 subsequently employed with an employer that participates in the  
1144 Florida Retirement System.

1145 4. A participant who receives optional annuity program  
1146 benefits funded by employer or participant contributions as a  
1147 mandatory distribution of a de minimis account authorized by the  
1148 department is not considered a retiree.

1149  
1150 As used in this paragraph, a "de minimis account" means an  
1151 account with a provider company containing employer or  
1152 participant contributions and accumulated earnings of not more  
1153 than \$5,000 made under this chapter.

1154 Section 12. Subsections (2) and (5) and paragraph (c) of  
1155 subsection (6) of section 121.071, Florida Statutes, are  
1156 amended, present paragraph (d) of subsection (6) of that section  
1157 is redesignated as paragraph (e), and a new paragraph (d) is  
1158 added to that subsection, to read:

1159 121.071 Contributions.—Contributions to the system shall be  
1160 made as follows:



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1161 (2) (a) Effective January 1, 1975, or October 1, 1975, as  
1162 applicable, and through June 30, 2011, each employer shall make  
1163 ~~accomplish~~ the contribution required by subsection (1) by a  
1164 procedure in which no employee's gross salary is ~~shall be~~  
1165 reduced. Effective July 1, 2011, each employee, and his or her  
1166 employer, shall pay retirement contributions as specified in s.  
1167 121.71.

1168 (b) Three calendar months after ~~Upon~~ termination of  
1169 employment for any reason other than retirement, a member is  
1170 ~~shall be~~ entitled to a full refund of the contributions he or  
1171 she ~~has~~ made before or after ~~prior or subsequent to~~  
1172 participation in the noncontributory plan, subject to ~~the~~  
1173 restrictions otherwise provided in this chapter. Partial refunds  
1174 are not permitted. Employer contributions made on behalf of the  
1175 member are not refundable. The refund may not include interest  
1176 earnings on contributions for a participant of the defined  
1177 benefit program. A member may not receive a refund of employee  
1178 contributions if an approved qualified domestic relations order  
1179 is filed against his or her retirement account. By obtaining a  
1180 refund of contributions, a member waives all rights under the  
1181 Florida Retirement System and the health insurance subsidy to  
1182 the service credit represented by the refunded contributions,  
1183 except the right to purchase his or her prior service credit in  
1184 accordance with s. 121.081(2).

1185 (5) Contributions made in accordance with subsections (1),  
1186 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~  
1187 into the system trust funds in accordance with rules adopted by  
1188 the administrator pursuant to chapter 120, except as ~~may be~~  
1189 otherwise specified herein. Effective July 1, 2002,

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1190 contributions paid under subsections (1) and (4) and  
1191 accompanying payroll data are due and payable by ~~no later than~~  
1192 the 5th working day of the month immediately following the month  
1193 during which the payroll period ended.

1194 (6)

1195 (c) By obtaining a refund of contributions, a member waives  
1196 all rights under the Florida Retirement System, including the  
1197 health insurance subsidy under subsection (4), to the service  
1198 credit represented by the refunded contributions, except the  
1199 right to purchase his or her prior service credit in accordance  
1200 with s. 121.081(2).

1201 (d) If a member or former member of the defined benefit  
1202 program receives an invalid refund from the Florida Retirement  
1203 System Trust Fund, such person must repay the full amount of the  
1204 refund, plus interest at 6.5 percent compounded annually on each  
1205 June 30 from the date of refund until full repayment is made.  
1206 The invalid refund must be repaid before the member retires or,  
1207 if applicable, transfers to the defined contribution plan.

1208 Section 13. Paragraphs (b) and (c) of subsection (1) and  
1209 subsection (2) of section 121.081, Florida Statutes, are amended  
1210 to read:

1211 121.081 Past service; prior service; contributions.—  
1212 Conditions under which past service or prior service may be  
1213 claimed and credited are:

1214 (1)

1215 (b) Past service earned after January 1, 1975, may be  
1216 claimed by officers or employees of a municipality, metropolitan  
1217 planning organization, charter school, charter technical career  
1218 center, or special district who become a covered group under

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1219 this system. The governing body of a covered group may elect to  
1220 provide benefits for past service earned after January 1, 1975,  
1221 in accordance with this chapter.~~and~~ The cost for such past  
1222 service is established by applying the following formula: The  
1223 employer shall contribute an amount equal to the employer or  
1224 employee contribution rate in effect at the time the service was  
1225 earned, as applicable, multiplied by the employee's gross salary  
1226 for each year of past service claimed, plus 6.5 percent ~~6.5-~~  
1227 ~~percent~~ interest thereon, compounded annually, for ~~figured on~~  
1228 each year of past service, with interest compounded from date of  
1229 annual salary earned until date of payment.

1230 (c) If an ~~Should the~~ employer joined the Florida Retirement  
1231 System before July 1, 2011, and does not elect to provide past  
1232 service for the member on the date of joining the system, ~~then~~  
1233 the member may claim and pay for the service as provided in  
1234 ~~same, based on~~ paragraphs (a) and (b).

1235 (2) Prior service, as defined in s. 121.021~~(19)~~, may be  
1236 claimed as creditable service under the Florida Retirement  
1237 System after a member has been reemployed for 1 complete year of  
1238 creditable service ~~within a period of 12 consecutive months~~,  
1239 except as provided in paragraph (c). Service performed as a  
1240 participant of the optional retirement program for the State  
1241 University System under s. 121.35 or the Senior Management  
1242 Service Optional Annuity Program under s. 121.055 may be used to  
1243 satisfy the reemployment requirement of 1 complete year of  
1244 creditable service. The member may ~~shall not be permitted to~~  
1245 make any contributions for prior service until after completion  
1246 of the 1 year of creditable service. If a member does not wish  
1247 to claim credit for all of his or her prior service, the service

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1248 the member claims must be the most recent period of service. The  
1249 required contributions for claiming the various types of prior  
1250 service are:

1251 (a) For prior service performed before ~~prior to~~ the date  
1252 the system becomes noncontributory for the member and for which  
1253 the member had credit under one of the existing retirement  
1254 systems and received a refund of contributions upon termination  
1255 of employment, the member shall contribute 4 percent of all  
1256 salary received during the period being claimed, plus 4 percent  
1257 ~~4 percent~~ interest compounded annually from date of refund until  
1258 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded  
1259 annually thereafter, until full payment is made to the Florida  
1260 Retirement System Trust Fund, and shall receive credit in the  
1261 Regular Class. A member who elected to transfer to the Florida  
1262 Retirement System from an existing system may receive credit for  
1263 prior service under the existing system if he or she was  
1264 eligible under the existing system to claim the prior service at  
1265 the time of the transfer. Contributions for such prior service  
1266 shall be determined by the applicable provisions of the system  
1267 under which the prior service is claimed and shall be paid by  
1268 the member, with matching contributions paid by the employer at  
1269 the time the service was performed. Effective July 1, 1978, the  
1270 account of a person who terminated under s. 238.05(3) may not be  
1271 charged interest for contributions that remained on deposit in  
1272 the Annuity Savings Trust Fund established under chapter 238,  
1273 upon retirement under this chapter or chapter 238.

1274 (b) For prior service performed before ~~prior to~~ the date  
1275 the system becomes noncontributory for the member and for which  
1276 the member had credit under the Florida Retirement System and

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1277 received a refund of contributions upon termination of  
1278 employment, the member shall contribute at the rate that was  
1279 required of him or her during the period of service being  
1280 claimed, on all salary received during such period, plus 4  
1281 percent ~~4-percent~~ interest compounded annually from date of  
1282 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest  
1283 compounded annually thereafter, until the full payment is made  
1284 to the Florida Retirement System Trust Fund, and ~~shall~~ receive  
1285 credit in the membership class in which the member participated  
1286 during the period claimed.

1287 (c) For prior service as defined in s. 121.021(19) (b) and  
1288 (c) during which no contributions were made because the member  
1289 did not participate in a retirement system, the member shall  
1290 contribute 14.38 percent of all salary received during such  
1291 period or 14.38 percent of \$100 per month during such period,  
1292 whichever is greater, plus 4 percent ~~4-percent~~ interest  
1293 compounded annually from the first year of service claimed until  
1294 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded  
1295 annually thereafter, until full payment is made to the  
1296 Retirement Trust Fund, and shall receive credit in the Regular  
1297 Class.

1298 (d) In order to claim credit for prior service as defined  
1299 in s. 121.021(19) (d) for which no retirement contributions were  
1300 paid during the period of such service, the member shall  
1301 contribute the total employee and employer contributions which  
1302 were required to be made to the Highway Patrol Pension Trust  
1303 Fund, as provided in chapter 321, during the period claimed,  
1304 plus 4 percent ~~4-percent~~ interest compounded annually from the  
1305 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~

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1306 ~~percent~~ interest compounded annually thereafter, until full  
1307 payment is made to the Retirement Trust Fund. However, any  
1308 governmental entity that ~~which~~ employed such member may elect to  
1309 pay up to 50 percent of the contributions and interest required  
1310 to purchase the ~~this~~ prior service credit. The service shall be  
1311 credited in accordance with the ~~provisions of the~~ Highway Patrol  
1312 Pension Plan in effect during the period claimed unless the  
1313 member terminated and withdrew his or her retirement  
1314 contributions and was thereafter enrolled in the State and  
1315 County Officers and Employees' Retirement System or the Florida  
1316 Retirement System, in which case the service shall be credited  
1317 as Regular Class service.

1318 (e) For service performed under the Florida Retirement  
1319 System after December 1, 1970, which ~~that~~ was never reported to  
1320 the division or the department due to error, retirement credit  
1321 may be claimed by a member of the Florida Retirement System. The  
1322 department shall adopt rules establishing criteria for claiming  
1323 such credit and detailing the documentation required to  
1324 substantiate the error.

1325 (f) For prior service performed on or after July 1, 2011,  
1326 for which the member had credit under the Florida Retirement  
1327 System and received a refund of contributions 3 months after  
1328 termination of employment, the member shall contribute at the  
1329 rate that was required during the period of service being  
1330 claimed, plus 6.5 percent interest, compounded annually on each  
1331 June 30 from date of refund until the full payment is made to  
1332 the Florida Retirement System Trust Fund, and shall receive  
1333 credit in the membership class in which the member participated  
1334 during the period claimed.

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1335        (g)~~(f)~~ The employer may not ~~be required to~~ make  
1336 contributions for prior service credit for any member, except  
1337 that the employer shall pay the employer portion of  
1338 contributions for any legislator who elects to withdraw from the  
1339 Florida Retirement System and later rejoins the system and pays  
1340 any employee contributions required in accordance with s.  
1341 121.052(3)(d).

1342        Section 14. Paragraph (a) of subsection (3), paragraphs (a)  
1343 and (c) of subsection (5), and paragraph (d) of subsection (9),  
1344 of section 121.091, Florida Statutes, are amended, present  
1345 paragraphs (e) through (k) of subsection (5) of that section are  
1346 renumbered as paragraphs (f) through (l), respectively, and a  
1347 new paragraph (d) is added to that subsection, to read:

1348        121.091 Benefits payable under the system.—Benefits may not  
1349 be paid under this section unless the member has terminated  
1350 employment as provided in s. 121.021(39)(a) or begun  
1351 participation in the Deferred Retirement Option Program as  
1352 provided in subsection (13), and a proper application has been  
1353 filed in the manner prescribed by the department. The department  
1354 may cancel an application for retirement benefits when the  
1355 member or beneficiary fails to timely provide the information  
1356 and documents required by this chapter and the department's  
1357 rules. The department shall adopt rules establishing procedures  
1358 for application for retirement benefits and for the cancellation  
1359 of such application when the required information or documents  
1360 are not received.

1361        (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her  
1362 early retirement date, the member shall receive an immediate  
1363 monthly benefit that shall begin to accrue on the first day of

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1364 the month of the retirement date and be payable on the last day  
1365 of that month and each month thereafter during his or her  
1366 lifetime. Such benefit shall be calculated as follows:

1367 (a) The amount of each monthly payment shall be computed in  
1368 the same manner as ~~for~~ a normal retirement benefit, in  
1369 accordance with subsection (1), but shall be based on the  
1370 member's average monthly compensation and creditable service as  
1371 of the member's early retirement date. The benefit so computed  
1372 shall be reduced by five-twelfths of 1 percent for each complete  
1373 month by which the early retirement date precedes the normal  
1374 retirement date of age 62 for a member of the Regular Class,  
1375 Senior Management Service Class, or the Elected Officers' Class,  
1376 and age 55 for a member of the Special Risk Class, or age 52 if  
1377 a Special Risk member has completed 25 years of creditable  
1378 service in accordance with s. 121.021(29) ~~(b)3~~.

1379 (5) TERMINATION BENEFITS.—A member whose employment is  
1380 terminated before ~~prior to~~ retirement retains membership rights  
1381 to previously earned member-noncontributory service credit, and  
1382 to member-contributory service credit, if the member leaves the  
1383 member contributions on deposit in his or her retirement  
1384 account. If a terminated member receives a refund of member  
1385 contributions, such member may reinstate membership rights to  
1386 the previously earned service credit represented by the refund  
1387 by completing 1 year of creditable service and repaying the  
1388 refunded member contributions, plus interest.

1389 (a) A member whose employment is terminated for any reason  
1390 other than death or retirement before ~~prior to~~ becoming vested  
1391 is entitled to the return of his or her accumulated employee  
1392 contributions as of the date of termination.



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1393 (c) In lieu of the deferred monthly benefit provided in  
1394 paragraph (b), the terminated member may elect to receive a  
1395 lump-sum amount equal to his or her accumulated employee  
1396 contributions as of the date of termination.

1397 (d) Effective July 1, 2011, upon termination of employment  
1398 from all participating employers for 3 calendar months for any  
1399 reason other than retirement pursuant to s. 121.021(39)(c), a  
1400 member may receive a refund of all contributions he or she has  
1401 made to the defined benefit program, subject to restrictions  
1402 otherwise provided in this chapter. Partial refunds are not  
1403 permitted. The refund may not include any interest earnings on  
1404 the contributions for a member of the defined benefit program.  
1405 Employer contributions made on behalf of the member are not  
1406 refundable. A member may not receive a refund of employee  
1407 contributions if a pending or an approved qualified domestic  
1408 relations order is filed against his or her retirement account.  
1409 By obtaining a refund of contributions, a member waives all  
1410 rights under the Florida Retirement System and the health  
1411 insurance subsidy to the service credit represented by the  
1412 refunded contributions, except the right to purchase his or her  
1413 prior service credit in accordance with s. 121.081(2).

1414 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

1415 (d) ~~The provisions of~~ This subsection applies ~~apply~~ to  
1416 retirees, as defined in s. 121.4501(2), of the Florida Public  
1417 ~~Employee Optional Retirement System Investment Plan Program,~~  
1418 subject to the following conditions:

1419 1. The retiree ~~retirees~~ may not be reemployed with an  
1420 employer participating in the Florida Retirement System until  
1421 such person has been retired for 6 calendar months.

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1422           2. A retiree employed in violation of this subsection and  
1423 an employer that employs or appoints such person are jointly and  
1424 severally liable for reimbursement of any benefits paid to the  
1425 retirement trust fund from which the benefits were paid,  
1426 ~~including the Retirement System Trust Fund and the Public~~  
1427 ~~Employee Optional Retirement Program Trust Fund,~~ as appropriate.  
1428 The employer must have a written statement from the retiree that  
1429 he or she is not retired from a state-administered retirement  
1430 system.

1431           Section 15. Effective July 1, 2012, paragraph (a) of  
1432 subsection (3) and paragraphs (a) and (b) of subsection (13) of  
1433 section 121.091, Florida Statutes, as amended by this act, are  
1434 amended to read:

1435           121.091 Benefits payable under the system.—Benefits may not  
1436 be paid under this section unless the member has terminated  
1437 employment as provided in s. 121.021(39) (a) or begun  
1438 participation in the Deferred Retirement Option Program as  
1439 provided in subsection (13), and a proper application has been  
1440 filed in the manner prescribed by the department. The department  
1441 may cancel an application for retirement benefits when the  
1442 member or beneficiary fails to timely provide the information  
1443 and documents required by this chapter and the department's  
1444 rules. The department shall adopt rules establishing procedures  
1445 for application for retirement benefits and for the cancellation  
1446 of such application when the required information or documents  
1447 are not received.

1448           (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her  
1449 early retirement date, the member shall receive an immediate  
1450 monthly benefit that shall begin to accrue on the first day of

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1451 the month of the retirement date and be payable on the last day  
1452 of that month and each month thereafter during his or her  
1453 lifetime. Such benefit shall be calculated as follows:

1454 (a) The amount of each monthly payment shall be computed in  
1455 the same manner as a normal retirement benefit in accordance  
1456 with subsection (1), but shall be based on the member's average  
1457 monthly compensation and creditable service as of the member's  
1458 early retirement date. The benefit so computed shall be reduced  
1459 by five-twelfths of 1 percent for each complete month by which  
1460 the early retirement date precedes the normal retirement date ~~of~~  
1461 ~~age 62 for a member of the Regular Class, Senior Management~~  
1462 ~~Service Class, or the Elected Officers' Class, and age 55 for a~~  
1463 ~~member of the Special Risk Class, or age 52 if a Special Risk~~  
1464 ~~member has completed 25 years of creditable service in~~  
1465 accordance with s. 121.021(29).

1466 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
1467 subject to this section, the Deferred Retirement Option Program,  
1468 hereinafter referred to as DROP, is a program under which an  
1469 eligible member of the Florida Retirement System may elect to  
1470 participate, deferring receipt of retirement benefits while  
1471 continuing employment with his or her Florida Retirement System  
1472 employer. The deferred monthly benefits shall accrue in the  
1473 Florida Retirement System on behalf of the participant, plus  
1474 interest compounded monthly, for the specified period of the  
1475 DROP participation, as provided in paragraph (c). Upon  
1476 termination of employment, the participant shall receive the  
1477 total DROP benefits and begin to receive the previously  
1478 determined normal retirement benefits. Participation in the DROP  
1479 does not guarantee employment for the specified period of DROP.

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1480 Participation in DROP by an eligible member beyond the initial  
1481 60-month period as authorized in this subsection shall be on an  
1482 annual contractual basis for all participants.

1483 (a) *Eligibility of member to participate in DROP.*—All  
1484 active Florida Retirement System members in a regularly  
1485 established position, and all active members of the Teachers'  
1486 Retirement System established in chapter 238 or the State and  
1487 County Officers' and Employees' Retirement System established in  
1488 chapter 122, which are consolidated within the Florida  
1489 Retirement System under s. 121.011, are eligible to elect  
1490 participation in DROP if:

1491 1. The member is not a renewed member under s. 121.122 or a  
1492 member of the State Community College System Optional Retirement  
1493 Program under s. 121.051, the Senior Management Service Optional  
1494 Annuity Program under s. 121.055, or the optional retirement  
1495 program for the State University System under s. 121.35.

1496 2. For members enrolled before July 1, 2011, except as  
1497 provided in subparagraph 6., election to participate ~~must be~~ ~~is~~  
1498 made within 12 months immediately following the date on which  
1499 the member first reaches normal retirement date; however, ~~or,~~  
1500 for a member who reaches normal retirement date based on service  
1501 before he or she reaches age 62, or age 55 for Special Risk  
1502 Class members, election to participate may be deferred to the 12  
1503 months immediately following the date the member attains age 57,  
1504 or age 52 for Special Risk Class members. For members enrolled  
1505 on or after July 1, 2011, except as provided in subparagraph 6.,  
1506 election to participate must be made within 12 months  
1507 immediately following the date on which the member first reaches  
1508 normal retirement date; however, for a member who reaches normal

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1509 retirement date based on service before he or she reaches age  
1510 65, or age 60 for Special Risk Class members, election to  
1511 participate may be deferred to the 12 months immediately  
1512 following the date the member attains age 60, or age 55 for  
1513 Special Risk Class members. A member who delays DROP  
1514 participation during the 12-month period immediately following  
1515 his or her maximum DROP deferral date, ~~except as provided in~~  
1516 ~~subparagraph 6.,~~ loses a month of DROP participation for each  
1517 month delayed. A member who fails to make an election within the  
1518 12-month limitation period forfeits all rights to participate in  
1519 DROP. The member shall advise his or her employer and the  
1520 division in writing of the date DROP begins. The beginning date  
1521 may be subsequent to the 12-month election period but must be  
1522 within the original 60-month participation period provided in  
1523 subparagraph (b)1. When establishing the eligibility of the  
1524 member to participate in DROP, the member may elect to include  
1525 or exclude any optional service credit purchased by the member  
1526 from the total service used to establish the normal retirement  
1527 date. A member who has dual normal retirement dates may ~~is~~  
1528 ~~eligible to~~ elect to participate in DROP after attaining the  
1529 normal retirement date in either class.

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

1535 4. Simultaneous employment of a participant by additional  
1536 Florida Retirement System employers subsequent to the  
1537 commencement of participation in DROP is permissible if such

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1538 employers acknowledge in writing a DROP termination date no  
1539 later than the participant's existing termination date or the  
1540 maximum participation period provided in subparagraph (b)1.

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

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

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

1552 c. The new employer shall acknowledge, in writing, the  
1553 participant's DROP termination date, which may be extended but  
1554 not beyond the maximum participation period provided in  
1555 subparagraph (b)1., shall acknowledge liability for any  
1556 additional retirement contributions and interest required if the  
1557 participant fails to timely terminate employment, and is subject  
1558 to the adjustment required in sub-subparagraph (c)5.d.

