

By the Committee on Governmental Oversight and Accountability;  
and Senator Ring

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

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

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59 the member's retirement account; providing that a  
60 member who obtains a refund of contributions waives  
61 certain rights under the Florida Retirement System;  
62 conforming provisions to changes made by the act;  
63 amending s. 121.1001, F.S.; conforming provisions to  
64 changes made by the act; amending s. 121.121, F.S.,  
65 relating to the purchase of creditable service  
66 following an authorized leave of absence; requiring  
67 that service credit be purchased at the employee and  
68 employer contribution rates in effect during the leave  
69 of absence; reducing the interest rate on benefits  
70 payable under the Deferred Retirement Option Program  
71 for employees hired after a certain date; amending s.  
72 121.122, F.S.; providing for renewed membership in the  
73 retirement system for retirees who are reemployed  
74 after a certain date; specifying requirements and  
75 limitations; amending s. 121.125, F.S.; conforming  
76 provisions to changes made by the act; amending s.  
77 121.35, F.S., relating to the optional retirement  
78 program for the State University System; conforming  
79 provisions to changes made by the act; requiring  
80 employee and employer contributions for members  
81 participating in the optional retirement program after  
82 a certain date; deleting certain requirements  
83 governing employer contributions to conform to changes  
84 made by the act; conforming cross-references; amending  
85 s. 121.355, F.S.; conforming provisions to changes  
86 made by the act; amending s. 121.4501, F.S.; changing  
87 the name of the Public Employee Optional Retirement

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

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117 nonvested employer contributions and service credit  
118 based on years of service; amending s. 121.4502, F.S.;  
119 conforming provisions to changes made by the act;  
120 amending s. 121.4503, F.S.; providing for the deposit  
121 of employee contributions into the Florida Retirement  
122 System Contributions Clearing Trust Fund; amending s.  
123 121.571, F.S.; conforming provisions to changes made  
124 by the act; providing requirements for submitting  
125 employee contributions; amending s. 121.591, F.S.;  
126 providing for the forfeiture of nonvested  
127 accumulations upon payment of certain vested benefits;  
128 providing that the distribution payment method  
129 selected by the member or beneficiary is irrevocable  
130 at the time of distribution; prohibiting a  
131 distribution of employee contributions if a qualified  
132 domestic relations order is filed against the member's  
133 account; providing for the distribution of an  
134 employee's contributions if the employee dies before  
135 being vested; providing for the establishment of a  
136 death benefits program in the Florida Retirement  
137 System Trust Fund and the payment of benefits if the  
138 employee dies in the line of duty; conforming  
139 provisions to changes made by the act; amending ss.  
140 121.5911 and 121.70, F.S.; conforming provisions to  
141 changes made by the act; amending s. 121.71, F.S.;  
142 providing for employee contributions to be deducted  
143 from the employee's monthly salary, beginning on a  
144 specified date, and treated as employer contributions  
145 under certain provisions of federal law; clarifying

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146 that an employee may not receive such contributions  
147 directly; providing that employee contributions are  
148 not required if the Florida Retirement System reaches  
149 a certain level of funding; placing a cap based on the  
150 amount of gross compensation on the amount of employee  
151 contributions; specifying the required employer  
152 retirement contribution rates for each membership  
153 class and subclass of the system in order to address  
154 unfunded actuarial liabilities of the system;  
155 requiring an assessment to be imposed if the employee  
156 contributions remitted are less than the amount  
157 required; providing for the employer to receive a  
158 credit for excess contributions remitted; conforming  
159 cross-references; amending s. 121.72, F.S.; revising  
160 certain requirements governing allocations to optional  
161 retirement program member accounts; conforming cross-  
162 references; amending s. 121.73, F.S., relating to  
163 disability coverage for members of the optional  
164 retirement program; conforming provisions to changes  
165 made by the act; amending ss. 121.74, 121.75, and  
166 121.77, F.S.; conforming provisions to changes made by  
167 the act; conforming cross-references; amending s.  
168 121.78, F.S.; revising certain requirements for  
169 administering the payment and distribution of  
170 contributions; requiring that certain fees be imposed  
171 for delinquent payment; providing that an employer is  
172 responsible for recovering any refund provided to an  
173 employee in error; revising the terms of an authorized  
174 waiver of delinquency; requiring an employer to