1559 6. Effective July 1, 2001, for instructional personnel as  
1560 defined in s. 1012.01(2), election to participate in DROP may be  
1561 made at any time following the date on which the member first  
1562 reaches normal retirement date. The member shall advise his or  
1563 her employer and the division in writing of the date on which  
1564 DROP begins. When establishing the eligibility of the member to  
1565 participate in DROP for the 60-month participation period  
1566 provided in subparagraph (b)1., the member may elect to include

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1567 or exclude any optional service credit purchased by the member  
1568 from the total service used to establish the normal retirement  
1569 date. A member who has dual normal retirement dates may ~~is~~  
1570 ~~eligible to~~ elect to participate in either class.

1571 (b) *Participation in DROP.*—

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

1584 2. Upon electing ~~deciding~~ to participate in DROP, the  
1585 member shall submit, on forms required by the division:

1586 a. A written election to participate in DROP;

1587 b. Selection of DROP participation and termination dates  
1588 that satisfy the limitations stated in paragraph (a) and  
1589 subparagraph 1. The termination date must be in a binding letter  
1590 of resignation to the employer establishing a deferred  
1591 termination date. The member may change the termination date  
1592 within the limitations of subparagraph 1., but only with the  
1593 written approval of the employer;

1594 c. A properly completed DROP application for service  
1595 retirement as provided in this section; and

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1596 d. Any other information required by the division.

1597 3. The DROP participant is a retiree under the Florida  
1598 Retirement System for all purposes, except for paragraph (5) (f)  
1599 and subsection (9) and ss. 112.3173, 112.363, 121.053, and  
1600 121.122. DROP participation is final and may not be canceled by  
1601 the participant after the first payment is credited during the  
1602 DROP participation period. However, participation in DROP does  
1603 not alter the participant's employment status, and the member is  
1604 not deemed retired from employment until his or her deferred  
1605 resignation is effective and termination occurs as defined in s.  
1606 121.021.

1607 4. Elected officers are eligible to participate in DROP  
1608 subject to the following:

1609 a. An elected officer who reaches normal retirement date  
1610 during a term of office may defer the election to participate  
1611 until the next succeeding term in that office. An elected  
1612 officer who exercises this option may participate in DROP for up  
1613 to 60 calendar months or no longer than the succeeding term of  
1614 office, whichever is less.

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

1623 c. An elected officer who is dually employed and elects to  
1624 participate in DROP must terminate all employment relationships



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1625 as provided in s. 121.021(39) for the nonelected position within  
1626 the original 60-month period or maximum participation period as  
1627 provided in subparagraph 1. For DROP participation ending:

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

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

1639 Section 16. Subsection (1) of section 121.121, Florida  
1640 Statutes, is amended to read:

1641 121.121 Authorized leaves of absence.—

1642 (1) A member may purchase creditable service for up to 2  
1643 work years of authorized leaves of absence, including any leaves  
1644 of absence covered under the Family Medical Leave Act, if:

1645 (a) The member has completed a minimum of 6 years of  
1646 creditable service, excluding periods for which a leave of  
1647 absence was authorized;

1648 (b) The leave of absence is authorized in writing by the  
1649 employer of the member and approved by the administrator;

1650 (c) The member returns to active employment performing  
1651 service with a Florida Retirement System employer in a regularly  
1652 established position immediately upon termination of the leave  
1653 of absence and remains on the employer's payroll for 1 calendar

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1654 month, except that a member who retires on disability while on a  
1655 medical leave of absence may ~~shall~~ not be required to return to  
1656 employment. A member whose work year is less than 12 months and  
1657 whose leave of absence terminates between school years is  
1658 eligible to receive credit for the leave of absence if ~~as long~~  
1659 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at  
1660 the beginning of the next school year and remains on the  
1661 employer's payroll for 1 calendar month; and

1662 (d) The member makes the required contributions for service  
1663 credit during the leave of absence, which shall be 8 percent  
1664 until January 1, 1975, and 9 percent thereafter of his or her  
1665 rate of monthly compensation in effect immediately before ~~prior~~  
1666 ~~to~~ the commencement of such leave for each month of such period,  
1667 plus 4 percent interest until July 1, 1975, and 6.5 percent  
1668 interest thereafter on such contributions, compounded annually  
1669 each June 30 from the due date of the contribution to date of  
1670 payment. Effective July 1, 1980, any leave of absence purchased  
1671 pursuant to this section is ~~shall be~~ at the contribution rates  
1672 specified in s. 121.071 or s. 121.71 in effect at the time the  
1673 leave is granted for the class of membership from which the  
1674 leave of absence was granted; however, any member who purchased  
1675 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a  
1676 leave of absence from a position in a class other than the  
1677 regular membership class, may pay the appropriate additional  
1678 contributions plus compound interest thereon and receive  
1679 creditable service for such leave of absence in the membership  
1680 class from which the member was granted the leave of absence.  
1681 Effective July 1, 2011, any leave of absence purchased pursuant  
1682 to this section shall be at the employee and employer

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1683 contribution rates specified in s. 121.71 in effect during the  
1684 leave for the class of membership from which the leave of  
1685 absence was granted.

1686 Section 17. Section 121.125, Florida Statutes, is amended  
1687 to read:

1688 121.125 Credit for workers' compensation payment periods.—A  
1689 member of the retirement system created by this chapter who has  
1690 been eligible or becomes eligible for ~~to receive~~ workers'  
1691 compensation payments for an injury or illness that occurred  
1692 ~~occurring~~ during ~~his or her~~ employment while a member of a ~~any~~  
1693 state retirement system shall, upon return to active employment  
1694 with a covered employer for 1 calendar month or upon approval  
1695 for disability retirement in accordance with s. 121.091(4),  
1696 receive full retirement credit for the period before ~~prior to~~  
1697 such return to active employment or disability retirement for  
1698 which the workers' compensation payments were received. However,  
1699 a ~~no~~ member may not receive retirement credit for ~~any~~ such  
1700 period occurring after the earlier of the date of maximum  
1701 medical improvement as defined in s. 440.02 or the date  
1702 termination has occurred as defined in s. 121.021(39). The  
1703 employer of record at the time of the worker's compensation  
1704 injury or illness shall make the required employee and employer  
1705 retirement contributions based on the member's rate of monthly  
1706 compensation immediately before ~~prior to~~ ~~his or her~~ receiving  
1707 workers' compensation payments for retirement credit received by  
1708 the member.

1709 Section 18. Paragraphs (g) and (i) of subsection (3) and  
1710 subsection (4) of section 121.35, Florida Statutes, are amended  
1711 to read:

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1712           121.35 Optional retirement program for the State University  
1713 System.—

1714           (3) ELECTION OF OPTIONAL PROGRAM.—

1715           (g) An eligible employee who is a member of the Florida  
1716 Retirement System at the time of electing ~~election~~ to  
1717 participate in the optional retirement program shall retain all  
1718 retirement service credit earned under the Florida Retirement  
1719 System, ~~at the rate earned. No~~ Additional service credit in the  
1720 ~~Florida Retirement~~ system may not ~~shall~~ be earned while the  
1721 employee participates in the optional program, and ~~nor shall~~ the  
1722 employee is not ~~be~~ eligible for disability retirement under the  
1723 ~~Florida Retirement~~ system. An eligible employee may transfer  
1724 from the Florida Retirement System to his or her accounts under  
1725 the State University System Optional Retirement Program a sum  
1726 representing the present value of the employee's accumulated  
1727 benefit obligation under the defined benefit program of the  
1728 Florida Retirement System for any service credit accrued from  
1729 the employee's first eligible transfer date to the optional  
1730 retirement program through the actual date of such transfer, if  
1731 such service credit was earned ~~in the period~~ from July 1, 1984,  
1732 through December 31, 1992. The present value of the employee's  
1733 accumulated benefit obligation shall be calculated as described  
1734 in s. 121.4501(3) ~~s. 121.4501(3)(c)2~~. Upon ~~such~~ transfer, all  
1735 ~~such~~ service credit ~~previously~~ earned under the defined benefit  
1736 program ~~of the Florida Retirement System~~ during this period is  
1737 ~~shall be~~ nullified for purposes of entitlement to a future  
1738 benefit under the defined benefit program ~~of the Florida~~  
1739 ~~Retirement System~~.

1740           (i) Effective January 1, 2008, through December 31, 2008,

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1741 except for an employee who is a mandatory participant of the  
1742 State University System Optional Retirement Program, an employee  
1743 who has elected to participate in the State University System  
1744 Optional Retirement Program shall have one opportunity, at the  
1745 employee's discretion, ~~to choose~~ to transfer from this program  
1746 to the defined benefit program or the defined contribution  
1747 program of the Florida Retirement System ~~or to the Public~~  
1748 ~~Employee Optional Retirement Program~~, subject to the terms of  
1749 the applicable contracts of the State University System Optional  
1750 Retirement Program.

1751 1. If the employee chooses to move to the defined  
1752 contribution ~~Public Employee Optional Retirement~~ program, any  
1753 contributions, interest, and earnings creditable to the employee  
1754 under the State University System Optional Retirement Program  
1755 must ~~shall~~ be retained by the employee in the State University  
1756 System Optional Retirement Program, and the applicable  
1757 provisions of s. 121.4501(4) shall govern the election.

1758 2. If the employee chooses to move to the defined benefit  
1759 program ~~of the Florida Retirement System~~, the employee shall  
1760 receive service credit equal to his or her years of service  
1761 under the State University System Optional Retirement Program.

1762 a. The cost for such credit must be in ~~shall be~~ an amount  
1763 representing the actuarial accrued liability for the affected  
1764 period of service. The cost must ~~shall~~ be calculated using the  
1765 discount rate and other relevant actuarial assumptions that were  
1766 used to value the ~~Florida Retirement System~~ defined benefit plan  
1767 liabilities in the most recent actuarial valuation. The  
1768 calculation must ~~shall~~ include any service already maintained  
1769 under the defined benefit program ~~plan~~ in addition to the years

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1770 under the State University System Optional Retirement Program.  
1771 The actuarial accrued liability of any service already  
1772 maintained under the defined benefit program must ~~plan shall~~ be  
1773 applied as a credit to total cost resulting from the  
1774 calculation. The division must ~~shall~~ ensure that the transfer  
1775 sum is prepared using a formula and methodology certified by an  
1776 enrolled actuary.

1777 b. The employee must transfer from his or her State  
1778 University System Optional Retirement Program account, and from  
1779 other employee moneys as necessary, a sum representing the  
1780 actuarial accrued liability immediately following the time of  
1781 such movement, determined assuming that attained service equals  
1782 the sum of service in the defined benefit program and service in  
1783 the State University System Optional Retirement Program.

1784 (4) CONTRIBUTIONS.—

1785 (a) 1. Through June 30, 2001, each employer shall contribute  
1786 on behalf of each participant in the optional retirement program  
1787 an amount equal to the normal cost portion of the employer  
1788 retirement contribution which would be required if the  
1789 participant were a regular member of the Florida Retirement  
1790 System defined benefit program, plus the portion of the  
1791 contribution rate required in s. 112.363(8) that would otherwise  
1792 be assigned to the Retiree Health Insurance Subsidy Trust Fund.

1793 2. Effective July 1, 2001, through June 30, 2011, each  
1794 employer shall contribute on behalf of each participant in the  
1795 optional retirement program an amount equal to 10.43 percent of  
1796 the participant's gross monthly compensation.

1797 3. Effective July 1, 2011, each participant in the optional  
1798 retirement program shall contribute an amount equal to the

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1799 employee contribution required in s. 121.71(3). The employer  
1800 shall contribute on behalf of each such participant an amount  
1801 equal to the difference between 10.43 percent of the  
1802 participant's gross monthly compensation and the amount equal to  
1803 the employee's required contribution based on the employee's  
1804 gross monthly compensation.

1805 ~~4. The department shall deduct an amount approved by the~~  
1806 ~~Legislature to provide for the administration of this program.~~  
1807 The payment of the contributions, including contributions by the  
1808 participant, to the optional program which is required by this  
1809 paragraph for each participant shall be made by the employer to  
1810 the department, which shall forward the contributions to the  
1811 designated company or companies contracting for payment of  
1812 benefits for the participant under the program. However, such  
1813 contributions paid on behalf of an employee described in  
1814 paragraph (3)(c) may shall not be forwarded to a company and do  
1815 shall not begin to accrue interest until the employee has  
1816 executed a contract and notified the department. The department  
1817 shall deduct an amount from the contributions to provide for the  
1818 administration of this program.

1819 (b) Each employer shall contribute on behalf of each  
1820 participant in the optional retirement program an amount equal  
1821 to the unfunded actuarial accrued liability portion of the  
1822 employer contribution which would be required for members of the  
1823 Florida Retirement System. This contribution shall be paid to  
1824 the department for transfer to the Florida Retirement System  
1825 Trust Fund.

1826 (c) An Optional Retirement Program Trust Fund shall be  
1827 established in the State Treasury and administered by the

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1828 department to make payments to the provider companies on behalf  
1829 of the optional retirement program participants, and to transfer  
1830 the unfunded liability portion of the state optional retirement  
1831 program contributions to the Florida Retirement System Trust  
1832 Fund.

1833 (d) Contributions required for social security by each  
1834 employer and each participant under, ~~in the amount required for~~  
1835 ~~social security coverage as now or hereafter may be provided by~~  
1836 the federal Social Security Act, shall be maintained for each  
1837 participant in the optional retirement program and are ~~shall be~~  
1838 in addition to the retirement contributions specified in this  
1839 subsection.

1840 (e) Each participant in the optional retirement program who  
1841 has executed a contract may contribute by way of salary  
1842 reduction or deduction a percentage amount of the participant's  
1843 gross compensation not to exceed the percentage amount  
1844 contributed by the employer to the optional program, but ~~in no~~  
1845 ~~case may~~ such contribution may not exceed federal limitations.  
1846 Payment of the participant's contributions shall be made by the  
1847 financial officer of the employer to the division which shall  
1848 forward the contributions to the designated company or companies  
1849 contracting for payment of benefits for the participant under  
1850 the program. A participant may not make, through salary  
1851 reduction, any voluntary employee contributions to any other  
1852 plan under s. 403(b) of the Internal Revenue Code, with the  
1853 exception of a custodial account under s. 403(b)(7) of the  
1854 Internal Revenue Code, until he or she has made an employee  
1855 contribution to his or her optional program equal to the  
1856 employer contribution. A participant is responsible for



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1857 monitoring his or her individual tax-deferred income to ensure  
1858 he or she does not exceed the maximum deferral amounts permitted  
1859 under the Internal Revenue Code.

1860 (f) The Optional Retirement Trust Fund may accept for  
1861 deposit into participant contracts contributions in the form of  
1862 rollovers or direct trustee-to-trustee transfers by or on behalf  
1863 of participants who are reasonably determined by the department  
1864 to be eligible for rollover or transfer to the optional  
1865 retirement program pursuant to the Internal Revenue Code, if  
1866 such contributions are made in accordance with rules adopted by  
1867 the department. Such contributions shall be accounted for in  
1868 accordance with any applicable requirements of the Internal  
1869 Revenue Code and department rules ~~of the department~~.

1870 (g) Effective July 1, 2008, for purposes of paragraph (a)  
1871 and notwithstanding s. 121.021(22)(b)1., the term "participant's  
1872 gross monthly compensation" includes salary payments made to  
1873 eligible clinical faculty from a state university using funds  
1874 provided by a faculty practice plan authorized by the Board of  
1875 Governors of the State University System if:

1876 1. There is no ~~not any~~ employer contribution from the state  
1877 university to any other retirement program with respect to such  
1878 salary payments; and

1879 2. The employer contribution on behalf of the participant  
1880 in the optional retirement program with respect to such salary  
1881 payments is made using funds provided by the faculty practice  
1882 plan.

1883 Section 19. Section 121.4501, Florida Statutes, is amended  
1884 to read:

1885 121.4501 Florida ~~Public Employee Optional~~ Retirement System

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1886 Investment Plan Program.—

1887 (1) The Trustees of the State Board of Administration shall  
 1888 establish a ~~an optional~~ defined contribution ~~retirement~~ program  
 1889 called the Florida Retirement System Investment Plan for members  
 1890 of the Florida Retirement System under which retirement benefits  
 1891 are ~~will be~~ provided for eligible employees initially employed  
 1892 before July 1, 2011, who elect to participate in the plan, and  
 1893 as a compulsory requirement for all eligible employees employed  
 1894 on or after July 1, 2011 ~~program~~. The retirement benefits ~~to be~~  
 1895 ~~provided for or on behalf of participants in such optional~~  
 1896 ~~retirement program~~ shall be provided through employee-directed  
 1897 investments, in accordance with s. 401(a) of the Internal  
 1898 Revenue Code and ~~its~~ related regulations. ~~The~~ Employers and  
 1899 participants shall make contributions ~~contribute~~, as provided in  
 1900 this section and ~~7~~ ss. 121.571~~7~~ and 121.71~~7~~, to the Florida Public  
 1901 ~~Employee Optional Retirement System Investment Plan Program~~  
 1902 Trust Fund toward the funding of ~~such optional~~ benefits.

1903 (2) DEFINITIONS.—As used in this part, the term:

1904 (a) "Approved provider" or "provider" means a private  
 1905 sector company that is selected and approved by the state board  
 1906 to offer one or more investment products or services to the  
 1907 investment plan ~~optional retirement program~~. The term includes a  
 1908 bundled provider that offers participants a range of  
 1909 individually allocated or unallocated investment products and  
 1910 may offer a range of administrative and customer services, which  
 1911 may include accounting and administration of individual  
 1912 participant benefits and contributions; individual participant  
 1913 recordkeeping; asset purchase, control, and safekeeping; direct  
 1914 execution of the participant's instructions as to asset and

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1915 contribution allocation; calculation of daily net asset values;  
1916 direct access to participant account information; periodic  
1917 reporting to participants, at least quarterly, on account  
1918 balances and transactions; guidance, advice, and allocation  
1919 services directly relating to the provider's own investment  
1920 options or products, but only if the bundled provider complies  
1921 with the standard of care of s. 404(a)(1)(A-B) of the Employee  
1922 Retirement Income Security Act of 1974 (ERISA) and if providing  
1923 such guidance, advice, or allocation services does not  
1924 constitute a prohibited transaction under s. 4975(c)(1) of the  
1925 Internal Revenue Code or s. 406 of ERISA, notwithstanding that  
1926 such prohibited transaction provisions do not apply to the  
1927 ~~optional~~ retirement program; a broad array of distribution  
1928 options; asset allocation; and retirement counseling and  
1929 education. Private sector companies include investment  
1930 management companies, insurance companies, depositories, and  
1931 mutual fund companies.

1932 (b) "Average monthly compensation" means one-twelfth of  
1933 average final compensation as defined in s. 121.021.

1934 (c) "Covered employment" means employment in a regularly  
1935 established position as defined in s. 121.021.

1936 (d) "Defined benefit program" means the defined benefit  
1937 program of the Florida Retirement System administered under part  
1938 I of this chapter.

1939 (e) "District school board employer" means a district  
1940 school board that participates in the Florida Retirement System  
1941 for the benefit of certain employees, or a charter school or  
1942 charter technical career center that participates in the Florida  
1943 Retirement System as provided under s. 121.051(2)(d).

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1944        (f)~~(e)~~ "Division" means the Division of Retirement within  
1945 the department.

1946        (g)~~(f)~~ "Electronic means" means by telephone, if ~~the~~  
1947 ~~required~~ information is received on a recorded line, or through  
1948 Internet access, if ~~the required~~ information is captured online.

1949        (h)~~(g)~~ "Eligible employee" means an officer or employee, as  
1950 defined in s. 121.021, who:

1951            1. Is a member of, or is eligible for membership in, the  
1952 Florida Retirement System, including any renewed member of the  
1953 Florida Retirement System initially enrolled before July 1,  
1954 2010; or

1955            2. Participates in, or is eligible to participate in, the  
1956 Senior Management Service Optional Annuity Program as  
1957 established under s. 121.055(6), the State Community College  
1958 System Optional Retirement Program as established under s.  
1959 121.051(2)(c), or the State University System Optional  
1960 Retirement Program established under s. 121.35.

1961  
1962 The term does not include any member participating in the  
1963 Deferred Retirement Option Program established under s.  
1964 121.091(13), a retiree of a state-administered retirement system  
1965 initially reemployed on or after July 1, 2010, or a mandatory  
1966 participant of the State University System Optional Retirement  
1967 Program established under s. 121.35.

1968        (i)~~(h)~~ "Employer" means an employer, as defined in s.  
1969 121.021, of an eligible employee.

1970        (j) "Investment plan" means the Florida Retirement System  
1971 Investment Plan established under this part.

1972        (k) "Local employer" means an employer that is not a state

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1973 employer or a district school board employer.

1974 ~~(i) "Optional retirement program" or "optional program"~~

1975 ~~means the Public Employee Optional Retirement Program~~

1976 ~~established under this part.~~

1977 (l)~~(j)~~ "Participant" means an eligible employee who is  
 1978 enrolled ~~enrolls~~ in the investment plan ~~optional program~~ as  
 1979 provided in subsection (4) or a terminated Deferred Retirement  
 1980 Option Program participant as described in subsection (21).

1981 (m)~~(k)~~ "Retiree" means a former participant of the  
 1982 investment plan ~~optional retirement program~~ who has terminated  
 1983 employment and has taken a distribution as provided in s.  
 1984 121.591, except for a mandatory distribution of a de minimis  
 1985 account authorized by the state board.

1986 (n) "State employer" means an agency, board, branch,  
 1987 commission, community college, department, institution,  
 1988 institution of higher education, or water management district  
 1989 that participates in the Florida Retirement System for the  
 1990 benefit of certain employees.

1991 (o)~~(l)~~ "Vested" or "vesting" means the guarantee that a  
 1992 participant is eligible to receive a retirement benefit upon  
 1993 completion of the required years of service under the investment  
 1994 plan ~~optional retirement program~~.

1995 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF  
 1996 BENEFITS.—

1997 ~~(a) Participation in the Public Employee Optional~~  
 1998 ~~Retirement Program is limited to eligible employees.~~  
 1999 ~~Participation in the optional retirement program is in lieu of~~  
 2000 ~~participation in the defined benefit program of the Florida~~  
 2001 ~~Retirement System.~~

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2002            (a)~~(b)~~ An eligible employee who is employed in a regularly  
 2003 established position by a state employer on June 1, 2002; by a  
 2004 district school board employer on September 1, 2002; or by a  
 2005 local employer on December 1, 2002, and who is a member of the  
 2006 defined benefit ~~retirement~~ program of the ~~Florida Retirement~~  
 2007 ~~System~~ at the time of his or her election to participate in the  
 2008 investment plan ~~Public Employee Optional Retirement Program~~  
 2009 shall retain all retirement service credit earned under the  
 2010 defined benefit ~~retirement~~ program of the Florida Retirement  
 2011 System as credited under the system and is ~~shall be~~ entitled to  
 2012 a deferred benefit upon termination, ~~if eligible under the~~  
 2013 ~~system~~. However, election to participate in the investment plan  
 2014 ~~Public Employee Optional Retirement Program~~ terminates the  
 2015 active membership of the employee in the defined benefit program  
 2016 ~~of the Florida Retirement System~~, and the service of a  
 2017 participant in the investment plan ~~is~~ ~~Public Employee Optional~~  
 2018 ~~Retirement Program~~ shall not be creditable under the defined  
 2019 benefit ~~retirement~~ program of the ~~Florida Retirement System~~ for  
 2020 purposes of benefit accrual but is creditable ~~shall be credited~~  
 2021 for purposes of vesting.

2022            (b)~~(c)~~1. Notwithstanding paragraph (a), ~~an (b)~~, each  
 2023 eligible employee who elects to participate in the investment  
 2024 plan ~~Public Employee Optional Retirement Program~~ and establishes  
 2025 one or more individual participant accounts ~~under the optional~~  
 2026 ~~program~~ may elect to transfer to the investment plan ~~optional~~  
 2027 ~~program~~ a sum representing the present value of the employee's  
 2028 accumulated benefit obligation under the defined benefit  
 2029 ~~retirement~~ program of the ~~Florida Retirement System~~. Upon ~~such~~  
 2030 transfer, all service credit ~~previously~~ earned under the defined

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2031 benefit program ~~is of the Florida Retirement System~~ shall be  
2032 nullified for purposes of entitlement to a future benefit under  
2033 the defined benefit program ~~of the Florida Retirement System~~. A  
2034 participant may not transfer ~~is precluded from transferring~~ the  
2035 accumulated benefit obligation balance from the defined benefit  
2036 program after the time ~~upon the expiration of the period for~~  
2037 enrolling ~~afforded to enroll~~ in the investment plan ~~optional~~  
2038 ~~program~~.

2039 ~~1.2.~~ For purposes of this subsection, the present value of  
2040 the member's accumulated benefit obligation is based upon the  
2041 member's estimated creditable service and estimated average  
2042 final compensation under the defined benefit program, subject to  
2043 recomputation under subparagraph 2. ~~3.~~ For state employees  
2044 ~~enrolling under subparagraph (4)(a)1.~~, initial estimates shall  
2045 ~~will~~ be based upon creditable service and average final  
2046 compensation as of midnight on June 30, 2002; for district  
2047 school board employees ~~enrolling under subparagraph (4)(b)1.~~,  
2048 initial estimates shall ~~will~~ be based upon creditable service  
2049 and average final compensation as of midnight on September 30,  
2050 2002; and for local government employees ~~enrolling under~~  
2051 ~~subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be based  
2052 upon creditable service and average final compensation as of  
2053 midnight on December 31, 2002. The dates ~~respectively~~ specified  
2054 are above ~~shall be construed as~~ the "estimate date" for these  
2055 employees. The actuarial present value of the employee's  
2056 accumulated benefit obligation shall be based on the following:  
2057 a. The discount rate and other relevant actuarial  
2058 assumptions used to value the Florida Retirement System Trust  
2059 Fund at the time the amount to be transferred is determined,

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2060 consistent with the factors provided in sub-subparagraphs b. and  
2061 c.

2062 b. A benefit commencement age, based on the member's  
2063 estimated creditable service as of the estimate date. The  
2064 benefit commencement age is ~~shall be~~ the younger of the  
2065 following, but may ~~shall~~ not be younger than the member's age as  
2066 of the estimate date:

2067 (I) Age 62 or, for persons enrolled on or after July 1,  
2068 2011, age 65; or

2069 (II) The age the member would attain if the member  
2070 completed 30 years of service with an employer, assuming the  
2071 member worked continuously from the estimate date, and  
2072 disregarding any vesting requirement that would otherwise apply  
2073 under the defined benefit program ~~of the Florida Retirement~~  
2074 ~~System.~~

2075 c. For members of the Special Risk Class, and for members  
2076 of the Special Risk Administrative Support Class entitled to  
2077 retain the special risk normal retirement date, the benefit  
2078 commencement age is ~~shall be~~ the younger of the following, but  
2079 may ~~shall~~ not be younger than the member's age as of the  
2080 estimate date:

2081 (I) Age 55 or, for persons enrolled on or after July 1,  
2082 2011, age 60; or

2083 (II) The age the member would attain if the member  
2084 completed 25 years of service with an employer, or, for persons  
2085 employed on or after July 1, 2011, 30 years of service with an  
2086 employer, assuming the member worked continuously from the  
2087 estimate date, and disregarding any vesting requirement that  
2088 would otherwise apply under the defined benefit program ~~of the~~



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2089 ~~Florida Retirement System.~~

2090 d. The calculation must ~~shall~~ disregard vesting  
2091 requirements and early retirement reduction factors that would  
2092 otherwise apply under the defined benefit ~~retirement~~ program.

2093 ~~2.3.~~ For each participant who elects to transfer moneys  
2094 from the defined benefit program to his or her account in the  
2095 investment plan ~~optional program~~, the division shall recompute  
2096 the amount transferred under subparagraph 1. ~~within 2.~~ ~~not later~~  
2097 ~~than~~ 60 days after the actual transfer of funds based upon the  
2098 participant's actual creditable service and actual final average  
2099 compensation as of the initial date of participation in the  
2100 investment plan ~~optional program~~. If the recomputed amount  
2101 differs from the amount transferred ~~under subparagraph 2.~~ by \$10  
2102 or more, the division shall:

2103 a. Transfer, or cause to be transferred, from the Florida  
2104 Retirement System Trust Fund to the participant's account ~~in the~~  
2105 ~~optional program~~ the excess, if any, of the recomputed amount  
2106 over the previously transferred amount together with interest  
2107 from the initial date of transfer to the date of transfer under  
2108 this subparagraph, based upon the effective annual interest  
2109 equal to the assumed return on the actuarial investment which  
2110 was used in the most recent actuarial valuation of the system,  
2111 compounded annually.

2112 b. Transfer, or cause to be transferred, from the  
2113 participant's account to the Florida Retirement System Trust  
2114 Fund the excess, if any, of the previously transferred amount  
2115 over the recomputed amount, together with interest from the  
2116 initial date of transfer to the date of transfer under this  
2117 subparagraph, based upon 6 percent effective annual interest,

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2118 compounded annually, pro rata based on the participant's  
2119 allocation plan.

2120 3. If contribution adjustments are made as a result of  
2121 employer errors or corrections, including plan corrections,  
2122 following recomputation of the amount transferred under  
2123 subparagraph 1., the participant is entitled to the additional  
2124 contributions or is responsible for returning any excess  
2125 contributions resulting from the correction if the return of  
2126 such contributions by the plan is made within 1 year after the  
2127 making of the erroneous contributions or such other period  
2128 allowed by applicable Internal Revenue Service guidance. The  
2129 present value of the member's accumulated benefit obligation may  
2130 not be recalculated.

2131 4. As directed by the participant, the state board shall  
2132 transfer or cause to be transferred the appropriate amounts to  
2133 the designated accounts within. ~~The board shall establish~~  
2134 ~~transfer procedures by rule, but the actual transfer shall not~~  
2135 ~~be later than~~ 30 days after the effective date of the member's  
2136 participation in the investment plan ~~optional program~~ unless the  
2137 major financial markets for securities available for a transfer  
2138 are seriously disrupted by an unforeseen event that ~~which also~~  
2139 causes the suspension of trading on any national securities  
2140 exchange in the country where the securities are ~~were~~ issued. In  
2141 that event, the ~~such~~ 30-day period ~~of time~~ may be extended by a  
2142 resolution of the state board ~~trustees~~. The state board shall  
2143 establish transfer procedures by rule. Transfers are not  
2144 commissionable or subject to other fees and may be in the form  
2145 of securities or cash, as determined by the state board. Such  
2146 securities are ~~shall be~~ valued as of the date of receipt in the

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2147 participant's account.

2148 5. If the state board or the division receives notification  
2149 from the United States Internal Revenue Service that this  
2150 paragraph or any portion of this paragraph will cause the  
2151 retirement system, or a portion thereof, to be disqualified for  
2152 tax purposes under the Internal Revenue Code, ~~then~~ the portion  
2153 that will cause the disqualification does not apply. Upon such  
2154 notice, the state board and the division shall notify the  
2155 presiding officers of the Legislature.

2156 (4) PARTICIPATION; ENROLLMENT.—

2157 (a)~~1.~~ With respect to an eligible employee who is employed  
2158 in a regularly established position by a state employer after on  
2159 June 1, 2002; by a district school board employer after  
2160 September 1, 2002; or by a local employer after December 1,  
2161 2002, but before July 1, 2011, the, ~~by a state employer:~~

2162 ~~a. Any such employee may elect to participate in the Public~~  
2163 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
2164 ~~her membership in the defined benefit program of the Florida~~  
2165 ~~Retirement System. The election must be made in writing or by~~  
2166 ~~electronic means and must be filed with the third party~~  
2167 ~~administrator by August 31, 2002, or, in the case of an active~~  
2168 ~~employee who is on a leave of absence on April 1, 2002, by the~~  
2169 ~~last business day of the 5th month following the month the leave~~  
2170 ~~of absence concludes. This election is irrevocable, except as~~  
2171 ~~provided in paragraph (c). Upon making such election, the~~  
2172 ~~employee shall be enrolled as a participant of the Public~~  
2173 ~~Employee Optional Retirement Program, the employee's membership~~  
2174 ~~in the Florida Retirement System shall be governed by the~~  
2175 ~~provisions of this part, and the employee's membership in the~~

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2176 ~~defined benefit program of the Florida Retirement System shall~~  
2177 ~~terminate. The employee's enrollment in the Public Employee~~  
2178 ~~Optional Retirement Program shall be effective the first day of~~  
2179 ~~the month for which a full month's employer contribution is made~~  
2180 ~~to the optional program.~~

2181 ~~b. Any such employee who fails to elect to participate in~~  
2182 ~~the Public Employee Optional Retirement Program within the~~  
2183 ~~prescribed time period is deemed to have elected to retain~~  
2184 ~~membership in the defined benefit program of the Florida~~  
2185 ~~Retirement System, and the employee's option to elect to~~  
2186 ~~participate in the optional program is forfeited.~~

2187 ~~2. With respect to employees who become eligible to~~  
2188 ~~participate in the Public Employee Optional Retirement Program~~  
2189 ~~by reason of employment in a regularly established position with~~  
2190 ~~a state employer commencing after April 1, 2002:~~

2191 ~~a. Any such employee shall, by default, be enrolled in the~~  
2192 ~~defined benefit retirement program of the Florida Retirement~~  
2193 ~~System at the commencement of employment, and may, by the last~~  
2194 ~~business day of the 5th month following the employee's month of~~  
2195 ~~hire, elect to participate in the investment plan Public~~  
2196 ~~Employee Optional Retirement Program. The employee's election~~  
2197 ~~must be made in writing or by electronic means and must be filed~~  
2198 ~~with the third-party administrator. The election to participate~~  
2199 ~~in the investment plan optional program is irrevocable, except~~  
2200 ~~as provided in paragraph (e).~~

2201 ~~1.b.~~ If the employee files such election within the  
2202 prescribed time period, enrollment in the investment plan is  
2203 ~~optional program shall be effective on the first day of~~  
2204 ~~employment. The employer and participant retirement~~

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2205 contributions paid through the month of the employee plan change  
2206 shall be transferred to the investment plan ~~optional program~~,  
2207 and, effective the first day of the next month, the employer and  
2208 participant must ~~shall~~ pay the applicable contributions based on  
2209 the employee membership class in the plan ~~optional program~~.

2210 2.e. An ~~Any such~~ employee who fails to elect to participate  
2211 in the investment plan ~~Public Employee Optional Retirement~~  
2212 ~~Program~~ within the prescribed time period is deemed to have  
2213 elected to retain membership in the defined benefit program ~~of~~  
2214 ~~the Florida Retirement System~~, and the employee's option to  
2215 elect to participate in the investment plan ~~optional program~~ is  
2216 forfeited.

2217 3. With respect to employees who become eligible to  
2218 participate in the investment plan ~~Public Employee Optional~~  
2219 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.  
2220 121.35(3)(i), the ~~any such~~ employee may elect to participate in  
2221 the investment plan ~~Public Employee Optional Retirement Program~~  
2222 in lieu of retaining his or her participation in the State  
2223 Community College System Optional Retirement Program or the  
2224 State University System Optional Retirement Program. The  
2225 election must be made in writing or by electronic means and must  
2226 be filed with the third-party administrator. This election is  
2227 irrevocable, except as provided in paragraph (e). Upon making  
2228 such election, the employee shall be enrolled as a participant  
2229 in ~~of~~ the investment plan ~~Public Employee Optional Retirement~~  
2230 ~~Program~~, the employee's membership in the Florida Retirement  
2231 System shall be governed by the provisions of this part, and the  
2232 employee's participation in the State Community College System  
2233 Optional Retirement Program or the State University System

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2234 Optional Retirement Program shall terminate. The employee's  
2235 enrollment in the investment plan is ~~Public Employee Optional~~  
2236 ~~Retirement Program shall be~~ effective on the first day of the  
2237 month for which a full month's employer and participant  
2238 contributions are ~~contribution is~~ made to the investment plan  
2239 ~~optional program.~~

2240 4. ~~For purposes of this paragraph, "state employer" means~~  
2241 ~~any agency, board, branch, commission, community college,~~  
2242 ~~department, institution, institution of higher education, or~~  
2243 ~~water management district of the state, which participates in~~  
2244 ~~the Florida Retirement System for the benefit of certain~~  
2245 ~~employees.~~

2246 (b)1. ~~With respect to an eligible employee who is employed~~  
2247 ~~in a regularly established position on September 1, 2002, by a~~  
2248 ~~district school board employer:~~

2249 a. ~~Any such employee may elect to participate in the Public~~  
2250 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
2251 ~~her membership in the defined benefit program of the Florida~~  
2252 ~~Retirement System. The election must be made in writing or by~~  
2253 ~~electronic means and must be filed with the third party~~  
2254 ~~administrator by November 30, or, in the case of an active~~  
2255 ~~employee who is on a leave of absence on July 1, 2002, by the~~  
2256 ~~last business day of the 5th month following the month the leave~~  
2257 ~~of absence concludes. This election is irrevocable, except as~~  
2258 ~~provided in paragraph (c). Upon making such election, the~~  
2259 ~~employee shall be enrolled as a participant of the Public~~  
2260 ~~Employee Optional Retirement Program, the employee's membership~~  
2261 ~~in the Florida Retirement System shall be governed by the~~  
2262 ~~provisions of this part, and the employee's membership in the~~

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2263 ~~defined benefit program of the Florida Retirement System shall~~  
2264 ~~terminate. The employee's enrollment in the Public Employee~~  
2265 ~~Optional Retirement Program shall be effective the first day of~~  
2266 ~~the month for which a full month's employer contribution is made~~  
2267 ~~to the optional program.~~

2268 ~~b. Any such employee who fails to elect to participate in~~  
2269 ~~the Public Employee Optional Retirement Program within the~~  
2270 ~~prescribed time period is deemed to have elected to retain~~  
2271 ~~membership in the defined benefit program of the Florida~~  
2272 ~~Retirement System, and the employee's option to elect to~~  
2273 ~~participate in the optional program is forfeited.~~

2274 ~~2. With respect to employees who become eligible to~~  
2275 ~~participate in the Public Employee Optional Retirement Program~~  
2276 ~~by reason of employment in a regularly established position with~~  
2277 ~~a district school board employer commencing after July 1, 2002:~~

2278 ~~a. Any such employee shall, by default, be enrolled in the~~  
2279 ~~defined benefit retirement program of the Florida Retirement~~  
2280 ~~System at the commencement of employment, and may, by the last~~  
2281 ~~business day of the 5th month following the employee's month of~~  
2282 ~~hire, elect to participate in the Public Employee Optional~~  
2283 ~~Retirement Program. The employee's election must be made in~~  
2284 ~~writing or by electronic means and must be filed with the third-~~  
2285 ~~party administrator. The election to participate in the optional~~  
2286 ~~program is irrevocable, except as provided in paragraph (c).~~

2287 ~~b. If the employee files such election within the~~  
2288 ~~prescribed time period, enrollment in the optional program shall~~  
2289 ~~be effective on the first day of employment. The employer~~  
2290 ~~retirement contributions paid through the month of the employee~~  
2291 ~~plan change shall be transferred to the optional program, and,~~

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2292 ~~effective the first day of the next month, the employer shall~~  
2293 ~~pay the applicable contributions based on the employee~~  
2294 ~~membership class in the optional program.~~

2295 ~~e. Any such employee who fails to elect to participate in~~  
2296 ~~the Public Employee Optional Retirement Program within the~~  
2297 ~~prescribed time period is deemed to have elected to retain~~  
2298 ~~membership in the defined benefit program of the Florida~~  
2299 ~~Retirement System, and the employee's option to elect to~~  
2300 ~~participate in the optional program is forfeited.~~

2301 ~~3. For purposes of this paragraph, "district school board~~  
2302 ~~employer" means any district school board that participates in~~  
2303 ~~the Florida Retirement System for the benefit of certain~~  
2304 ~~employees, or a charter school or charter technical career~~  
2305 ~~center that participates in the Florida Retirement System as~~  
2306 ~~provided in s. 121.051(2)(d).~~

2307 ~~(c)1. With respect to an eligible employee who is employed~~  
2308 ~~in a regularly established position on December 1, 2002, by a~~  
2309 ~~local employer:~~

2310 ~~a. Any such employee may elect to participate in the Public~~  
2311 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
2312 ~~her membership in the defined benefit program of the Florida~~  
2313 ~~Retirement System. The election must be made in writing or by~~  
2314 ~~electronic means and must be filed with the third party~~  
2315 ~~administrator by February 28, 2003, or, in the case of an active~~  
2316 ~~employee who is on a leave of absence on October 1, 2002, by the~~  
2317 ~~last business day of the 5th month following the month the leave~~  
2318 ~~of absence concludes. This election is irrevocable, except as~~  
2319 ~~provided in paragraph (c). Upon making such election, the~~  
2320 ~~employee shall be enrolled as a participant of the Public~~



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2321 ~~Employee Optional Retirement Program, the employee's membership~~  
2322 ~~in the Florida Retirement System shall be governed by the~~  
2323 ~~provisions of this part, and the employee's membership in the~~  
2324 ~~defined benefit program of the Florida Retirement System shall~~  
2325 ~~terminate. The employee's enrollment in the Public Employee~~  
2326 ~~Optional Retirement Program shall be effective the first day of~~  
2327 ~~the month for which a full month's employer contribution is made~~  
2328 ~~to the optional program.~~

2329 ~~b. Any such employee who fails to elect to participate in~~  
2330 ~~the Public Employee Optional Retirement Program within the~~  
2331 ~~prescribed time period is deemed to have elected to retain~~  
2332 ~~membership in the defined benefit program of the Florida~~  
2333 ~~Retirement System, and the employee's option to elect to~~  
2334 ~~participate in the optional program is forfeited.~~

2335 ~~2. With respect to employees who become eligible to~~  
2336 ~~participate in the Public Employee Optional Retirement Program~~  
2337 ~~by reason of employment in a regularly established position with~~  
2338 ~~a local employer commencing after October 1, 2002:~~

2339 ~~a. Any such employee shall, by default, be enrolled in the~~  
2340 ~~defined benefit retirement program of the Florida Retirement~~  
2341 ~~System at the commencement of employment, and may, by the last~~  
2342 ~~business day of the 5th month following the employee's month of~~  
2343 ~~hire, elect to participate in the Public Employee Optional~~  
2344 ~~Retirement Program. The employee's election must be made in~~  
2345 ~~writing or by electronic means and must be filed with the third-~~  
2346 ~~party administrator. The election to participate in the optional~~  
2347 ~~program is irrevocable, except as provided in paragraph (c).~~

2348 ~~b. If the employee files such election within the~~  
2349 ~~prescribed time period, enrollment in the optional program shall~~

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2350 ~~be effective on the first day of employment. The employer~~  
2351 ~~retirement contributions paid through the month of the employee~~  
2352 ~~plan change shall be transferred to the optional program, and,~~  
2353 ~~effective the first day of the next month, the employer shall~~  
2354 ~~pay the applicable contributions based on the employee~~  
2355 ~~membership class in the optional program.~~

2356 ~~e. Any such employee who fails to elect to participate in~~  
2357 ~~the Public Employee Optional Retirement Program within the~~  
2358 ~~prescribed time period is deemed to have elected to retain~~  
2359 ~~membership in the defined benefit program of the Florida~~  
2360 ~~Retirement System, and the employee's option to elect to~~  
2361 ~~participate in the optional program is forfeited.~~

2362 ~~3. For purposes of this paragraph, "local employer" means~~  
2363 ~~any employer not included in paragraph (a) or paragraph (b).~~

2364 ~~(b)(d)~~ Contributions available for self-direction by a  
2365 participant who has not selected one or more specific investment  
2366 products shall be allocated as prescribed by the state board.  
2367 The third-party administrator shall notify the any such  
2368 participant at least quarterly that the participant should take  
2369 an affirmative action to make an asset allocation among the  
2370 investment plan optional program products.