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175 receive a credit for excess contributions and to  
176 reimburse an employee for excess contributions,  
177 subject to certain limitations; amending s. 1012.875,  
178 F.S.; requiring employee and employer contributions  
179 for members of the State Community College System  
180 Optional Retirement Program on a certain date;  
181 conforming cross-references; providing that the act  
182 fulfills an important state interest; providing a  
183 directive to the Division of Statutory Revision;  
184 requiring the State Board of Administration and the  
185 Department of Management Services to request a private  
186 letter ruling from the United States Internal Revenue  
187 Service regarding this act; authorizing state  
188 universities to develop and implement health benefit  
189 programs for their employees if the costs of such  
190 programs do not exceed current state expenditures;  
191 providing effective dates.

192

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

194

195 Section 1. Paragraph (g) of subsection (2) of section  
196 110.123, Florida Statutes, is amended to read:

197 110.123 State group insurance program.—

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

199 (g) "Retired state officer or employee" or "retiree" means  
200 a any state, or state university, officer or employee who  
201 retires under a state retirement system or a state optional  
202 annuity or retirement program or is placed on disability  
203 retirement, ~~and~~ who was insured under the state group insurance

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204 program at the time of retirement, and who begins receiving  
205 retirement benefits immediately after retirement from state or  
206 state university office or employment. The term also includes ~~In~~  
207 ~~addition to these requirements,~~ any state officer or ~~state~~  
208 employee who retires under the investment plan ~~Public Employee~~  
209 ~~Optional Retirement~~ program established under part II of chapter  
210 121 ~~shall be considered a "retired state officer or employee" or~~  
211 ~~"retiree" as used in this section~~ if he or she:

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

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

216 Section 2. Section 112.0801, Florida Statutes, is amended  
217 to read:

218 112.0801 Group insurance; participation by retired  
219 employees.—

220 ~~(1)~~ Any state agency, county, municipality, special  
221 district, community college, or district school board that ~~which~~  
222 provides life, health, accident, hospitalization, or annuity  
223 insurance, or all of any kinds of such insurance, for its  
224 officers and employees and their dependents upon a group  
225 insurance plan or self-insurance plan shall allow all former  
226 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as  
227 well as those who retire on or after such date, and their  
228 eligible dependents, the option of continuing to participate in  
229 the ~~such~~ group insurance plan or self-insurance plan. Retirees  
230 and their eligible dependents shall be offered the same health  
231 and hospitalization insurance coverage as is offered to active  
232 employees at a premium cost of no more than the premium cost



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233 applicable to active employees. For ~~the~~ retired employees and  
234 their eligible dependents, the cost of ~~any such~~ continued  
235 participation ~~in any type of plan or any of the cost thereof~~ may  
236 be paid by the employer or by the retired employees. To  
237 determine health and hospitalization plan costs, the employer  
238 shall commingle the claims experience of the retiree group with  
239 the claims experience of the active employees; and, for other  
240 types of coverage, the employer may commingle the claims  
241 experience of the retiree group with the claims experience of  
242 active employees. Retirees covered under Medicare may be  
243 experience-rated separately from the retirees not covered by  
244 Medicare and from active employees if, ~~provided that~~ the total  
245 premium does not exceed that of the active group and coverage is  
246 basically the same as for the active group.