2371 (c) On or after July 1, 2011, a member of the defined  
2372 benefit program who obtains a refund of employee contributions  
2373 retains his or her prior plan choice upon return to employment  
2374 in a regularly established position with a participating  
2375 employer.

2376 (d) A member of the investment plan who takes a  
2377 distribution of any contributions from his investment plan  
2378 account is considered a retiree. Upon reemployment in a

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2379 regularly established position with a participating employer,  
2380 the member returns as a new hire and, if applicable, may  
2381 participate in the Florida Retirement System. A retiree who is  
2382 initially reemployed on or after July 1, 2010, is not eligible  
2383 for renewed membership.

2384 (e) After the period during which an eligible employee had  
2385 the choice to elect the defined benefit program or the  
2386 investment plan ~~optional retirement program~~, or the month  
2387 following the receipt of the eligible employee's plan election,  
2388 if sooner, the employee shall have one opportunity, at the  
2389 employee's discretion, to choose to move from the defined  
2390 benefit program to the investment plan ~~optional retirement~~  
2391 ~~program~~ or from the investment plan ~~optional retirement~~  
2392 ~~program~~ to the defined benefit program. Eligible employees may elect to  
2393 move between Florida Retirement System programs only if they are  
2394 earning service credit in an employer-employee relationship  
2395 consistent with s. 121.021(17)(b), excluding leaves of absence  
2396 without pay. Effective July 1, 2005, such elections are  
2397 effective on the first day of the month following the receipt of  
2398 the election by the third-party administrator and are not  
2399 subject to the requirements regarding an employer-employee  
2400 relationship or receipt of contributions for the eligible  
2401 employee in the effective month, except when the election is  
2402 received by the third-party administrator. This paragraph is  
2403 contingent upon receiving approval from the Internal Revenue  
2404 Service to include ~~for including~~ the choice described herein  
2405 within the programs offered by the Florida Retirement System.

2406 1. If the employee chooses to move to the investment plan  
2407 ~~optional retirement program~~, the applicable provisions of

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2408 subsection (3) ~~this section shall~~ govern the transfer.

2409       2. If the employee chooses to move to the defined benefit  
2410 program, the employee must transfer from his or her investment  
2411 plan ~~optional retirement program~~ account, and from other  
2412 employee moneys as necessary, a sum representing the present  
2413 value of that employee's accumulated benefit obligation  
2414 immediately following the time of such movement, determined  
2415 assuming that attained service equals the sum of service in the  
2416 defined benefit program and service in the investment plan  
2417 ~~optional retirement program~~. Benefit commencement occurs on the  
2418 first date the employee is eligible for unreduced benefits,  
2419 using the discount rate and other relevant actuarial assumptions  
2420 that were used to value the defined benefit plan liabilities in  
2421 the most recent actuarial valuation. For any employee who, at  
2422 the time of the second election, already maintains an accrued  
2423 benefit amount in the defined benefit program, the then-present  
2424 value of the accrued benefit shall be deemed part of the  
2425 required transfer amount. The division shall ensure that the  
2426 transfer sum is prepared using a formula and methodology  
2427 certified by an enrolled actuary. A refund of any employee  
2428 contributions or additional employee payments which exceed the  
2429 employee contributions that would have accrued had the employee  
2430 remained in the defined benefit program and not transferred to  
2431 the investment plan is not permitted.

2432       3. Notwithstanding subparagraph 2., an employee who chooses  
2433 to move to the defined benefit program ~~and who became eligible~~  
2434 ~~to participate in the optional retirement program by reason of~~  
2435 ~~employment in a regularly established position with a state~~  
2436 ~~employer after June 1, 2002; a district school board employer~~

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2437 after ~~September 1, 2002; or a local employer after December 1,~~  
2438 ~~2002,~~ must transfer from his or her investment plan ~~optional~~  
2439 ~~retirement program~~ account, and from other employee moneys as  
2440 necessary, a sum representing the employee's actuarial accrued  
2441 liability. A refund of any employee contributions or additional  
2442 employee payments which exceed the employee contributions that  
2443 would have accrued had the employee remained in the defined  
2444 benefit program and not transferred to the investment plan is  
2445 not permitted.

2446 4. An employee's ability to transfer from the defined  
2447 benefit program to the investment plan ~~optional retirement~~  
2448 ~~program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~, and the  
2449 ability of a current employee to have an option to later  
2450 transfer back into the defined benefit program under  
2451 subparagraph 2., shall be deemed a significant system amendment.  
2452 Pursuant to s. 121.031(4), any resulting unfunded liability  
2453 arising from actual original transfers from the defined benefit  
2454 program to the investment plan ~~optional program~~ must be  
2455 amortized within 30 plan years as a separate unfunded actuarial  
2456 base independent of the reserve stabilization mechanism defined  
2457 in s. 121.031(3)(f). For the first 25 years, a direct  
2458 amortization payment may not be calculated for this base. During  
2459 this 25-year period, the separate base shall be used to offset  
2460 the impact of employees exercising their second program election  
2461 under this paragraph. It is the intent of the Legislature that  
2462 the actuarial funded status of the defined benefit program not  
2463 be affected by such second program elections in any significant  
2464 manner, after due recognition of the separate unfunded actuarial  
2465 base. Following the initial 25-year period, any remaining

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2466 balance of the original separate base shall be amortized over  
2467 the remaining 5 years of the required 30-year amortization  
2468 period.

2469 5. If the employee chooses to transfer from the investment  
2470 plan ~~optional retirement program~~ to the defined benefit program  
2471 and retains an excess account balance in the investment plan  
2472 ~~optional program~~ after satisfying the buy-in requirements under  
2473 this paragraph, the excess may not be distributed until the  
2474 member retires from the defined benefit program. The excess  
2475 account balance may be rolled over to the defined benefit  
2476 program and used to purchase service credit or upgrade  
2477 creditable service in that program.

2478 (f) On or after July 1, 2011, an employee in the defined  
2479 benefit program who obtains a refund of employee contributions  
2480 shall retain his or her prior plan choice upon return to  
2481 employment in a regularly established position with an employer  
2482 participating in the Florida Retirement System.

2483 (g) A participant in the investment plan who terminates  
2484 covered employment in the Florida Retirement System and takes a  
2485 distribution of any contributions from his investment plan  
2486 account is considered a retiree. Upon reemployment in a  
2487 regularly established position with a covered employer, the  
2488 participant returns as a new hire and, if applicable, may  
2489 participate in the Florida Retirement System. A retiree who is  
2490 initially reemployed on or after July 1, 2011, is not eligible  
2491 for renewed membership.

2492 (h) All eligible employees initially enrolled on or after  
2493 July 1, 2011, are compulsory members of the investment plan and  
2494 membership in the defined benefit program is not be permitted

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2495 except as provided in s. 121.591. Such employees may not use the  
2496 election opportunity specified in paragraph (e).

2497 (5) CONTRIBUTIONS.—

2498 (a) The ~~Each~~ employer and participant shall make the  
2499 required contributions to the investment plan based on a  
2500 percentage of the participant's gross monthly compensation  
2501 ~~contribute on behalf of each participant in the Public Employee~~  
2502 ~~optional retirement Program~~, as provided in part III of this  
2503 chapter.

2504 (b) Participant contributions shall be paid on a pretax  
2505 basis, as provided in s. 401 of the Internal Revenue Code. Such  
2506 contributions may not exceed federal limitations. A participant  
2507 is responsible for monitoring his or her individual  
2508 contributions to ensure that he or she does not exceed the  
2509 maximum deferral amounts permitted under the Internal Revenue  
2510 Code. A participant's total contribution equals the sum of all  
2511 amounts deducted from the participant's salary by his or her  
2512 employer in accordance with s. 121.71(2) and credited to his or  
2513 her individual account in the investment plan, plus any earnings  
2514 on such amounts and any contributions specified in paragraph  
2515 (e).

2516 (c) The state board, acting as plan fiduciary, shall ensure  
2517 that all plan assets are held in a trust, pursuant to s. 401 of  
2518 the Internal Revenue Code. The fiduciary shall ensure that said  
2519 contributions are allocated as follows:

2520 1. The employer and participant portion earmarked for  
2521 participant accounts shall be used to purchase interests in the  
2522 appropriate investment vehicles ~~for the accounts of each~~  
2523 participant as specified by the participant, or in accordance

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2524 with paragraph (4)(b) ~~(4)(d)~~.

2525 2. The employer portion earmarked for administrative and  
2526 educational expenses shall be transferred to the state board.

2527 3. The employer portion earmarked for disability benefits  
2528 shall be transferred to the department.

2529 ~~(d)(b)~~ Employers are responsible for notifying participants  
2530 regarding maximum contribution levels authorized ~~permitted~~ under  
2531 the Internal Revenue Code. If a participant contributes to any  
2532 other tax-deferred plan, he or she is responsible for ensuring  
2533 that total contributions made to the investment plan ~~optional~~  
2534 ~~program~~ and to any other such plan do not exceed federally  
2535 permitted maximums.

2536 ~~(e)(e)~~ The investment plan ~~Public Employee Optional~~  
2537 ~~Retirement Program~~ may accept for deposit into participant  
2538 accounts contributions in the form of rollovers or direct  
2539 trustee-to-trustee transfers by or on behalf of participants,  
2540 reasonably determined by the state board to be eligible for  
2541 rollover or transfer to the investment plan ~~optional retirement~~  
2542 ~~program~~ pursuant to the Internal Revenue Code, if such  
2543 contributions are made in accordance with rules ~~as may be~~  
2544 adopted by the board. Such contributions must ~~shall~~ be accounted  
2545 for in accordance with ~~any~~ applicable Internal Revenue Code  
2546 requirements and rules of the state board.

2547 (6) VESTING REQUIREMENTS.—

2548 (a) A participant is fully and immediately vested in all  
2549 participant contributions paid to the investment plan as  
2550 provided in s. 121.72(2), plus interest and earnings thereon and  
2551 less investment fees and administrative charges.

2552 (b)(a)1. With respect to employer contributions paid on



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2553 behalf of the participant to the investment plan ~~optional~~  
 2554 ~~retirement program~~, plus interest and earnings thereon and less  
 2555 investment fees and administrative charges, a participant who  
 2556 voluntarily elected to participate in the investment plan before  
 2557 July 1, 2011, or an eligible employee initially enrolled in the  
 2558 Florida Retirement System before July 1, 2011, who has the  
 2559 option to voluntarily elect to participate in the investment  
 2560 plan, is vested after completing 1 work year with an employer,  
 2561 including any service while the participant was a member of the  
 2562 defined benefit program or an optional retirement program  
 2563 authorized under s. 121.051(2)(c), ~~or~~ s. 121.055(6), or s.  
 2564 121.35.

2565 2. With respect to employer contributions paid on behalf of  
 2566 the participant to the investment plan, plus interest and  
 2567 earnings thereon and less investment fees and administrative  
 2568 charges, a participant initially enrolled in the Florida  
 2569 Retirement System on or after July 1, 2011, is vested according  
 2570 to the following schedule:

- 2571 a. Prior to completion of 3 years of Service.....0%
- 2572 b. Upon completion of 3 years of Service.....40%
- 2573 c. Upon completion of 4 years of Service.....80%
- 2574 d. Upon completion of 5 or more years of Service.....100%

2575  
 2576 Years of service includes any service completed while the  
 2577 participant was a member of the defined benefit program or an  
 2578 optional retirement program authorized under s. 121.051(2)(c),  
 2579 s. 121.055(6), or s. 121.35.

2580 3.2. If the participant terminates employment before  
 2581 satisfying the vesting requirements, the nonvested accumulation

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2582 must be transferred from the participant's accounts to the state  
2583 board for deposit and investment by the state board in the  
2584 suspense account created within the Florida Public Employee  
2585 ~~Optional Retirement System Investment Plan Program~~ Trust Fund.  
2586 If the terminated participant is reemployed as an eligible  
2587 employee within 5 years, the state board shall transfer to the  
2588 participant's account any amount previously transferred from the  
2589 participant's accounts to the suspense account, plus actual  
2590 earnings on such amount while in the suspense account.

2591 (c) ~~(b)~~ 1. With respect to amounts transferred from the  
2592 defined benefit program to the investment plan program, plus  
2593 interest and earnings, and less investment fees and  
2594 administrative charges, a participant shall be vested in the  
2595 employer amount transferred upon meeting the service  
2596 requirements for the participant's membership class as set forth  
2597 in s. 121.021(29). The third-party administrator shall account  
2598 for such amounts for each participant. The division shall notify  
2599 the participant and the third-party administrator when the  
2600 participant has satisfied the vesting period for Florida  
2601 Retirement System purposes.

2602 2. If the participant terminates employment before  
2603 satisfying the vesting requirements, the nonvested employer  
2604 accumulation must be transferred from the participant's accounts  
2605 to the state board for deposit and investment by the state board  
2606 in the suspense account created within the Florida Public  
2607 ~~Employee Optional Retirement System Investment Plan Program~~  
2608 Trust Fund. If the terminated participant is reemployed as an  
2609 eligible employee within 5 years, the state board shall transfer  
2610 to the participant's account any amount previously transferred

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2611 from the participant's accounts to the suspense account, plus  
 2612 the actual earnings on such amount while in the suspense  
 2613 account.

2614 (d)~~(e)~~ Any nonvested accumulations transferred from a  
 2615 participant's account to the state board's suspense account,  
 2616 including any accompanying services credit, shall be forfeited  
 2617 by the participant if the participant is not reemployed as an  
 2618 eligible employee within 5 years after termination.

2619 (e) If the participant elects to receive any of his or her  
 2620 vested employer or participant contributions upon termination of  
 2621 employment as defined in s. 121.021, except for a mandatory  
 2622 distribution of a de minimis account authorized by the state  
 2623 board or a minimum required distribution provided by s.  
 2624 401(a)(9) of the Internal Revenue Code, the participant shall  
 2625 forfeit all nonvested employer contributions and accompanying  
 2626 service credit paid on behalf of the participant to the  
 2627 investment plan.

2628 (7) BENEFITS.—Under the investment plan the normal  
 2629 retirement date is the date on which a member attains age 62 or  
 2630 completes 5 years of service, whichever occurs later. Plan  
 2631 benefits must ~~Public Employee Optional Retirement program:~~

2632 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)  
 2633 of the Internal Revenue Code.

2634 (b) ~~Benefits shall~~ Accrue in individual accounts that are  
 2635 participant-directed, portable, and funded by employer  
 2636 contributions and earnings thereon.

2637 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~  
 2638 ~~provisions of~~ s. 121.591.

2639 (8) ADMINISTRATION OF PLAN PROGRAM.—

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2640           (a) The investment plan ~~optional retirement program~~ shall  
2641 be administered by the state board and affected employers. The  
2642 state board may require oaths, by affidavit or otherwise, and  
2643 acknowledgments from persons in connection with the  
2644 administration of its statutory duties and responsibilities for  
2645 the plan ~~this program~~. An oath, by affidavit or otherwise, may  
2646 not be required of an employee participant at the time of  
2647 enrollment. For members enrolled before July 1, 2011,  
2648 acknowledgment of an employee's election to participate in the  
2649 plan ~~program shall~~ be no greater than necessary to confirm  
2650 the employee's election. The state board shall adopt rules to  
2651 carry out its statutory duties with respect to administering the  
2652 investment plan ~~optional retirement program~~, including  
2653 ~~establishing~~ the roles and responsibilities of affected state,  
2654 local government, and education-related employers, the state  
2655 board, the department, and third-party contractors. The  
2656 department shall adopt rules necessary to administer the  
2657 investment plan ~~optional program~~ in coordination with the  
2658 defined benefit program and the disability benefits available  
2659 under the investment plan ~~optional program~~.

2660           ~~(a) (b)~~ 1. The state board shall select and contract with a  
2661 ~~one~~ third-party administrator to provide administrative services  
2662 if those services cannot be competitively and contractually  
2663 provided by the division ~~of Retirement within the Department of~~  
2664 ~~Management Services~~. With the approval of the state board, the  
2665 third-party administrator may subcontract ~~with other~~  
2666 ~~organizations or individuals~~ to provide components of the  
2667 administrative services. As a cost of administration, the state  
2668 board may compensate ~~any~~ such contractor for its services, in

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2669 accordance with the terms of the contract, as is deemed  
2670 necessary or proper by the board. The third-party administrator  
2671 may not be an approved provider or be affiliated with an  
2672 approved provider.

2673 2. These administrative services may include, but are not  
2674 limited to, enrollment of eligible employees, collection of  
2675 employer and participant contributions, disbursement of ~~such~~  
2676 contributions to approved providers in accordance with the  
2677 allocation directions of participants; services relating to  
2678 consolidated billing; individual and collective recordkeeping  
2679 and accounting; asset purchase, control, and safekeeping; and  
2680 direct disbursement of funds to and from the third-party  
2681 administrator, the division, the state board, employers,  
2682 participants, approved providers, and beneficiaries. This  
2683 section does not prevent or prohibit a bundled provider from  
2684 providing any administrative or customer service, including  
2685 accounting and administration of individual participant benefits  
2686 and contributions; individual participant recordkeeping; asset  
2687 purchase, control, and safekeeping; direct execution of the  
2688 participant's instructions as to asset and contribution  
2689 allocation; calculation of daily net asset values; direct access  
2690 to participant account information; or periodic reporting to  
2691 participants, at least quarterly, on account balances and  
2692 transactions, if these services are authorized by the state  
2693 board as part of the contract.

2694 (b)1.3. The state board shall select and contract with one  
2695 or more organizations to provide educational services. With  
2696 approval of the state board, the organizations may subcontract  
2697 ~~with other organizations or individuals~~ to provide components of

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2698 the educational services. As a cost of administration, the state  
2699 board may compensate any such contractor for its services in  
2700 accordance with the terms of the contract, as is deemed  
2701 necessary or proper by the board. The education organization may  
2702 not be an approved provider or be affiliated with an approved  
2703 provider.

2704 ~~2.4.~~ Educational services shall be designed by the state  
2705 board and department to assist employers, eligible employees,  
2706 participants, and beneficiaries in order to maintain compliance  
2707 with United States Department of Labor regulations under s.  
2708 404(c) of the Employee Retirement Income Security Act of 1974,  
2709 ~~and to assist employees in~~ understanding ~~their choice of defined~~  
2710 ~~benefit or defined contribution retirement program, and, if~~  
2711 applicable, the choice between the defined benefit program and  
2712 the investment plan alternatives. Educational services include,  
2713 but are not limited to, disseminating educational materials;  
2714 providing retirement planning education; explaining the  
2715 ~~differences between the defined benefit retirement plan and the~~  
2716 defined contribution retirement programs ~~plan~~; and offering  
2717 financial planning guidance on matters such as investment  
2718 diversification, investment risks, investment costs, and asset  
2719 allocation. An approved provider may also provide educational  
2720 information, including retirement planning and investment  
2721 allocation information concerning its products and services.

2722 (c)1. In evaluating and selecting a third-party  
2723 administrator, the state board shall establish criteria for  
2724 evaluating ~~under which it shall consider~~ the relative  
2725 capabilities and qualifications of each proposed administrator.  
2726 In developing such criteria, the state board shall consider:

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2727 a. The administrator's demonstrated experience in providing  
2728 administrative services to public or private sector retirement  
2729 systems.

2730 b. The administrator's demonstrated experience in providing  
2731 daily valued recordkeeping to defined contribution programs  
2732 plans.

2733 c. The administrator's ability and willingness to  
2734 coordinate its activities with ~~the Florida Retirement System~~  
2735 employers, the state board, and the division, and to supply to  
2736 such employers, the board, and the division the information and  
2737 data they require, including, but not limited to, monthly  
2738 management reports, quarterly participant reports, and ad hoc  
2739 reports requested by the department or state board.

2740 d. The cost-effectiveness and levels of the administrative  
2741 services provided.

2742 e. The administrator's ability to interact with the  
2743 participants, the employers, the state board, the division, and  
2744 the providers; the means by which participants may access  
2745 account information, direct investment of contributions, make  
2746 changes to their accounts, transfer moneys between available  
2747 investment vehicles, and transfer moneys between investment  
2748 products; and any fees that apply to such activities.

2749 f. Any other factor deemed necessary by the ~~Trustees of the~~  
2750 state board ~~of Administration~~.

2751 2. In evaluating and selecting an educational provider, the  
2752 state board shall establish criteria under which it shall  
2753 consider the relative capabilities and qualifications of each  
2754 proposed educational provider. In developing such criteria, the  
2755 board shall consider:

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2756 a. Demonstrated experience in providing educational  
2757 services to public or private sector retirement systems.

2758 b. Ability and willingness to coordinate its activities  
2759 with the ~~Florida Retirement System~~ employers, the state board,  
2760 and the division, and to supply to such employers, the board,  
2761 and the division the information and data they require,  
2762 including, but not limited to, reports on educational contacts.

2763 c. The cost-effectiveness and levels of the educational  
2764 services provided.