247 ~~(2)~~ For purposes of this section, the term "retiree" has  
248 the same meaning as in s. 110.123(2) ~~means any officer or~~  
249 ~~employee who retires under a state retirement system or a state~~  
250 ~~optional annuity or retirement program or is placed on~~  
251 ~~disability retirement and who begins receiving retirement~~  
252 ~~benefits immediately after retirement from employment. In~~  
253 ~~addition to these requirements, any officer or employee who~~  
254 ~~retires under the Public Employee Optional Retirement Program~~  
255 ~~established under part II of chapter 121 shall be considered a~~  
256 ~~"retired officer or employee" or "retiree" as used in this~~  
257 ~~section if he or she:~~

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

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

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262 Section 3. Paragraphs (b) and (c) of subsection (2) and  
263 paragraph (e) of subsection (3) of section 112.363, Florida  
264 Statutes, are amended to read:

265 112.363 Retiree health insurance subsidy.—

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

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

272 1. For a member participant of the investment plan Public  
273 ~~Employee Optional Retirement program~~ established under part II  
274 of chapter 121, the member participant meets the age or service  
275 requirements to qualify for normal retirement as set forth in s.  
276 121.021(29) and meets the definition of retiree in s.  
277 121.4501(2).

278 2. For a member of the pension plan Florida Retirement  
279 ~~System defined benefit program~~, or any employee who maintains  
280 creditable service under ~~both~~ the pension plan and the  
281 investment plan defined benefit program ~~and the Public Employee~~  
282 ~~Optional Retirement program~~, the member begins drawing  
283 retirement benefits from the pension plan defined benefit  
284 ~~program of the Florida Retirement System.~~

285 (c) ~~1.~~ Effective July 1, 2001, any person retiring on or  
286 after that ~~such~~ date as a member of the Florida Retirement  
287 System, including a member any participant of the investment  
288 plan defined contribution program administered pursuant to part  
289 II of chapter 121, must have satisfied the vesting requirements  
290 for his or her membership class under the pension plan Florida

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291 ~~Retirement System defined benefit program~~ as administered under  
292 part I of chapter 121. However,

293 ~~2. Notwithstanding the provisions of subparagraph 1.,~~ a  
294 person retiring due to disability must ~~either~~ qualify for a  
295 regular or in-line-of-duty disability benefit as provided in s.  
296 121.091(4) or qualify for a disability benefit under a  
297 disability plan established under part II of chapter 121, as  
298 appropriate.

299 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

300 (e)1. Beginning July 1, 2001, each eligible retiree of the  
301 pension plan ~~defined benefit program~~ of the Florida Retirement  
302 System, or, if the retiree is deceased, his or her beneficiary  
303 who is receiving a monthly benefit from such retiree's account  
304 and who is a spouse, or a person who meets the definition of  
305 joint annuitant in s. 121.021~~(28)~~, shall receive a monthly  
306 retiree health insurance subsidy payment equal to the number of  
307 years of creditable service, as defined in s. 121.021~~(17)~~,  
308 completed at the time of retirement multiplied by \$5; however,  
309 an ~~no~~ eligible retiree or beneficiary may not receive a subsidy  
310 payment of more than \$150 or less than \$30. If there are  
311 multiple beneficiaries, the total payment may ~~must~~ not be  
312 greater than the payment to which the retiree was entitled. The  
313 health insurance subsidy amount payable to any person receiving  
314 the retiree health insurance subsidy payment on July 1, 2001,  
315 may ~~shall~~ not be reduced solely by operation of this  
316 subparagraph.

317 2. Beginning July 1, 2002, each eligible member participant  
318 of the investment plan under part II of chapter 121 ~~Public~~  
319 ~~Employee Optional Retirement program of the Florida Retirement~~