2765 d. Ability to provide educational services via different  
2766 media, including, but not limited to, the Internet, personal  
2767 contact, seminars, brochures, and newsletters.

2768 e. Any other factor deemed necessary by the ~~Trustees of the~~  
2769 state board ~~of Administration~~.

2770 3. The establishment of the criteria shall be solely within  
2771 the discretion of the state board.

2772 (d) The state board shall develop the form and content of  
2773 any contracts to be offered under the investment plan ~~Public~~  
2774 ~~Employee Optional Retirement Program~~. In developing the ~~its~~  
2775 contracts, the board shall ~~must~~ consider:

2776 1. The nature and extent of the rights and benefits to be  
2777 afforded in relation to the ~~required~~ contributions required  
2778 under the plan ~~program~~.

2779 2. The suitability of the rights and benefits provided ~~to~~  
2780 ~~be afforded~~ and the interests of employers in the recruitment  
2781 and retention of eligible employees.

2782 (e)1. The state board may contract ~~with any consultant~~ for  
2783 professional services, including legal, consulting, accounting,  
2784 and actuarial services, deemed necessary to implement and



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2785 administer the investment plan ~~optional program by the Trustees~~  
2786 ~~of the state board of Administration~~. The board may enter into a  
2787 contract with one or more vendors to provide low-cost investment  
2788 advice to participants, supplemental to education provided by  
2789 the third-party administrator. All fees under ~~any~~ such contract  
2790 shall be paid by those participants who choose to use the  
2791 services of the vendor.

2792 2. The department may contract ~~with consultants~~ for  
2793 professional services, including legal, consulting, accounting,  
2794 and actuarial services, deemed necessary to implement and  
2795 administer the investment plan ~~optional program~~ in coordination  
2796 with the defined benefit program ~~of the Florida Retirement~~  
2797 ~~System~~. The department, in coordination with the state board,  
2798 may enter into a contract with the third-party administrator in  
2799 order to coordinate services common to the various programs  
2800 within the Florida Retirement System.

2801 (f) The third-party administrator may ~~shall~~ not receive  
2802 direct or indirect compensation from an approved provider,  
2803 except as specifically provided for in the contract with the  
2804 state board.

2805 (g) The state board shall receive and resolve participant  
2806 complaints against the investment plan ~~program~~, the third-party  
2807 administrator, or any plan ~~program~~ vendor or provider; shall  
2808 resolve any conflict between the third-party administrator and  
2809 an approved provider if such conflict threatens the  
2810 implementation or administration of the plan ~~program~~ or the  
2811 quality of services to employees; and may resolve any other  
2812 conflicts. The third-party administrator shall retain all  
2813 participant records for at least 5 years for use in resolving

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2814 any participant conflicts. The state board, the third-party  
2815 administrator, or a provider is not required to produce  
2816 documentation or an audio recording to justify action taken with  
2817 regard to a participant if the action occurred 5 or more years  
2818 before the complaint is submitted to the ~~state~~ board. It is  
2819 presumed that all action taken 5 or more years before the  
2820 complaint is submitted was taken at the request of the  
2821 participant and with the participant's full knowledge and  
2822 consent. To overcome this presumption, the participant must  
2823 present documentary evidence or an audio recording demonstrating  
2824 otherwise.

2825 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

2826 (a) The state board shall develop policy and procedures for  
2827 selecting, evaluating, and monitoring the performance of  
2828 approved providers and investment products ~~to which employees~~  
2829 ~~may direct retirement contributions~~ under the investment plan  
2830 program. In accordance with such policy and procedures, the  
2831 state board shall designate and contract for a number of  
2832 investment products as determined by the board. The board shall  
2833 also select one or more bundled providers, each of which ~~whom~~  
2834 may offer multiple investment options and related services, if  
2835 ~~when~~ such ~~an~~ approach is determined by the board to provide  
2836 ~~afford~~ value to the participants otherwise not available through  
2837 individual investment products. Each approved bundled provider  
2838 may offer investment options that provide participants with the  
2839 opportunity to invest in each of the following asset classes, to  
2840 be composed of individual options that represent ~~either~~ a single  
2841 asset class or a combination thereof: money markets, United  
2842 States fixed income, United States equities, and foreign stock.

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2843 The state board shall review and manage all educational  
2844 materials, contract terms, fee schedules, and other aspects of  
2845 ~~the~~ approved provider relationships to ensure that no provider  
2846 is unduly favored or penalized by virtue of its status within  
2847 the investment plan.

2848 (b) The state board shall consider investment options or  
2849 products it considers appropriate to give participants the  
2850 opportunity to accumulate retirement benefits, subject to the  
2851 following:

2852 1. The investment plan ~~Public Employee Optional Retirement~~  
2853 ~~Program~~ must offer a diversified mix of low-cost investment  
2854 products that span the risk-return spectrum and may include a  
2855 guaranteed account as well as investment products, such as  
2856 individually allocated guaranteed and variable annuities, which  
2857 meet the requirements of this subsection and combine the ability  
2858 to accumulate investment returns with the option of receiving  
2859 lifetime income consistent with the long-term retirement  
2860 security of a pension plan and similar to the lifetime-income  
2861 benefit provided by the Florida Retirement System.

2862 2. Investment options or products offered by ~~the group of~~  
2863 approved providers may include mutual funds, group annuity  
2864 contracts, individual retirement annuities, interests in trusts,  
2865 collective trusts, separate accounts, and other such financial  
2866 instruments, and ~~may include~~ products that give participants the  
2867 option of committing their contributions for an extended time  
2868 period in an effort to obtain returns higher than those that  
2869 could be obtained from investment products offering full  
2870 liquidity.

2871 3. The state board may ~~shall~~ not contract with a ~~any~~

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2872 provider that imposes a front-end, back-end, contingent, or  
2873 deferred sales charge, or any other fee that limits or restricts  
2874 the ability of participants to select any investment product  
2875 available in the investment plan ~~optional program~~. This  
2876 prohibition does not apply to fees or charges that are imposed  
2877 on withdrawals from products that give participants the option  
2878 of committing ~~their~~ contributions for an extended time period in  
2879 an effort to obtain returns higher than those that could be  
2880 obtained from investment products offering full liquidity,  
2881 provided that the product ~~in question~~, net of all fees and  
2882 charges, produces material benefits relative to other comparable  
2883 products in the plan ~~program~~ offering full liquidity.

2884 4. Fees or charges for insurance features, such as  
2885 mortality and expense-risk charges, must be reasonable relative  
2886 to the benefits provided.

2887 (c) In evaluating and selecting approved providers and  
2888 products, the state board shall establish criteria for  
2889 evaluating ~~under which it shall consider~~ the relative  
2890 capabilities and qualifications of each proposed provider  
2891 company and product. In developing such criteria, the board  
2892 shall consider the following to the extent such factors may be  
2893 applied in connection with investment products, services, or  
2894 providers:

2895 1. Experience in the United States providing retirement  
2896 products and related financial services under a defined  
2897 contribution retirement program ~~plans~~.

2898 2. Financial strength and stability as ~~which shall be~~  
2899 evidenced by the highest ratings assigned by nationally  
2900 recognized rating services when comparing proposed providers

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2901 that are so rated.

2902 3. Intrastate and interstate portability of the product  
2903 offered, including early withdrawal options.

2904 4. Compliance with the Internal Revenue Code.

2905 5. The cost-effectiveness of the product provided and the  
2906 levels of service supporting the product relative to its  
2907 benefits and its characteristics, including, ~~without limitation,~~  
2908 the level of risk borne by the provider.

2909 6. The provider company's ability and willingness to  
2910 coordinate its activities with Florida Retirement System  
2911 employers, the department, and the state board, and to supply ~~to~~  
2912 the ~~such~~ employers, the department, and the board with the  
2913 information and data they require.

2914 7. The methods available to participants to interact with  
2915 the provider company; the means by which participants may access  
2916 account information, direct investment of contributions, make  
2917 changes to their accounts, transfer moneys between available  
2918 investment vehicles, and transfer moneys between provider  
2919 companies; and any fees that apply to such activities.

2920 8. The provider company's policies with respect to the  
2921 transfer of individual account balances, contributions, and  
2922 earnings thereon, both internally among investment products  
2923 offered by the provider company and externally between approved  
2924 providers, as well as any fees, charges, reductions, or  
2925 penalties that may be applied.

2926 9. An evaluation of specific investment products, taking  
2927 into account each product's experience in meeting its investment  
2928 return objectives net of all related fees, expenses, and  
2929 charges, including, but not limited to, investment management

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2930 fees, loads, distribution and marketing fees, custody fees,  
2931 recordkeeping fees, education fees, annuity expenses, and  
2932 consulting fees.

2933 10. Organizational factors, including, but not limited to,  
2934 financial solvency, organizational depth, and experience in  
2935 providing institutional and retail investment services.

2936 (d) ~~By March 1, 2010,~~ The state board shall identify and  
2937 offer at least one terror-free investment product that allocates  
2938 its funds among securities not subject to divestiture as  
2939 provided in s. 215.473 if the investment product is deemed by  
2940 the board to be consistent with prudent investor standards. No  
2941 person may bring a civil, criminal, or administrative action  
2942 against an approved provider; the state board; or any employee,  
2943 officer, director, or trustee of such provider based upon the  
2944 divestiture of any security or the offering of a terror-free  
2945 investment product as specified in this paragraph.

2946 (e) As a condition of offering an ~~any~~ investment option or  
2947 product in the investment plan ~~optional retirement program~~, the  
2948 approved provider must agree to make the investment product or  
2949 service available under the most beneficial terms offered to any  
2950 other customer, subject to approval by the ~~Trustees of the state~~  
2951 ~~board of Administration~~.

2952 (f) The state board shall regularly review the performance  
2953 of each approved provider and product and related organizational  
2954 factors to ensure continued compliance with established  
2955 selection criteria and with board policy and procedures.  
2956 Providers and products may be terminated subject to contract  
2957 provisions. The state board shall adopt procedures to transfer  
2958 account balances from terminated products or providers to other

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2959 products or providers in the investment plan ~~optional program~~.

2960 (g)1. An approved provider shall comply with all applicable  
2961 federal and state securities and insurance laws and regulations  
2962 ~~applicable to the provider~~, as well as with the applicable rules  
2963 and guidelines of the National Association of Securities Dealers  
2964 which govern the ethical marketing of investment products. In  
2965 furtherance of this mandate, an approved provider must agree in  
2966 its contract with the state board to establish and maintain a  
2967 compliance education and monitoring system to supervise the  
2968 activities of all personnel who directly communicate with  
2969 individual participants and recommend investment products, which  
2970 system is consistent with rules of the National Association of  
2971 Securities Dealers.

2972 2. Approved provider personnel who directly communicate  
2973 with individual participants and who recommend investment  
2974 products shall make an independent and unbiased determination as  
2975 to whether an investment product is suitable for a particular  
2976 participant.

2977 3. The state board shall develop procedures to receive and  
2978 resolve participant complaints against a provider or approved  
2979 provider personnel, and, if ~~when~~ appropriate, refer such  
2980 complaints to the appropriate agency.

2981 4. Approved providers may not sell or in any way distribute  
2982 any customer list or participant identification information  
2983 generated through their offering of products or services through  
2984 the investment plan ~~optional retirement program~~.

2985 (10) EDUCATION COMPONENT.—

2986 (a) The state board, in coordination with the department,  
2987 shall provide ~~for~~ an education component for eligible employees

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2988 ~~system members~~ in a manner consistent with ~~the provisions of~~  
2989 this section. The education component must be available to  
2990 eligible employees at least 90 days before ~~prior to~~ the  
2991 beginning date of the election period for the employees of the  
2992 respective types of employers.

2993 (b) The education component must provide eligible employees  
2994 ~~system members~~ with impartial and balanced information about  
2995 plan choices. The education component must involve multimedia  
2996 formats. Plan Program ~~comparisons~~ must, to the greatest extent  
2997 possible, be based upon the retirement income that different  
2998 retirement programs may provide to the participant. The state  
2999 board shall monitor the performance of the contract for the  
3000 education component to ensure that the program is conducted in  
3001 accordance with the contract, applicable law, and the rules of  
3002 the board.

3003 (c) The state board, in coordination with the department,  
3004 shall provide for an initial and ongoing transfer education  
3005 component to provide system members with information necessary  
3006 to make informed plan choice decisions. The transfer education  
3007 component must include, but is not limited to, information on:

3008 1. The amount of money available to a member to transfer to  
3009 the defined contribution program.

3010 2. The features of and differences between the defined  
3011 benefit program and the defined contribution program, both  
3012 generally and specifically, as those differences may affect the  
3013 member.

3014 3. The expected benefit available if the member were to  
3015 retire under each of the retirement programs, based on  
3016 appropriate alternative sets of assumptions.



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3017 4. The rate of return from investments in the defined  
3018 contribution program and the period of time over which such rate  
3019 of return must be achieved to equal or exceed the expected  
3020 monthly benefit payable to the member under the defined benefit  
3021 program.

3022 5. The historical rates of return for the investment  
3023 alternatives available in the defined contribution program  
3024 ~~programs~~.

3025 6. The benefits and historical rates of return on  
3026 investments available in a typical deferred compensation plan or  
3027 a typical plan under s. 403(b) of the Internal Revenue Code for  
3028 which the employee may be eligible.

3029 7. The program choices available to employees of the State  
3030 University System and the comparative benefits of each available  
3031 program, if applicable.

3032 8. Payout options available in each of the retirement  
3033 programs.

3034 (d) An ongoing education and communication component must  
3035 provide eligible employees ~~system members~~ with information  
3036 necessary to make informed decisions about choices within their  
3037 retirement program ~~of membership~~ and in preparation for  
3038 retirement. The component must include, but is not limited to,  
3039 information concerning:

3040 1. Rights and conditions of membership.

3041 2. Benefit features within the program, options, and  
3042 effects of certain decisions.

3043 3. Coordination of contributions and benefits with a  
3044 deferred compensation plan under s. 457 or a plan under s.  
3045 403(b) of the Internal Revenue Code.

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3046 4. Significant program changes.

3047 5. Contribution rates and program funding status.

3048 6. Planning for retirement.

3049 (e) Descriptive materials must be prepared under the  
3050 assumption that the employee is an unsophisticated investor, and  
3051 all materials used in the education component must be approved  
3052 by the state board before ~~prior to~~ dissemination.

3053 (f) The state board and the department shall also establish  
3054 a communication component to provide program information to  
3055 participating employers and the employers' personnel and payroll  
3056 officers and to explain their respective responsibilities in  
3057 conjunction with the retirement programs.

3058 (g) Funding for education of new employees may reflect  
3059 administrative costs to the defined contribution ~~optional~~  
3060 program and the defined benefit program.

3061 (h) Pursuant to paragraph (8)(a), all Florida Retirement  
3062 System employers have an obligation to regularly communicate the  
3063 existence of the two Florida Retirement System plans and the  
3064 plan choice in the natural course of administering their  
3065 personnel functions, using the educational materials supplied by  
3066 the state board and the department ~~of Management Services~~.

3067 (11) PARTICIPANT INFORMATION REQUIREMENTS.—The state board  
3068 shall ensure that each participant is provided a quarterly  
3069 statement that accounts for participant and employer ~~the~~  
3070 contributions made on behalf of the ~~such~~ participant; the  
3071 interest and investment earnings thereon; and any fees,  
3072 penalties, or other deductions that apply ~~thereto~~. At a minimum,  
3073 such statements must:

3074 (a) Indicate the participant's investment options.

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3075 (b) State the market value of the account at the close of  
3076 the current quarter and previous quarter.

3077 (c) Show account gains and losses ~~for the period~~ and  
3078 changes in account accumulation unit values for the quarter  
3079 ~~period~~.

3080 (d) Itemize account contributions for the quarter.

3081 (e) Indicate any account changes due to adjustment of  
3082 contribution levels, reallocation of contributions, balance  
3083 transfers, or withdrawals.

3084 (f) Set forth any fees, charges, penalties, and deductions  
3085 that apply to the account.

3086 (g) Indicate the amount of the account in which the  
3087 participant is fully vested and the amount of the account in  
3088 which the participant is not vested.

3089 (h) Indicate each investment product's performance relative  
3090 to an appropriate market benchmark.

3091  
3092 The third-party administrator shall provide quarterly and annual  
3093 summary reports to the state board and any other reports  
3094 requested by the department or the board. In any solicitation or  
3095 offer of coverage under the defined contribution ~~an optional~~  
3096 ~~retirement~~ program, a provider company shall be governed by the  
3097 contract readability provisions of s. 627.4145, notwithstanding  
3098 s. 627.4145(6)(c). In addition, all descriptive materials must  
3099 be prepared under the assumption that the participant is an  
3100 unsophisticated investor. Provider companies must maintain an  
3101 internal system of quality assurance, have proven functional  
3102 systems that are date-calculation compliant, and be subject to a  
3103 due-diligence inquiry that proves their capacity and fitness to

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3104 undertake service responsibilities.

3105 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The  
3106 Investment Advisory Council, created pursuant to s. 215.444,  
3107 shall assist the state board in implementing and administering  
3108 the investment plan ~~Public Employee Optional Retirement Program.~~  
3109 ~~The Investment Advisory council, created pursuant to s. 215.444,~~  
3110 shall review the state board's initial recommendations regarding  
3111 the criteria to be used in selecting and evaluating approved  
3112 providers and investment products. The council may provide  
3113 comments on the recommendations to the board within 45 days  
3114 after receiving the initial recommendations. The state board  
3115 shall make the final determination as to whether any investment  
3116 provider or product, any contractor, or any and all contract  
3117 provisions are ~~shall be~~ approved for the investment plan  
3118 ~~program.~~

3119 (13) FEDERAL REQUIREMENTS.—

3120 (a) ~~Provisions of~~ This section shall be construed, and the  
3121 investment plan ~~Public Employee Optional Retirement Program~~  
3122 shall be administered, so as to comply with the Internal Revenue  
3123 Code, 26 U.S.C., and specifically with plan qualification  
3124 requirements imposed on governmental plans under s. 401(a) of  
3125 the Internal Revenue Code. The state board may ~~shall have the~~  
3126 ~~power and authority to~~ adopt rules reasonably necessary to  
3127 establish or maintain the qualified status of the investment  
3128 plan ~~Optional Retirement Program~~ under the Internal Revenue Code  
3129 and to implement and administer the plan ~~Optional Retirement~~  
3130 ~~Program~~ in compliance with the Internal Revenue Code and as  
3131 designated under this part; ~~provided however, that the board~~  
3132 ~~shall not have the authority to adopt any rule which makes a~~

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3133 ~~substantive change to the Optional Retirement Program as~~  
3134 ~~designed by this part.~~

3135 (b) Any section or provision of this chapter which is  
3136 susceptible to more than one construction shall ~~must~~ be  
3137 interpreted in favor of the construction most likely to satisfy  
3138 requirements imposed by s. 401(a) of the Internal Revenue Code.

3139 (c) Employer and participant contributions payable under  
3140 this section for any limitation year may not exceed the maximum  
3141 amount allowable for qualified defined contribution pension  
3142 plans under applicable provisions of the Internal Revenue Code.  
3143 If an employee who is enrolled ~~who has elected to participate~~ in  
3144 the investment plan ~~Public Employee Optional Retirement Program~~  
3145 participates in any other plan that is maintained by the  
3146 participating employer, benefits that accrue under the  
3147 investment plan ~~are Public Employee Optional Retirement Program~~  
3148 ~~shall be~~ considered primary for any aggregate limitation  
3149 applicable under s. 415 of the Internal Revenue Code.

3150 (14) INVESTMENT POLICY STATEMENT.—

3151 (a) Investment products and approved providers selected for  
3152 the investment plan ~~Public Employee Optional Retirement Program~~  
3153 must ~~shall~~ conform with the Florida ~~Public Employee Optional~~  
3154 ~~Retirement System Program~~ Investment Plan Policy Statement,  
3155 herein referred to as the "statement," as developed and approved  
3156 by the ~~Trustees of the state board of Administration~~. The  
3157 statement must include, among other items, the investment  
3158 objectives of the investment plan ~~Public Employee Optional~~  
3159 ~~Retirement Program~~, manager selection and monitoring guidelines,  
3160 and performance measurement criteria. As required from time to  
3161 time, the executive director of the state board may present

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3162 recommended changes in the statement to the board for approval.

3163 (b) Before ~~Prior to~~ presenting the statement, or any  
3164 recommended changes ~~thereto~~, to the state board, the executive  
3165 director of the board shall present such statement or changes to  
3166 the Investment Advisory Council for review. The council shall  
3167 present the results of its review to the board prior to the  
3168 board's final approval of the statement or changes in the  
3169 statement.

3170 (15) STATEMENT OF FIDUCIARY STANDARDS AND  
3171 RESPONSIBILITIES.—

3172 (a) Investment of ~~optional~~ defined contribution program  
3173 ~~retirement plan~~ assets shall be made for the sole interest and  
3174 exclusive purpose of providing benefits to ~~plan~~ participants and  
3175 beneficiaries and defraying reasonable expenses of administering  
3176 the plan. The program's assets shall ~~are to~~ be invested, on  
3177 behalf of the program participants, with the care, skill, and  
3178 diligence that a prudent person acting in a like manner would  
3179 undertake. The performance of the investment duties set forth in  
3180 this paragraph shall comply with the fiduciary standards set  
3181 forth in the Employee Retirement Income Security Act of 1974 at  
3182 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of conflict with other  
3183 provisions of law authorizing investments, the investment and  
3184 fiduciary standards set forth in this subsection shall prevail.

3185 (b) If a participant or beneficiary of the defined  
3186 contribution ~~Public Employee Optional Retirement~~ program  
3187 exercises control over the assets in his or her account, as  
3188 determined by reference to regulations of the United States  
3189 Department of Labor under s. 404(c) of the Employee Retirement  
3190 Income Security Act of 1974 and all applicable laws governing

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3191 the operation of the program, a no program fiduciary is not  
3192 ~~shall be~~ liable for any loss to a participant's or beneficiary's  
3193 account which results from the such participant's or  
3194 beneficiary's exercise of control.

3195 (c) Subparagraph (8) (b) 2. ~~(8) (b) 4.~~ and paragraph ~~(15) (b)~~  
3196 incorporate the federal law concept of participant control,  
3197 established by regulations of the United States Department of  
3198 Labor under s. 404(c) of the Employee Retirement Income Security  
3199 Act of 1974 (ERISA). The purpose of this paragraph is to assist  
3200 employers and the state board ~~of Administration~~ in maintaining  
3201 compliance with s. 404(c), while avoiding unnecessary costs and  
3202 eroding participant benefits under the defined contribution  
3203 ~~Public Employee Optional Retirement~~ program. Pursuant to 29  
3204 C.F.R. s. 2550.404c-1(b) (2) (i) (B) (1) (viii), the state board ~~of~~  
3205 ~~Administration~~ or its designated agents shall deliver to  
3206 participants of the defined contribution ~~Public Employee~~  
3207 ~~Optional Retirement~~ program a copy of the prospectus most  
3208 recently provided to the plan, and, pursuant to 29 C.F.R. s.  
3209 2550.404c-1(b) (2) (i) (B) (2) (ii), shall provide such participants  
3210 an opportunity to obtain this information, except that:

3211 1. The requirement to deliver a prospectus shall be ~~deemed~~  
3212 ~~to be~~ satisfied by delivery of a fund profile or summary profile  
3213 that contains the information that would be included in a  
3214 summary prospectus as described by Rule 498 under the Securities  
3215 Act of 1933, 17 C.F.R. s. 230.498. If when the transaction fees,  
3216 expense information, or other information provided by a mutual  
3217 fund in the prospectus does not reflect terms negotiated by the  
3218 state board ~~of Administration~~ or its designated agents, the  
3219 ~~mentioned~~ requirement is ~~deemed to be~~ satisfied by delivery

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3220 of a separate document described by Rule 498 substituting  
3221 accurate information; and

3222 2. Delivery shall be ~~deemed to have been~~ effected if  
3223 delivery is through electronic means and the following standards  
3224 are satisfied:

3225 a. Electronically-delivered documents are prepared and  
3226 provided consistent with style, format, and content requirements  
3227 applicable to printed documents;

3228 b. Each participant is provided timely and adequate notice  
3229 of the documents that are to be delivered and their significance  
3230 thereof, and of the participant's right to obtain a paper copy  
3231 of such documents free of charge;

3232 c. ~~(I)~~ Participants have adequate access to the electronic  
3233 documents, at locations such as their worksites or public  
3234 facilities, and have the ability to convert the documents to  
3235 paper free of charge by the state board ~~of Administration~~, and  
3236 the board or its designated agents take appropriate and  
3237 reasonable measures to ensure that the system for furnishing  
3238 electronic documents results in actual receipt. ~~or~~

3239 ~~(II)~~ Participants have provided consent to receive  
3240 information in electronic format, which consent may be revoked;  
3241 and

3242 d. The state board ~~of Administration~~, or its designated  
3243 agent, actually provides paper copies of the documents free of  
3244 charge, upon request.

3245 (16) DISABILITY BENEFITS.—For any participant of the  
3246 investment plan ~~optional retirement program~~ who becomes totally  
3247 and permanently disabled, benefits must ~~shall~~ be paid in  
3248 accordance with the provisions of s. 121.591.



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3249 (17) SOCIAL SECURITY COVERAGE.—Social security coverage  
3250 shall be provided for all officers and employees who become  
3251 participants of the investment plan ~~optional program~~. Any  
3252 modification of the present agreement with the Social Security  
3253 Administration, or referendum required under the Social Security  
3254 Act, for the purpose of providing social security coverage for  
3255 any member shall be requested by the state agency in compliance  
3256 with the applicable provisions of the Social Security Act  
3257 governing such coverage. However, retroactive social security  
3258 coverage for service before ~~prior to~~ December 1, 1970, with the  
3259 employer may ~~shall~~ not be provided for any member who was not  
3260 covered under the agreement as of November 30, 1970.

3261 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and  
3262 employees who are participants of the investment plan are  
3263 ~~optional program shall be~~ eligible to receive the retiree health  
3264 insurance subsidy, subject to ~~the provisions of~~ s. 112.363.

3265 (19) PARTICIPANT RECORDS.—Personal identifying information  
3266 of a participant in the investment plan ~~Public Employee Optional~~  
3267 ~~Retirement Program~~ contained in Florida Retirement System  
3268 records held by the state board of ~~Administration~~ or the  
3269 department of ~~Management Services~~ is exempt from s. 119.07(1)  
3270 and s. 24(a), Art. I of the State Constitution.

3271 (20) DESIGNATION OF BENEFICIARIES.—

3272 (a) Each participant may, by electronic means or on a form  
3273 provided for that purpose, signed and filed with the third-party  
3274 administrator, designate a choice of one or more persons, named  
3275 sequentially or jointly, as his or her beneficiary for receiving  
3276 ~~who shall receive~~ the benefits, if any, which may be payable  
3277 pursuant to this chapter in the event of the participant's

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3278 death. If no beneficiary is named in this manner, or if no  
3279 beneficiary designated by the participant survives the  
3280 participant, the beneficiary shall be the spouse of the  
3281 deceased, if living. If the participant's spouse is not alive at  
3282 the time of the beneficiary's ~~his or her~~ death, the beneficiary  
3283 shall be the living children of the participant. If no children  
3284 survive, the beneficiary shall be the participant's father or  
3285 mother, if living; otherwise, the beneficiary shall be the  
3286 participant's estate. The beneficiary most recently designated  
3287 by a participant ~~on a form or letter filed with the third-party~~  
3288 ~~administrator~~ shall be the beneficiary entitled to any benefits  
3289 payable at the time of the participant's death. However  
3290 ~~Notwithstanding any other provision in this subsection to the~~  
3291 ~~contrary~~, for a participant who dies before ~~prior to~~ his or her  
3292 effective date of retirement, the spouse at the time of death  
3293 shall be the participant's beneficiary unless the such  
3294 participant designates a different beneficiary ~~as provided in~~  
3295 ~~this subsection~~ subsequent to the participant's most recent  
3296 marriage.

3297 (b) If a participant designates a primary beneficiary other  
3298 than the participant's spouse, the participant's spouse must  
3299 sign the beneficiary designation form to acknowledge the  
3300 designation. This requirement does not apply to the designation  
3301 of one or more contingent beneficiaries to receive benefits  
3302 remaining upon the death of the primary beneficiary or  
3303 beneficiaries.

3304 (c) Notwithstanding the participant's designation of  
3305 benefits to be paid through a trust to a beneficiary that is a  
3306 natural person, ~~and notwithstanding~~ the provisions of the trust,

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3307 benefits must ~~shall~~ be paid directly to the beneficiary if the  
3308 person is no longer a minor or an incapacitated person as  
3309 defined in s. 744.102.

3310 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION  
3311 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law  
3312 ~~to the contrary~~, participants in the Deferred Retirement Option  
3313 Program offered under part I may, after conclusion of their  
3314 participation in the program, elect to roll over or authorize a  
3315 direct trustee-to-trustee transfer to an account under the  
3316 investment plan ~~Public Employee Optional Retirement Program~~ of  
3317 their Deferred Retirement Option Program proceeds distributed as  
3318 provided under s. 121.091(13)(c)5. The transaction must  
3319 constitute an “eligible rollover distribution” within the  
3320 meaning of s. 402(c)(4) of the Internal Revenue Code.

3321 (a) The investment plan ~~Public Employee Optional Retirement~~  
3322 ~~Program~~ may accept such amounts for deposit into participant  
3323 accounts as provided in paragraph (5)(e) ~~(5)(e)~~.

3324 (b) The affected participant shall direct the investment of  
3325 his or her investment account; however, unless he or she becomes  
3326 a renewed member of the Florida Retirement System under s.  
3327 121.122 and elects to participate in the investment plan ~~Public~~  
3328 ~~Employee Optional Retirement program~~, employer and participant  
3329 contributions may not be made to the participant’s account as  
3330 provided under paragraph (5)(a).

3331 (c) The state board or the department is not responsible  
3332 for locating those persons who may be eligible to participate in  
3333 the investment plan ~~Public Employee Optional Retirement Program~~  
3334 under this subsection.

3335 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any

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3336 member of the investment program includes ~~Public Employee~~  
3337 ~~Optional Retirement Program shall include~~ military service in  
3338 the Armed Forces of the United States as provided in ~~the~~  
3339 ~~conditions outlined in~~ s. 121.111(1).

3340 Section 20. Section 121.4502, Florida Statutes, is amended  
3341 to read:

3342 121.4502 Florida Public Employee Optional Retirement System  
3343 Investment Plan Program Trust Fund.—

3344 (1) The Florida Public Employee Optional Retirement System  
3345 Investment Plan Program Trust Fund is created to hold the assets  
3346 of the Florida Public Employee Optional Retirement System  
3347 Investment Plan Program in trust for the exclusive benefit of  
3348 plan such program's participants and beneficiaries, and for the  
3349 payment of reasonable administrative expenses of the plan  
3350 ~~program~~, in accordance with s. 401 of the Internal Revenue Code,  
3351 and shall be administered by the State Board of Administration  
3352 as trustee. Funds shall be credited to the trust fund as  
3353 provided in this part and, ~~to be~~ used for the purposes of this  
3354 part. The trust fund is exempt from the service charges imposed  
3355 by s. 215.20.

3356 (2) The Florida Public Employee Optional Retirement System  
3357 Investment Plan Program Trust Fund is a ~~retirement~~ trust fund of  
3358 the Florida Retirement System that accounts for retirement plan  
3359 assets held by the state in a trustee capacity as a fiduciary  
3360 for individual participants in the Florida Public Employee  
3361 ~~Optional Retirement System Investment Plan Program~~ and, pursuant  
3362 to s. 19(f), Art. III of the State Constitution, is not subject  
3363 to termination.

3364 Section 21. Subsections (1) and (3) of section 121.4503,

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3365 Florida Statutes, are amended to read:

3366 121.4503 Florida Retirement System Contributions Clearing  
3367 Trust Fund.—

3368 (1) The Florida Retirement System Contributions Clearing  
3369 Trust Fund is created as a clearing fund for disbursing employer  
3370 and employee contributions to the component plans of the Florida  
3371 Retirement System and shall be administered by the department ~~of~~  
3372 ~~Management Services~~. Funds shall be credited to the trust fund  
3373 as provided in this chapter and ~~shall be~~ held in trust for the  
3374 contributing employers and employees until ~~such time as~~ the  
3375 assets are transferred by the department to the Florida  
3376 Retirement System Trust Fund, the Florida Public Employee  
3377 ~~Optional Retirement System Investment Plan Program~~ Trust Fund,  
3378 or other trust funds as authorized by law, to be used for the  
3379 purposes of this chapter. The trust fund is exempt from the  
3380 service charges imposed by s. 215.20.

3381 (3) The department ~~of Management Services~~ may adopt rules  
3382 governing the receipt and disbursement of amounts received by  
3383 the Florida Retirement System Contributions Clearing Trust Fund  
3384 from employers and employees contributing to the component plans  
3385 of the Florida Retirement System.

3386 Section 22. Section 121.571, Florida Statutes, is amended  
3387 to read:

3388 121.571 Contributions.—Contributions to the Florida Public  
3389 ~~Employee Optional Retirement System Investment Plan Program~~  
3390 shall be made as follows:

3391 (1) CONTRIBUTORY ~~NONCONTRIBUTORY~~ PLAN.—Each employer and  
3392 participant shall submit ~~accomplish the~~ contributions as  
3393 required under ~~by~~ s. 121.71 ~~by a procedure in which no~~

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3394 ~~employee's gross salary shall be reduced.~~

3395 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the  
3396 retirement and disability benefits provided under this part must  
3397 ~~shall~~ be based on the uniform contribution rates established by  
3398 s. 121.71 and on the membership class or subclass of the  
3399 participant. Such contributions must ~~shall~~ be allocated as  
3400 provided in ss. 121.72 and 121.73.

3401 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR  
3402 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under  
3403 s. 121.71 are ~~this section shall be~~ in addition to employer and  
3404 member contributions ~~required~~ for social security and the  
3405 Retiree Health Insurance Subsidy Trust Fund as required under  
3406 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as  
3407 appropriate.

3408 Section 23. Section 121.591, Florida Statutes, is amended  
3409 to read:

3410 121.591 Payment of benefits payable under the Public  
3411 ~~Employee Optional Retirement Program of the Florida Retirement~~  
3412 ~~System.~~—Benefits may not be paid under the Florida Retirement  
3413 System Investment Plan ~~this section~~ unless the member has  
3414 terminated employment as provided in s. 121.021(39)(a) or is  
3415 deceased and a proper application has been filed as in the  
3416 ~~manner~~ prescribed by the state board or the department. Benefits  
3417 are not payable under the investment plan before termination of  
3418 employment as provided in s. 121.021(39)(a) for employee  
3419 hardships, unforeseeable emergencies, loans, medical expenses,  
3420 educational expenses, purchase of a principal residence,  
3421 payments necessary to prevent eviction or foreclosure on an  
3422 employee's principal residence, or for any other reason. The

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3423 state board or department, as appropriate, may cancel an  
3424 application for retirement benefits if ~~when~~ the member or  
3425 beneficiary fails to timely provide the information and  
3426 documents required by this chapter and the rules of the state  
3427 board and department. In accordance with their respective  
3428 responsibilities ~~as provided herein~~, the state board ~~of~~  
3429 ~~Administration~~ and the department ~~of Management Services~~ shall  
3430 adopt rules establishing procedures for application for  
3431 retirement benefits and for the cancellation of such application  
3432 if ~~when~~ the required information or documents are not received.  
3433 The state board ~~of Administration~~ and the department ~~of~~  
3434 ~~Management Services~~, as appropriate, are authorized to cash out  
3435 a de minimis account of not more than \$5,000 of a participant  
3436 who has been terminated from Florida Retirement System covered  
3437 employment for a minimum of 6 calendar months. ~~A de minimis~~  
3438 ~~account is an account containing employer contributions and~~  
3439 ~~accumulated earnings of not more than \$5,000 made under the~~  
3440 ~~provisions of this chapter.~~ Such cash-out must either be a  
3441 complete lump-sum liquidation of the account balance, subject to  
3442 the provisions of the Internal Revenue Code, or a lump-sum  
3443 direct rollover distribution paid directly to the custodian of  
3444 an eligible retirement plan, as defined by the Internal Revenue  
3445 Code, on behalf of the participant. Any nonvested accumulations,  
3446 including amounts transferred to the suspense account of the  
3447 Florida Retirement System Investment Plan Trust Fund, are  
3448 forfeited upon payment of any vested benefit to a participant or  
3449 beneficiary, except for de minimis distributions or minimum  
3450 required distributions as provided under this section. If any  
3451 financial instrument issued for the payment of retirement

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3452 benefits under this section is not presented for payment within  
 3453 180 days after the last day of the month in which it was  
 3454 originally issued, the third-party administrator or other duly  
 3455 authorized agent of the state board ~~of Administration~~ shall  
 3456 cancel the instrument and credit the amount of the instrument to  
 3457 the suspense account of the Florida Public Employee Optional  
 3458 Retirement System Investment Plan Program Trust Fund authorized  
 3459 under s. 121.4501(6). Any ~~such~~ amounts transferred to the  
 3460 suspense account are payable upon a proper application, not to  
 3461 include earnings thereon, as provided in this section, within 10  
 3462 years after the last day of the month in which the instrument  
 3463 was originally issued, after which time such amounts and any  
 3464 earnings attributable to employer contributions are ~~thereon~~  
 3465 ~~shall be~~ forfeited. Any ~~such~~ forfeited amounts are assets of the  
 3466 ~~Public Employee Optional Retirement Program~~ trust fund and are  
 3467 not subject to the provisions of chapter 717.

3468 (1) NORMAL BENEFITS.—Under the Florida Public Employee  
 3469 Optional Retirement System Investment Plan Program:

3470 (a) Benefits in the form of vested accumulations as  
 3471 described in s. 121.4501(6) are payable under this subsection in  
 3472 accordance with the following terms and conditions:

3473 1. ~~To the extent vested,~~ Benefits are payable only to a  
 3474 participant, alternate payee or a qualified domestic relations  
 3475 order, or a beneficiary.

3476 2. Benefits shall be paid by the third-party administrator  
 3477 or designated approved providers in accordance with the law, the  
 3478 contracts, and any applicable board rule or policy.

3479 3. ~~To receive benefits,~~ The participant must be terminated  
 3480 from all employment with all Florida Retirement System



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3481 employers, as provided in s. 121.021(39).

3482 4. Benefit payments may not be made until the participant  
3483 has been terminated for 3 calendar months, except that the state  
3484 board may authorize by rule for the distribution of up to 10  
3485 percent of the participant's account after being terminated for  
3486 1 calendar month if the participant has reached the normal  
3487 retirement date as defined in s. 121.021 ~~of the defined benefit~~  
3488 ~~plan~~.

3489 5. If a member or former member of the Florida Retirement  
3490 System receives an invalid distribution ~~from the Public Employee~~  
3491 ~~Optional Retirement Program Trust Fund~~, such person must repay  
3492 the full amount ~~invalid distribution to the trust fund~~ within 90  
3493 days after receipt of final notification by the state board or  
3494 the third-party administrator that the distribution was invalid,  
3495 or, in lieu of repayment, must terminate employment from all  
3496 participating employers. If such person fails to repay the full  
3497 invalid distribution within 90 days after receipt of final  
3498 notification, the person may be deemed retired from the  
3499 investment plan ~~optional retirement program~~ by the state board,  
3500 ~~as provided pursuant to s. 121.4501(2)(k)~~, and is subject to s.  
3501 121.122. If such person is deemed retired ~~by the state board~~,  
3502 any joint and several liability set out in s. 121.091(9)(d)2. is  
3503 ~~becomes~~ null and void, and the state board, the department, or  
3504 the employing agency is not liable for gains on payroll  
3505 contributions that have not been deposited to the person's  
3506 account in the investment plan ~~retirement program~~, pending  
3507 resolution of the invalid distribution. The member or former  
3508 member who has been deemed retired or who has been determined by  
3509 the state board to have taken an invalid distribution may appeal

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3510 the agency decision through the complaint process as provided  
3511 under s. 121.4501(9)(g)3. As used in this subparagraph, the term  
3512 "invalid distribution" means any distribution from an account in  
3513 the investment plan ~~optional retirement program~~ which is taken  
3514 in violation of this section, s. 121.091(9), or s. 121.4501.

3515 (b) If a participant elects to receive his or her benefits  
3516 upon termination of employment as defined in s. 121.021, the  
3517 participant must submit a written application or an application  
3518 by electronic means to the third-party administrator indicating  
3519 his or her preferred distribution date and selecting an  
3520 authorized method of distribution as provided in paragraph (c).  
3521 The participant may defer receipt of benefits until he or she  
3522 chooses to make such application, subject to federal  
3523 requirements.

3524 (c) Upon receipt by the third-party administrator of a  
3525 properly executed application for distribution of benefits, the  
3526 total accumulated benefit is ~~shall be~~ payable to the participant  
3527 pro rata across all Florida Retirement System benefit sources,  
3528 as:

- 3529 1. A lump-sum or partial distribution to the participant;
- 3530 2. A lump-sum direct rollover distribution whereby all  
3531 accrued benefits, plus interest and investment earnings, are  
3532 paid from the participant's account directly to the custodian of  
3533 an eligible retirement plan, as defined in s. 402(c)(8)(B) of  
3534 the Internal Revenue Code, on behalf of the participant; or
- 3535 3. Periodic distributions, as authorized by the state  
3536 board.

3537 (d) The distribution payment method selected by the  
3538 participant or beneficiary, and the retirement of the

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3539 participant or beneficiary, is final and irrevocable at the time  
3540 a benefit distribution payment is cashed, deposited, or  
3541 transferred to another financial institution. Any additional  
3542 service that remains unclaimed at retirement may not be claimed  
3543 or purchased, and the type of retirement may not be changed,  
3544 except that if a participant recovers from a disability, the  
3545 participant may subsequently request normal service benefits  
3546 under subsection (2).

3547 (e) A participant may not receive a distribution of  
3548 participant contributions if a pending qualified domestic  
3549 relations order is filed against the participant's investment  
3550 plan account.

3551 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under  
3552 this subsection are payable in lieu of the benefits that ~~which~~  
3553 would otherwise be payable under the provisions of subsection  
3554 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer  
3555 contributions ~~made under s. 121.571~~, transferred participant  
3556 contributions and funds accumulated pursuant to paragraph (a),  
3557 and interest and earnings thereon. ~~Pursuant thereto:~~

3558 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly  
3559 disability benefits under this subsection:

3560 1. All moneys accumulated in the participant's ~~Public~~  
3561 ~~Employee Optional Retirement Program~~ accounts, including vested  
3562 and nonvested accumulations as described in s. 121.4501(6), must  
3563 ~~shall~~ be transferred from such individual accounts to the  
3564 division ~~of Retirement~~ for deposit in the disability account of  
3565 the Florida Retirement System Trust Fund. Such moneys must ~~shall~~  
3566 be ~~separately~~ accounted for separately. Earnings must ~~shall~~ be  
3567 credited on an annual basis for amounts held in the disability

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3568 accounts ~~of the Florida Retirement System Trust Fund~~ based on  
3569 actual earnings of the ~~Florida Retirement System~~ trust fund.