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320 ~~System~~ who has met the requirements of this section, or, if the  
 321 member participant is deceased, his or her spouse who is the  
 322 member's participant's designated beneficiary, shall receive a  
 323 monthly retiree health insurance subsidy payment equal to the  
 324 number of years of creditable service, as provided in this  
 325 subparagraph, completed at the time of retirement, multiplied by  
 326 \$5; however, an ~~no~~ eligible retiree or beneficiary may not  
 327 receive a subsidy payment of more than \$150 or less than \$30.  
 328 For purposes of determining a member's participant's creditable  
 329 service used to calculate the health insurance subsidy, the  
 330 member's a participant's years of service credit or fraction  
 331 thereof must ~~shall~~ be based on the member's participant's work  
 332 year as defined in s. 121.021(54). Credit must ~~shall~~ be awarded  
 333 for a full work year if ~~whenever~~ health insurance subsidy  
 334 contributions have been made ~~as required by law~~ for each month  
 335 in the member's participant's work year. In addition, all years  
 336 of creditable service retained under the Florida Retirement  
 337 System pension plan must ~~defined benefit program~~ shall be  
 338 included as creditable service for purposes of this section.  
 339 Notwithstanding any other provision in this section ~~to the~~  
 340 ~~contrary~~, the spouse at the time of death is ~~shall be~~ the  
 341 member's participant's beneficiary unless such member  
 342 ~~participant~~ has designated a different beneficiary subsequent to  
 343 the member's participant's most recent marriage.

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

346 112.65 Limitation of benefits.—

347 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit  
 348 or pension payable to a retiree who becomes a member of a any

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349 retirement system or plan and who has not previously  
350 participated in such plan, on or after January 1, 1980, may  
351 ~~shall~~ not exceed 100 percent of his or her average final  
352 compensation. However, ~~nothing contained in this section~~ does  
353 not shall apply to supplemental retirement benefits or to  
354 pension increases attributable to cost-of-living increases or  
355 adjustments. For the purposes of this section, benefits accruing  
356 in individual member participant accounts established under the  
357 investment plan ~~Public Employee Optional Retirement program~~  
358 established in part II of chapter 121 are considered  
359 supplemental benefits. As used in this section, the term  
360 "average final compensation" means the average of the member's  
361 earnings over a period of time which the governmental entity  
362 establishes ~~has established~~ by statute, charter, or ordinance.

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

365 121.011 Florida Retirement System.—

366 (3) PRESERVATION OF RIGHTS.—

367 (h) Effective July 1, 2011, the retirement system shall  
368 require employee and employer contributions as provided in s.  
369 121.071 and part III of this chapter. Notwithstanding any other  
370 provision of law, the amount of employee retirement  
371 contributions for any member of the Regular Class or Special  
372 Risk Class may not exceed 2 percent of such member's annual  
373 compensation and the amount of employee retirement contributions  
374 for any member of the Senior Management Service Class or Elected  
375 Officers Class may not exceed 4 percent of such member's annual  
376 compensation.

377 Section 6. Subsection (3), paragraph (a) of subsection

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378 (19), paragraphs (a) and (b) of subsection (22), and subsections  
379 (24), (45), (55), and (59) of section 121.021, Florida Statutes,  
380 are amended, and present paragraphs (c) and (d) of subsection  
381 (22) of that section are redesignated as paragraphs (d) and (e),  
382 respectively, to read:

383 121.021 Definitions.—The following words and phrases as  
384 used in this chapter have the respective meanings set forth  
385 unless a different meaning is plainly required by the context:

386 (3) “Florida Retirement System” or “system” means the  
387 general retirement system established by this chapter, ~~to be~~  
388 ~~known and cited as the “Florida Retirement System,”~~ including,  
389 but not limited to, the defined benefit ~~retirement program or~~  
390 pension plan administered under ~~the provisions of part I of this~~  
391 part chapter and the defined contribution ~~retirement program or~~  
392 investment plan ~~known as the Public Employee Optional Retirement~~  
393 ~~Program and~~ administered under ~~the provisions of part II of this~~  
394 chapter.

395 (19) “Prior service” ~~under this chapter~~ means:

396 (a) Service for which the member had credit under one of  
397 the existing systems and received a refund of his or her  
398 contributions upon termination of employment. Prior service  
399 ~~shall also include~~ include ~~that service between December 1,~~  
400 ~~1970, and the date the system becomes noncontributory~~ for which  
401 the member had credit under the Florida Retirement System and  
402 received a refund of his or her contributions upon termination  
403 of employment.

404 (22) “Compensation” means the monthly salary paid a member  
405 by his or her employer for work performed arising from that  
406 employment.