3570 2. If the participant has retained retirement credit ~~he or~~  
3571 ~~she had~~ earned under the defined benefit program ~~of the Florida~~  
3572 ~~Retirement System~~ as provided in s. 121.4501(3) ~~s.~~  
3573 ~~121.4501(3)(b)~~, a sum representing the actuarial present value  
3574 of such credit within the Florida Retirement System Trust Fund  
3575 shall be reassigned by the division ~~of Retirement~~ from the  
3576 defined benefit program to the disability program as implemented  
3577 under this subsection and shall be deposited in the disability  
3578 account of the ~~Florida Retirement System~~ trust fund. Such moneys  
3579 must ~~shall~~ be ~~separately~~ accounted for separately.

3580 (b) *Disability retirement; entitlement.*—

3581 1. A participant of the investment plan ~~Public Employee~~  
3582 ~~Optional Retirement program~~ who becomes totally and permanently  
3583 disabled, as defined in paragraph (d) ~~s. 121.091(4)(b)~~, after  
3584 completing 8 years of creditable service, or a participant who  
3585 becomes totally and permanently disabled in the line of duty  
3586 regardless of ~~his or her~~ length of service, is ~~shall be~~ entitled  
3587 to a monthly disability benefit ~~as provided herein~~.

3588 2. In order for service to apply toward the 8 years of  
3589 creditable service required ~~to vest~~ for regular disability  
3590 benefits, or toward the creditable service used in calculating a  
3591 service-based benefit as provided ~~for~~ under paragraph (g), the  
3592 service must be creditable service as described below:

3593 a. The participant's period of service under the investment  
3594 plan shall ~~Public Employee Optional Retirement program will~~ be  
3595 considered creditable service, except as provided in  
3596 subparagraph d.

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3597 b. If the participant has elected to retain credit for his  
 3598 ~~or her~~ service under the defined benefit program ~~of the Florida~~  
 3599 ~~Retirement System~~ as provided under s. 121.4501(3) ~~s.~~  
 3600 ~~121.4501(3)(b)~~, all such service shall ~~will~~ be considered  
 3601 creditable service.

3602 c. If the participant elects ~~has elected~~ to transfer to his  
 3603 or her participant accounts a sum representing the present value  
 3604 of his or her retirement credit under the defined benefit  
 3605 program as provided under s. 121.4501(3) ~~s. 121.4501(3)(c)~~, the  
 3606 period of service under the defined benefit program represented  
 3607 in the present value amounts transferred shall ~~will~~ be  
 3608 considered creditable service ~~for purposes of vesting for~~  
 3609 ~~disability benefits~~, except as provided in subparagraph d.

3610 d. Whenever a participant has terminated employment and has  
 3611 taken distribution of his or her funds as provided in subsection  
 3612 (1), all creditable service represented by such distributed  
 3613 funds is forfeited for purposes of this subsection.

3614 (c) *Disability retirement effective date.*—The effective  
 3615 retirement date for a participant who applies and is approved  
 3616 for disability retirement shall be established as provided under  
 3617 s. 121.091(4)(a)2. and 3.

3618 (d) *Total and permanent disability.*—A participant shall be  
 3619 considered totally and permanently disabled if, in the opinion  
 3620 of the division, he or she is prevented, by reason of a  
 3621 medically determinable physical or mental impairment, from  
 3622 rendering useful and efficient service as an officer or  
 3623 employee.

3624 (e) *Proof of disability.*—~~The division,~~ Before approving  
 3625 payment of any disability retirement benefit, the division shall

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3626 require proof that the participant is totally and permanently  
3627 disabled ~~in the same manner as provided for members of the~~  
3628 ~~defined benefit program of the Florida Retirement System~~ under  
3629 s. 121.091(4)(c).

3630 (f) *Disability retirement benefit.*—Upon the disability  
3631 retirement of a participant under this subsection, the  
3632 participant shall receive a monthly benefit that begins accruing  
3633 ~~shall begin to accrue~~ on the first day of the month of  
3634 disability retirement, as approved by the division, and is ~~shall~~  
3635 ~~be~~ payable on the last day of that month and each month  
3636 thereafter during his or her lifetime and continued disability.  
3637 All disability benefits must ~~payable to such member shall~~ be  
3638 paid out of the disability account of the Florida Retirement  
3639 System Trust Fund established under this subsection.

3640 (g) *Computation of disability retirement benefit.*—The  
3641 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~  
3642 ~~same manner as provided for members of the defined benefit~~  
3643 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).  
3644 ~~For such purpose,~~ Creditable service under both the defined  
3645 benefit program and the investment plan ~~Public Employee Optional~~  
3646 ~~Retirement Program of the Florida Retirement System~~ shall be  
3647 applicable as provided under paragraph (b).

3648 (h) *Reapplication.*—A participant whose initial application  
3649 for disability retirement is ~~has been~~ denied may reapply for  
3650 disability benefits ~~in the same manner, and under the same~~  
3651 ~~conditions,~~ as provided ~~for members of the defined benefit~~  
3652 ~~program of the Florida Retirement System~~ under s. 121.091(4)(g).

3653 (i) *Membership.*—Upon approval of a participant's ~~an~~  
3654 application for disability benefits ~~under this subsection,~~ the

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3655 applicant shall be transferred to the defined benefit program ~~of~~  
 3656 ~~the Florida Retirement System~~, effective upon his or her  
 3657 disability retirement effective date.

3658 (j) *Option to cancel.*—~~A~~ Any participant whose application  
 3659 for disability benefits is approved may cancel the ~~his or her~~  
 3660 application if ~~for disability benefits~~, provided that the  
 3661 cancellation request is received by the division before a  
 3662 disability retirement warrant has been deposited, cashed, or  
 3663 received by direct deposit. Upon ~~such~~ cancellation:

3664 1. The participant's transfer to the defined benefit  
 3665 program under paragraph (i) shall be nullified;

3666 2. The participant shall be retroactively reinstated in the  
 3667 investment plan ~~Public Employee Optional Retirement program~~  
 3668 without hiatus;

3669 3. All funds transferred to the Florida Retirement System  
 3670 Trust Fund under paragraph (a) must ~~shall~~ be returned to the  
 3671 participant accounts from which the ~~such~~ funds were drawn; and

3672 4. The participant may elect to receive the benefit payable  
 3673 under ~~the provisions of~~ subsection (1) in lieu of disability  
 3674 benefits ~~as provided under this subsection~~.

3675 (k) *Recovery from disability.*—

3676 1. The division may require periodic reexaminations at the  
 3677 expense of the disability program account of the Florida  
 3678 Retirement System Trust Fund. Except as ~~otherwise~~ provided in  
 3679 subparagraph 2., ~~the requirements, procedures, and restrictions~~  
 3680 ~~relating to the conduct and review of such reexaminations,~~  
 3681 ~~discontinuation or termination of benefits, reentry into~~  
 3682 ~~employment, disability retirement after reentry into covered~~  
 3683 ~~employment, and all other matters relating to recovery from~~

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3684 disability shall be ~~the same~~ as provided ~~are set forth~~ under s.  
3685 121.091(4)(h).

3686 2. Upon recovery from disability, the ~~any~~ recipient of  
3687 disability retirement benefits under this subsection shall be  
3688 transferred back to the investment plan ~~a compulsory member of~~  
3689 ~~the Public Employee Optional Retirement Program of the Florida~~  
3690 ~~Retirement System~~. The net difference between the recipient's  
3691 original account balance transferred to the Florida Retirement  
3692 System Trust Fund, including earnings, ~~under paragraph (a)~~ and  
3693 total disability benefits paid to such recipient, if any, shall  
3694 be determined as provided in sub-subparagraph a.

3695 a. An amount equal to the total benefits paid shall be  
3696 subtracted from that portion of the transferred account balance  
3697 consisting of vested accumulations as described under s.  
3698 121.4501(6), if any, and an amount equal to the remainder of  
3699 benefit amounts paid, if any, shall ~~then~~ be subtracted from any  
3700 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~  
3701 ~~described under s. 121.4501(6)~~.

3702 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~  
3703 be retained within the disability account of the Florida  
3704 Retirement System Trust Fund. Any remaining account balance  
3705 shall be transferred to the third-party administrator for  
3706 disposition as provided under sub-subparagraph c. or sub-  
3707 subparagraph d., as appropriate.

3708 c. If the recipient returns to covered employment,  
3709 transferred amounts must ~~shall~~ be deposited in individual  
3710 accounts under the investment plan ~~Public Employee Optional~~  
3711 ~~Retirement program~~, as directed by the participant. Vested and  
3712 nonvested amounts shall be separately accounted for as provided



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3713 in s. 121.4501(6).

3714 d. If the recipient fails to return to covered employment  
3715 upon recovery from disability:

3716 (I) Any remaining vested amount must ~~shall~~ be deposited in  
3717 individual accounts under the investment plan ~~Public Employee~~  
3718 ~~Optional Retirement program~~, as directed by the participant, and  
3719 is ~~shall be~~ payable as provided in subsection (1).

3720 (II) Any remaining nonvested amount must ~~shall~~ be held in a  
3721 suspense account and is ~~shall be~~ forfeitable after 5 years as  
3722 provided in s. 121.4501(6).

3723 3. If present value was reassigned from the defined benefit  
3724 program to the disability program ~~of the Florida Retirement~~  
3725 ~~System~~ as provided under subparagraph (a)2., the full present  
3726 value amount must ~~shall~~ be returned to the defined benefit  
3727 account within the Florida Retirement System Trust Fund and the  
3728 recipient's ~~affected individual's~~ associated retirement credit  
3729 under the defined benefit program must ~~shall~~ be reinstated in  
3730 full. Any benefit based upon such credit must ~~shall~~ be  
3731 calculated as provided in s. 121.091(4)(h)1.

3732 (1) *Nonadmissible causes of disability.*—A participant is  
3733 ~~shall~~ not be entitled to ~~receive~~ a disability retirement benefit  
3734 if the disability results from any injury or disease ~~sustained~~  
3735 ~~or inflicted~~ as described in s. 121.091(4)(i).

3736 (m) *Disability retirement of justice or judge by order of*  
3737 *Supreme Court.*—

3738 1. If a participant is a justice of the Supreme Court,  
3739 judge of a district court of appeal, circuit judge, or judge of  
3740 a county court who has served for 6 years or more as an elected  
3741 constitutional judicial officer, including service as a judicial

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3742 officer in any court abolished pursuant to Art. V of the State  
3743 Constitution, and who is retired for disability ~~by order of the~~  
3744 ~~Supreme Court upon recommendation of the Judicial Qualifications~~  
3745 ~~Commission~~ pursuant to s. 12, ~~the provisions of~~ Art. V of the  
3746 State Constitution, the participant's Option 1 monthly  
3747 disability benefit amount as provided in s. 121.091(6)(a)1.  
3748 shall be two-thirds of his or her monthly compensation as of the  
3749 participant's disability retirement date. The ~~Such~~ a participant  
3750 may alternatively elect to receive an actuarially adjusted  
3751 disability retirement benefit under any other option as provided  
3752 in s. 121.091(6)(a), or ~~to~~ receive the normal benefit payable  
3753 under ~~the Public Employee Optional Retirement Program as set~~  
3754 ~~forth in~~ subsection (1).

3755 2. If any justice or judge who is a participant of the  
3756 investment plan ~~Public Employee Optional Retirement program of~~  
3757 ~~the Florida Retirement System~~ is retired for disability ~~by order~~  
3758 ~~of the Supreme Court upon recommendation of the Judicial~~  
3759 ~~Qualifications Commission~~ pursuant to s. 12, ~~the provisions of~~  
3760 Art. V of the State Constitution and elects to receive a monthly  
3761 disability benefit under the provisions of this paragraph:

3762 a. Any present value amount that was transferred to his or  
3763 her plan program account and all employer contributions made to  
3764 such account on his or her behalf, plus interest and earnings  
3765 thereon, must ~~shall~~ be transferred to and deposited in the  
3766 disability account of the Florida Retirement System Trust Fund;  
3767 and

3768 b. The monthly disability benefits payable under this  
3769 paragraph ~~for any affected justice or judge retired from the~~  
3770 ~~Florida Retirement System pursuant to Art. V of the State~~

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3771 ~~Constitution~~ shall be paid from the disability account of the  
 3772 Florida Retirement System Trust Fund.

3773 (n) *Death of retiree or beneficiary.*—Upon the death of a  
 3774 disabled retiree or beneficiary of the retiree ~~thereof~~ who is  
 3775 receiving monthly disability benefits under this subsection, the  
 3776 monthly benefits shall be paid through the last day of the month  
 3777 of death and shall terminate, or be adjusted, if applicable, as  
 3778 of that date in accordance with the optional form of benefit  
 3779 selected at the time of retirement. The department ~~of Management~~  
 3780 ~~Services~~ may adopt rules necessary to administer this paragraph.

3781 (3) DEATH BENEFITS.—Under the Florida ~~Public Employee~~  
 3782 ~~Optional Retirement System Investment Plan Program~~:

3783 (a) Survivor benefits are ~~shall be~~ payable in accordance  
 3784 with the following terms and conditions:

3785 1. ~~To the extent vested,~~ Benefits are ~~shall be~~ payable only  
 3786 to a participant's beneficiary or beneficiaries as designated by  
 3787 the participant as provided in s. 121.4501(20).

3788 2. Benefits shall be paid by the third-party administrator  
 3789 or designated approved providers in accordance with the law, the  
 3790 contracts, and any applicable state board rule or policy.

3791 3. To receive benefits ~~under this subsection~~, the  
 3792 participant must be deceased.

3793 (b) Except as provided in paragraph (d), if the employment  
 3794 of a participant is terminated by reason of his or her ~~In the~~  
 3795 ~~event of a participant's death:~~

3796 1. Before being vested, the participant's accumulated  
 3797 contributions are payable to his or her designated beneficiary.

3798 2. After being vested, all vested accumulations as  
 3799 described in s. 121.4501(6), less withholding taxes remitted to

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3800 the Internal Revenue Service, shall be distributed, as provided  
3801 in paragraph (c) or as described in s. 121.4501(20), as if the  
3802 participant retired on the date of death. No other death  
3803 benefits are ~~shall be~~ available for survivors of participants  
3804 under the investment plan ~~Public Employee Optional Retirement~~  
3805 ~~Program~~, except for ~~such~~ benefits, or coverage for ~~such~~  
3806 benefits, as are otherwise provided by law or ~~are~~ separately  
3807 provided ~~afforded~~ by the employer, at the employer's discretion.

3808 (c) Upon receipt by the third-party administrator of a  
3809 properly executed application for distribution of benefits under  
3810 paragraph (b), the total accumulated benefit is ~~shall be~~ payable  
3811 by the third-party administrator to the participant's surviving  
3812 beneficiary or beneficiaries, as:

3813 1. A lump-sum distribution payable to the beneficiary or  
3814 beneficiaries, or to the deceased participant's estate;

3815 2. An eligible rollover distribution on behalf of the  
3816 surviving spouse of a deceased participant, whereby all accrued  
3817 benefits, plus interest and investment earnings, are paid from  
3818 the deceased participant's account directly to the custodian of  
3819 an eligible retirement plan, as described in s. 402(c)(8)(B) of  
3820 the Internal Revenue Code, on behalf of the surviving spouse; or

3821 3. A partial lump-sum payment whereby a portion of the  
3822 accrued benefit is paid to the deceased participant's surviving  
3823 spouse or other designated beneficiaries, less withholding taxes  
3824 remitted to the Internal Revenue Service, and the remaining  
3825 amount is transferred directly to the custodian of an eligible  
3826 retirement plan, as described in s. 402(c)(8)(B) of the Internal  
3827 Revenue Code, on behalf of the surviving spouse. The proportions  
3828 must be specified by the participant or the surviving

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3829 beneficiary.

3830 (d) Notwithstanding paragraphs (b) and (c), if a  
3831 participant is killed in the line of duty, benefits are payable  
3832 from employer contributions made pursuant to s. 121.571,  
3833 transferred participant funds accumulated pursuant to sub-  
3834 subparagraph 1.a., and interest and earnings thereon.

3835 1. Transfer of funds.-

3836 a. All moneys accumulated in the deceased participant's  
3837 investment plan accounts, including vested and nonvested  
3838 accumulations described in s. 121.4501(6), shall be transferred  
3839 from such individual accounts to the Division of Retirement for  
3840 deposit in the death benefits program of the Florida Retirement  
3841 System Trust Fund. Such moneys must be separately accounted for.  
3842 Earnings shall be credited on an annual basis for amounts held  
3843 in the death benefits accounts of the trust fund based on actual  
3844 earnings of the trust fund.

3845 b. If the deceased participant retained retirement credit  
3846 he or she earned under the defined benefit program of the  
3847 Florida Retirement System as provided in s. 121.4501(3)(b), a  
3848 sum representing the actuarial present value of such credit  
3849 within the Florida Retirement System Trust Fund shall be  
3850 reassigned by the Division of Retirement from the defined  
3851 benefit program to the death benefits program as implemented  
3852 under this paragraph and deposited in the death benefits account  
3853 of the trust fund. Such moneys shall be separately accounted  
3854 for.

3855 2. Death benefit entitlement and payments.-

3856 a. The surviving spouse of a participant killed in the line  
3857 of duty may receive a monthly pension equal to one-half of the

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3858 monthly salary being received by the participant at the time of  
3859 death for the rest of the surviving spouse's lifetime.

3860 b. If the surviving spouse of a participant killed in the  
3861 line of duty dies, the monthly payments that would have been  
3862 payable to the surviving spouse had such surviving spouse lived  
3863 shall be paid for the use and benefit of such participant's  
3864 children under 18 years of age and unmarried until the 18th  
3865 birthday of the participant's youngest child.

3866 c. If a participant killed in the line of duty leaves no  
3867 surviving spouse but is survived by children under 18 years of  
3868 age, the benefits provided by sub-subparagraph a., normally  
3869 payable to a surviving spouse, shall be paid for the use and  
3870 benefit of the participant's child or children under 18 years of  
3871 age and unmarried until the 18th birthday of the participant's  
3872 youngest child.

3873  
3874 This paragraph does not abrogate other applicable provisions of  
3875 state or federal law providing for payment of death benefits.

3876 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
3877 any person under the Florida Public Employee Optional Retirement  
3878 System Investment Plan Program, and any contributions  
3879 accumulated under such plan program, are not subject to  
3880 assignment, execution, attachment, or any legal process, except  
3881 for qualified domestic relations orders by a court of competent  
3882 jurisdiction, income deduction orders as provided in s. 61.1301,  
3883 and federal income tax levies.

3884 Section 24. Section 121.5911, Florida Statutes, is amended  
3885 to read:

3886 121.5911 Disability retirement program; qualified status;

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3887 rulemaking authority.—It is the intent of the Legislature that  
3888 the disability retirement program for participants of the  
3889 Florida Public Employee Optional Retirement System Investment  
3890 Plan Program as created in this act must meet all applicable  
3891 requirements of federal law for a qualified plan. The department  
3892 ~~of Management Services~~ shall seek a private letter ruling from  
3893 the Internal Revenue Service on the disability retirement  
3894 program for participants of the ~~Public Employee Optional~~  
3895 ~~Retirement Program~~. Consistent with the private letter ruling,  
3896 the department ~~of Management Services~~ shall adopt ~~any necessary~~  
3897 rules necessary ~~required~~ to maintain the qualified status of the  
3898 disability retirement program and the Florida Retirement System  
3899 defined benefit program plan.

3900 Section 25. Subsection (1) of section 121.70, Florida  
3901 Statutes, is amended to read:

3902 121.70 Legislative purpose and intent.—

3903 (1) This part provides for a uniform system for funding  
3904 benefits provided under the Florida Retirement System defined  
3905 benefit program established under part I of this chapter  
3906 (referred to in this part as the defined benefit program) and  
3907 under the Florida Public Employee Optional Retirement System  
3908 Investment Plan Program established under part II of this  
3909 chapter (referred to in this part as the defined contribution  
3910 ~~optional retirement~~ program). The Legislature recognizes and  
3911 declares that the Florida Retirement System is a single  
3912 retirement system, consisting of two retirement plans and other  
3913 nonintegrated programs. Employers participating in the Florida  
3914 Retirement System collectively shall be responsible for making  
3915 contributions to support the benefits provided ~~afforded~~ under

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3916 both programs ~~plans~~. ~~The As provided in this part,~~ employers  
3917 ~~participating in the Florida Retirement System~~ shall make  
3918 contributions based upon uniform contribution rates determined  
3919 as a percentage of the total payroll for each class or subclass  
3920 of Florida Retirement System membership, irrespective of which  
3921 retirement program the plan individual employee is enrolled in  
3922 ~~employees may elect~~. This shall be known as a uniform or blended  
3923 contribution rate system.

3924 Section 26. Subsections (1) and (2) of section 121.71,  
3925 Florida Statutes, are amended, present subsections (3) and (4)  
3926 of that section are renumbered as subsections (4) and (7),  
3927 respectively, and new subsections (3), (5), and (6) are added to  
3928 that section, to read:

3929 121.71 Uniform rates; process; calculations; levy.—

3930 (1) In conducting the system actuarial study required under  
3931 s. 121.031, the actuary shall follow all requirements specified  
3932 ~~thereunder~~ to determine, by Florida Retirement System employee  
3933 membership class, the dollar contribution amounts necessary for  
3934 the next forthcoming fiscal year for the defined benefit  
3935 program. In addition, the actuary shall determine, by Florida  
3936 Retirement System membership class, based on an estimate for the  
3937 forthcoming fiscal year of the gross compensation of employees  
3938 participating in the defined contribution ~~optional retirement~~  
3939 program, the dollar contribution amounts necessary to make the  
3940 allocations required under ss. 121.72 and 121.73. For each  
3941 employee membership class and subclass, the actuarial study must  
3942 ~~shall~~ establish a uniform rate necessary to fund the benefit  
3943 obligations under both Florida Retirement System retirement  
3944 plans by dividing the sum of total dollars required by the



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3945 estimated gross compensation of members in both plans.

3946 (2) Based on the uniform rates set forth in subsections  
3947 ~~subsection~~ (3), (4), and (5), employers and employees shall make  
3948 monthly contributions to the Division of Retirement as required  
3949 under s. 121.061(1), which shall initially deposit the funds  
3950 into the Florida Retirement System Contributions Clearing Trust  
3951 Fund. A change in a contribution rate is effective on the first  
3952 day of the month for which a full month's ~~employer~~ contribution  
3953 may be made on or after the beginning date of the change.  
3954 Beginning July 1, 2011, each employee shall contribute the  
3955 contributions required in subsection (3) to the plan. The  
3956 employer shall deduct the contribution from the employee's  
3957 monthly salary and submit it to the division. The contributions  
3958 shall be reported as employer-paid employee contributions, and  
3959 shall be credited to the account of the employee. The  
3960 contributions shall be deducted from the employee's salary  
3961 before the computation of applicable federal taxes and treated  
3962 as employer contributions under 26 U.S.C. 414(b)(2). Although  
3963 designated as employee contributions, the employer specifies  
3964 that the contributions are being paid by the employer in lieu of  
3965 contributions by the employee. The employee does not have the  
3966 option of choosing to receive the contributed amounts directly  
3967 instead of having them paid to the plan. Such contributions are  
3968 mandatory and each employee is deemed to have consented to the  
3969 payroll deductions. Payment of an employee's salary or wages,  
3970 less the contribution, is a full and complete discharge and  
3971 satisfaction of all claims and demands for the service rendered  
3972 by employees during the period covered by the payment, except  
3973 for claims to benefits to which they may be entitled under this

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3983  
  
3984  
  
3985

chapter.

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

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>
<u>Regular Class</u>	_____ %
<u>Special Risk Class</u>	_____ %
<u>Special Risk Administrative Support Class</u>	_____ %
<u>Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	_____ %
<u>Elected Officers' Class - Justices, Judges</u>	_____ %
<u>Elected Officers' Class - County Elected Officers</u>	_____ %

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Senior Management Class \_\_\_\_\_%

DROP \_\_\_\_\_%

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

	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	Percentage of Gross Compensation, Effective <u>July 1, 2012</u> <del>July 1, 2010</del>
--	--	---

Membership Class

Regular Class

9.76% ~~8.69%~~

9.54% ~~9.63%~~

Special Risk Class

22.20 ~~19.76%~~

21.92% ~~22.11%~~

Special Risk  
Administrative  
Support Class

11.41% ~~11.39%~~

11.02% ~~12.10%~~

Elected Officers'  
Class—  
Legislators, Governor,  
Lt. Governor,

14.48% ~~13.32%~~

14.15% 15.20%

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Cabinet Officers,  
State Attorneys,  
Public Defenders

3995

Elected Officers'  
Class—  
Justices, Judges

19.43% ~~18.40%~~ 19.15% ~~20.65%~~

3996

Elected Officers'  
Class—  
County Elected  
Officers

16.73% ~~15.37%~~ 16.39% ~~17.50%~~

3997

Senior Management Class

11.70% ~~11.96%~~ 16.39% ~~13.43%~~

3998

DROP

13.79% ~~9.80%~~ 14.21% ~~11.14%~~

3999

4000

(5) In order to address unfunded actuarial liabilities of

4001

the system, the required employer retirement contribution rates

4002

for each membership class and subclass of the Florida Retirement

4003

System for both retirement plans are as follows:

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2012</u>
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4004	<u>Regular Class</u>	<u>1.58%</u>
4005	<u>Special Risk Class</u>	<u>5.97%</u>
4006	<u>Special Risk</u> <u>Administrative</u> <u>Support Class</u>	<u>15.97%</u>
4007	<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>17.05%</u>
4008	<u>Elected Officers' Class -</u> <u>Justices, Judges</u>	<u>11.00%</u>
4009	<u>Elected Officers' Class -</u> <u>County Elected Officers</u>	<u>19.75%</u>
4010	<u>Senior Management Class</u>	<u>9.26%</u>
4011	<u>DROP</u>	<u>4.97%</u>
4012		
4013	<u>(6) If a member is reported under an incorrect membership</u>	
4014	<u>class and the amount of contributions reported and remitted are</u>	
4015	<u>less than the amount required, the employer shall owe the</u>	

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4016 difference, plus the delinquent fee, of 1 percent for each  
4017 calendar month or part thereof that the contributions should  
4018 have been paid. This delinquent assessment may not be waived. If  
4019 the contributions reported and remitted are more than the amount  
4020 required, the employer shall receive a credit to be applied  
4021 against future contributions owed.

4022 (7)(4) The state actuary shall recognize and use an  
4023 appropriate level of available excess assets of the Florida  
4024 Retirement System Trust Fund to offset the difference between  
4025 the normal costs of the Florida Retirement System and the  
4026 statutorily prescribed contribution rates.

4027 Section 27. Section 121.72, Florida Statutes, is amended to  
4028 read:

4029 121.72 Allocations to defined contribution ~~optional~~  
4030 ~~retirement~~ program participant accounts; percentage amounts.—

4031 (1) The allocations established in subsection (4) shall  
4032 fund retirement benefits under the defined contribution ~~optional~~  
4033 ~~retirement~~ program and shall be transferred monthly by the  
4034 Division of Retirement from the Florida Retirement System  
4035 Contributions Clearing Trust Fund to the third-party  
4036 administrator for deposit in each participating employee's  
4037 individual account based on the membership class of the  
4038 participant.

4039 (2) The allocations are stated as a percentage of each  
4040 defined contribution ~~optional retirement~~ program participant's  
4041 gross compensation for the calendar month. A change in a  
4042 contribution percentage is effective the first day of the month  
4043 for which retirement contributions ~~a full month's employer~~  
4044 ~~contribution~~ may be made on or after the beginning date of the

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4045 change. Contribution percentages may be modified by general law.

4046 (3) Employer and participant contributions to participant  
 4047 accounts shall be accounted for separately. ~~Participant~~  
 4048 ~~contributions may be made only if expressly authorized by law.~~  
 4049 Interest and investment earnings on contributions shall accrue  
 4050 on a tax-deferred basis until proceeds are distributed.

4051 (4) Effective July 1, 2011 ~~July 1, 2002~~, allocations from  
 4052 the Florida Retirement System Contributions Clearing Trust Fund  
 4053 to defined contribution ~~optional retirement~~ program participant  
 4054 accounts, including employee contributions required under s.  
 4055 121.71(3), are ~~shall be~~ as follows:

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

4056

4057

Regular Class	9.00%
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4058

Special Risk Class	20.00%
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4059

Special Risk Administrative Support Class	11.35%
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4060

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
--	--------

4061

Elected Officers' Class—	18.90%
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Justices, Judges

4062

Elected Officers' Class-

County Elected Officers 16.20%

4063

Senior Management Service Class 10.95%

4064

4065

4066 Section 28. Section 121.73, Florida Statutes, is amended to  
4067 read:

4068 121.73 Allocations for ~~optional retirement program~~  
4069 participant disability coverage; percentage amounts.-

4070 (1) The allocations established in subsection (3) shall be  
4071 used to provide disability coverage for participants in the  
4072 defined contribution ~~optional retirement~~ program and shall be  
4073 transferred monthly by the Division of Retirement from the  
4074 Florida Retirement System Contributions Clearing Trust Fund to  
4075 the disability account of the Florida Retirement System Trust  
4076 Fund.

4077 (2) The allocations are stated as a percentage of each  
4078 defined contribution ~~optional retirement~~ program participant's  
4079 gross compensation for the calendar month. A change in a  
4080 contribution percentage is effective the first day of the month  
4081 for which retirement contributions ~~a full month's employer~~  
4082 ~~contribution~~ may be made on or after the beginning date of the  
4083 change. Contribution percentages may be modified by general law.

4084 (3) Effective July 1, 2002, allocations from the Florida  
4085 Retirement System ~~FRS~~ Contribution Clearing Fund to provide



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4086 disability coverage for participants in the defined contribution  
 4087 ~~optional retirement~~ program, and to offset the costs of  
 4088 administering said coverage, shall be as follows:

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

4089

4090

Regular Class	0.25%
---------------	-------

4091

Special Risk Class	1.33%
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4092

Special Risk Administrative Support Class	0.45%
--	-------

4093

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
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4094

Elected Officers' Class— Justices, Judges	0.73%
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4095

Elected Officers' Class— County Elected Officers	0.41%
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4096

Senior Management Service Class	0.26%
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4097

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4098  
4099       (4) Effective July 1, 2011, allocations from the Florida  
4100 Retirement System Contribution Clearing Fund to provide  
4101 disability coverage for participants in the investment plan and  
4102 to offset the costs of administering such coverage shall be the  
4103 actuarially indicated amount necessary to fund the statutorily  
4104 authorized benefit for the plan year as determined by the  
4105 department's actuary.

4106       Section 29. Section 121.74, Florida Statutes, is amended to  
4107 read:

4108       121.74 Administrative and educational expenses.—In addition  
4109 to contributions required under ss. ~~ss.~~ 121.71 and 121.73,  
4110 effective July 1, 2010, through June 30, 2014, employers  
4111 participating in the Florida Retirement System shall contribute  
4112 an amount equal to 0.03 percent of the payroll reported for each  
4113 class or subclass of Florida Retirement System membership;  
4114 effective July 1, 2014, the contribution rate shall be 0.04  
4115 percent of the payroll reported for each class or subclass of  
4116 membership. The amount contributed shall be transferred by the  
4117 Division of Retirement from the Florida Retirement System  
4118 Contributions Clearing Trust Fund to the state board's ~~Board of~~  
4119 ~~Administration's~~ administrative trust fund to offset the costs  
4120 of administering the defined contribution ~~optional retirement~~  
4121 program and the costs of providing educational services to  
4122 participants in the defined benefit program and the defined  
4123 contribution ~~optional retirement~~ program. Approval of the  
4124 trustees is required before the expenditure of these funds.  
4125 Payments for third-party administrative or educational expenses  
4126 shall be made only pursuant to the terms of the approved

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4127 contracts for such services.

4128 Section 30. Section 121.77, Florida Statutes, is amended to  
4129 read:

4130 121.77 Deductions from participant accounts.— The State  
4131 Board of Administration may authorize the third-party  
4132 administrator to deduct reasonable fees and apply appropriate  
4133 charges to defined contribution ~~optional retirement~~ program  
4134 participant accounts. In no event may ~~shall~~ administrative and  
4135 educational expenses exceed the portion of employer  
4136 contributions earmarked for such expenses under this part,  
4137 except for reasonable administrative charges assessed against  
4138 participant accounts of persons for whom no employer  
4139 contributions are made during the calendar quarter. Investment  
4140 management fees shall be deducted from participant accounts,  
4141 pursuant to the terms of the contract between the provider and  
4142 the board.

4143 Section 31. Subsections (1) and (3) of section 121.78,  
4144 Florida Statutes, are amended to read:

4145 121.78 Payment and distribution of contributions.—

4146 (1) Contributions made pursuant to this part, including the  
4147 employee contributions, shall be paid by the employer to the  
4148 Division of Retirement by electronic funds transfer no later  
4149 than the 5th working day of the month immediately following the  
4150 month during which the payroll period ended. Accompanying  
4151 payroll data must be transmitted to the division concurrent with  
4152 the contributions.

4153 (3) (a) Employer and employee contributions and accompanying  
4154 payroll data received after the 5th working day of the month are  
4155 considered late. The employer shall be assessed by the Division

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4156 of Retirement a penalty of 1 percent of the contributions due  
4157 for each calendar month or part thereof that the contributions  
4158 or accompanying payroll data are late. Proceeds from the 1-  
4159 percent assessment against contributions made on behalf of  
4160 participants of the defined benefit program shall be deposited  
4161 in the Florida Retirement System Trust Fund, and proceeds from  
4162 the 1 percent ~~1 percent~~ assessment against contributions made on  
4163 behalf of participants of the defined contribution ~~optional~~  
4164 ~~retirement~~ program shall be transferred to the third-party  
4165 administrator for deposit into participant accounts, as provided  
4166 in paragraph (c) ~~(b)~~.

4167 (b) Retirement contributions paid for a prior period shall  
4168 be charged a delinquent fee of 1 percent for each calendar month  
4169 or part thereof that the contributions should have been paid.  
4170 This includes prior period contributions due to incorrect wages,  
4171 contributions from an earlier report or wages, and contributions  
4172 that should have been reported but were not. The delinquent  
4173 assessments may not be waived.

4174 (c) ~~(b)~~ If employee contributions or contributions made by  
4175 an employer on behalf of participants of the defined  
4176 contribution ~~optional retirement~~ program or accompanying payroll  
4177 data are not received within the calendar month they are due,  
4178 including, but not limited to, contribution adjustments as a  
4179 result of employer errors or corrections, and if that  
4180 delinquency results in market losses to participants, the  
4181 employer shall reimburse each participant's account for market  
4182 losses resulting from the late contributions. If a participant  
4183 has terminated employment and taken a distribution, the  
4184 participant is responsible for returning any excess

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4185 contributions erroneously provided by employers, adjusted for  
4186 any investment gain or loss incurred during the period such  
4187 excess contributions were in the participant's account. The  
4188 state board or its designated agent shall communicate to  
4189 terminated participants any obligation to repay such excess  
4190 contribution amounts. However, the state board, its designated  
4191 agents, the Florida Public Employee Optional Retirement System  
4192 Investment Plan Program Trust Fund, the department, or the  
4193 Florida Retirement System Trust Fund may not incur any loss or  
4194 gain as a result of an employer's correction of such excess  
4195 contributions. The third-party administrator, hired by the state  
4196 board pursuant to s. 121.4501(8), shall calculate the market  
4197 losses for each affected participant. If contributions made on  
4198 behalf of participants of the defined contribution optional  
4199 ~~retirement~~ program or accompanying payroll data are not received  
4200 within the calendar month due, the employer shall also pay the  
4201 cost of the third-party administrator's calculation and  
4202 reconciliation adjustments resulting from the late  
4203 contributions. The third-party administrator shall notify the  
4204 employer of the results of the calculations and the total amount  
4205 due from the employer for such losses and the costs of  
4206 calculation and reconciliation. The employer shall remit to the  
4207 Division of Retirement the amount due within 30 working days  
4208 after the date of the penalty notice sent by the division. The  
4209 division shall transfer that amount to the third-party  
4210 administrator, which shall deposit proceeds from the 1 percent  
4211 ~~1-percent~~ assessment and from individual market losses into  
4212 participant accounts, as appropriate. The state board may adopt  
4213 rules to administer the provisions regarding late contributions,

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4214 late submission of payroll data, the process for reimbursing  
4215 participant accounts for resultant market losses, and the  
4216 penalties charged to the employers.

4217 (d) If employee contributions reported by an employer on  
4218 behalf of participants are reduced as a result of employer  
4219 errors or corrections and the participant has terminated  
4220 employment and taken a refund or distribution, the employer  
4221 shall be billed and is responsible for recovering from the  
4222 participant any excess contributions erroneously provided by the  
4223 employer.

4224 (e)~~(e)~~ Delinquency fees specified in paragraph (a) may be  
4225 waived by the Division of Retirement, with regard to defined  
4226 benefit program contributions, and by the state board, with  
4227 regard to defined contribution ~~optional retirement~~ program  
4228 contributions, only if, in the opinion of the division or the  
4229 board, as appropriate, exceptional circumstances beyond the  
4230 employer's control prevented remittance by the prescribed due  
4231 date notwithstanding the employer's good faith efforts to effect  
4232 delivery. Such a waiver of delinquency may be granted an  
4233 employer only once each plan ~~state fiscal~~ year.

4234 (f) If the employer submits excess employer or employee  
4235 contributions, the employer shall receive a credit to be applied  
4236 against future contributions owed. The employer is responsible  
4237 for reimbursing the employee for any excess contributions  
4238 submitted if any return of such an erroneous excess pretax  
4239 contribution by the program is made within 1 year after making  
4240 erroneous contributions or such other period as allowed under  
4241 applicable Internal Revenue guidance.

4242 (g)~~(d)~~ If contributions made by an employer on behalf of

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4243 participants in the defined contribution ~~optional retirement~~  
4244 program are delayed in posting to participant accounts due to  
4245 acts of God beyond the control of the Division of Retirement,  
4246 the state board, or the third-party administrator, as  
4247 applicable, market losses resulting from the late contributions  
4248 are not payable to the participants.

4249 Section 32. Paragraph (a) of subsection (4) of section  
4250 1012.875, Florida Statutes, is amended to read:

4251 1012.875 State Community College System Optional Retirement  
4252 Program.—Each community college may implement an optional  
4253 retirement program, if such program is established therefor  
4254 pursuant to s. 1001.64(20), under which annuity or other  
4255 contracts providing retirement and death benefits may be  
4256 purchased by, and on behalf of, eligible employees who  
4257 participate in the program, in accordance with s. 403(b) of the  
4258 Internal Revenue Code. Except as otherwise provided herein, this  
4259 retirement program, which shall be known as the State Community  
4260 College System Optional Retirement Program, may be implemented  
4261 and administered only by an individual community college or by a  
4262 consortium of community colleges.

4263 (4) (a) Through June 30, 2011, each college must contribute  
4264 on behalf of each program participant an amount equal to 10.43  
4265 percent of the participant's gross monthly compensation.  
4266 Effective July 1, 2011, each program participant shall  
4267 contribute an amount equal to the employee contribution required  
4268 under s. 121.71(3). Effective July 1, 2011, each employer shall  
4269 contribute on behalf of each program participant an amount equal  
4270 to the difference between 10.43 percent of the participant's  
4271 gross monthly compensation and the employee's required

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4272 contribution based on the employee's gross monthly compensation.  
4273 The college shall deduct an amount approved by the district  
4274 board of trustees of the college to provide for the  
4275 administration of the optional retirement program. Payment of  
4276 this contribution must be made ~~either~~ directly by the college or  
4277 through the program administrator to the designated company  
4278 contracting for payment of benefits to the program participant.

4279 Section 33. As part of the actuarial study required under  
4280 s. 121.031(3), Florida Statutes, based on the results of June  
4281 30, 2011, the administrator of the Florida Retirement System  
4282 shall contract with the state actuary to conduct an actuarial  
4283 study of the system which considers the following methods of  
4284 funding the Deferred Retirement Option Program:

4285 (1) Through a separate contribution rate regardless of the  
4286 participant's membership class, which had been the principal  
4287 method through the 2010 valuation.

4288 (2) Treat participants as retirees such that the payroll  
4289 associated with the participants is not used to develop the  
4290 contribution rates for the respective membership class, and the  
4291 employer is not required to make contributions on such payroll  
4292 except for unfunded actuarial liability contributions.

4293 (3) Treat participants as active members such that the  
4294 payroll associated with the participants is used to develop the  
4295 contribution rates for the respective membership class, and the  
4296 employer is required to make contributions on the payroll at the  
4297 same contribution rate as the employer pays for an active member  
4298 of the applicable class.

4299 Section 34. The Legislature finds that a proper and  
4300 legitimate state purpose is served when employees and retirees



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4301 of the state and its political subdivisions, and the dependents,  
4302 survivors, and beneficiaries of such employees and retirees, are  
4303 extended the basic protections afforded by governmental  
4304 retirement systems. These persons must be provided benefits that  
4305 are fair and adequate and that are managed, administered, and  
4306 funded in an actuarially sound manner, as required by s. 14,  
4307 Article X of the State Constitution and part VII of chapter 112,  
4308 Florida Statutes. Therefore, the Legislature determines and  
4309 declares that this act fulfills an important state interest.

4310 Section 35. The Division of Statutory Revision is requested  
4311 to rename the title of part II of chapter 121, Florida Statutes,  
4312 as "Florida Retirement System Investment Plan."

4313 Section 36. For the 2011-2012 fiscal year, the sums of  
4314 \$414,109 of recurring funds and \$31,016 of nonrecurring funds  
4315 from the Florida Retirement System Operating Trust Fund are  
4316 appropriated to, and eight full-time equivalent positions and  
4317 salary rate of 265,621 are authorized for, the Division of  
4318 Retirement within the Department of Management Services for the  
4319 purpose of implementing this act.

4320 Section 37. (1) Effective upon this act becoming a law, the  
4321 State Board of Administration and the Department of Management  
4322 Services shall, as soon as practicable, request a determination  
4323 letter and private letter ruling from the United States Internal  
4324 Revenue Service. If the Internal Revenue Service refuses to act  
4325 upon a request for a private letter ruling, the legal opinion  
4326 from a qualified tax attorney or firm may be substituted for the  
4327 private letter ruling.

4328 (2) If the board or the department receives notification  
4329 from the United States Internal Revenue Service that this act or

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4330 any portion of this act will cause the Florida Retirement  
4331 System, or a portion thereof, to be disqualified for tax  
4332 purposes under the Internal Revenue Code, then that portion does  
4333 not apply. Upon such notice, the state board and the department  
4334 shall notify the presiding officers of the Legislature.

4335 Section 38. Except as otherwise expressly provided in this  
4336 act, this act shall take effect June 30, 2011.