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407           (a) For service earned before July 1, 2011, compensation  
408 includes ~~shall include~~:

409           1. Overtime payments paid from a salary fund.

410           2. Accumulated annual leave payments.

411           3. Payments in addition to the employee's base rate of pay  
412 if ~~all~~ the following apply:

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

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

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

419           d. The payments are paid at least annually.

420           4. Amounts withheld for tax sheltered annuities or deferred  
421 compensation programs, or any other type of salary reduction  
422 plan authorized under the Internal Revenue Code.

423           5. Payments made in lieu of a permanent increase in the  
424 base rate of pay, whether made annually or in 12 or 26 equal  
425 payments within a 12-month period, if ~~when~~ the member's base pay  
426 is at the maximum of his or her pay range. If ~~When~~ a portion of  
427 a member's annual increase raises his or her pay range and the  
428 excess is paid as a lump sum payment, the ~~such~~ lump sum payment  
429 is considered ~~shall be~~ compensation for retirement purposes.

430           (b) For service earned on or after July 1, 2011,  
431 compensation includes:

432           1. Overtime payments paid from a salary fund, not to exceed  
433 300 hours.

434           2. Payments in addition to the employee's base rate of pay  
435 if the following apply:

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- 436       a. The payments are paid according to a formal written  
437 policy that applies to all eligible employees equally;
- 438       b. The policy provides that payments shall commence by 11th  
439 year of employment; and
- 440       c. The payments are paid at least annually.
- 441       3. Amounts withheld for tax sheltered annuities, deferred  
442 compensation programs, or any other type of salary reduction  
443 plan authorized under the Internal Revenue Code.
- 444       4. Payments made in lieu of a permanent increase in the  
445 base rate of pay, whether made annually or in 12 or 26 equal  
446 payments within a 12-month period, if the member's base pay is  
447 at the maximum of his or her pay range. If a portion of a  
448 member's annual increase raises his or her pay range and the  
449 excess is paid as a lump sum payment, such lump sum payment is  
450 compensation for retirement purposes.
- 451       ~~(c) (b) Under no circumstances shall~~ Compensation for a  
452 member participating in the pension plan ~~defined benefit~~  
453 ~~retirement program~~ or the investment plan ~~Public Employee~~  
454 ~~Optional Retirement Program~~ of the Florida Retirement System may  
455 not include:
- 456       1. Fees paid professional persons for special or particular  
457 services or ~~include~~ salary payments made from a faculty practice  
458 plan authorized by the Board of Governors of the State  
459 University System for eligible clinical faculty at a college in  
460 a state university that has a faculty practice plan; or
- 461       2. Any bonuses or other payments prohibited from inclusion  
462 in the member's average final compensation ~~and defined in~~  
463 ~~subsection (47).~~
- 464       (24) "Average final compensation" means the average of the



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465 5 highest fiscal years of compensation for creditable service  
466 prior to retirement, termination, or death. For in-line-of-duty  
467 disability benefits, if less than 5 years of creditable service  
468 have been completed, the term "~~average final compensation~~" means  
469 the average annual compensation of the total number of years of  
470 creditable service. Each year used to calculate ~~in the~~  
471 ~~calculation of~~ average final compensation commences ~~shall~~  
472 ~~commence~~ on July 1.

473 (a) For service earned before July 1, 2011:

474 1. The average final compensation includes ~~shall include~~:

475 a.1. ~~Accumulated annual leave payments, not to exceed 500~~  
476 hours; and

477 b.2. ~~All payments defined as compensation under this~~  
478 section in subsection (22).

479 2. ~~(b)~~ The average final compensation does ~~shall~~ not  
480 include:

481 a.1. ~~Compensation paid to professional persons for special~~  
482 or particular services;

483 b.2. ~~Payments for accumulated sick leave made due to~~  
484 retirement or termination;

485 c.3. ~~Payments for accumulated annual leave in excess of 500~~  
486 hours;

487 d.4. ~~Bonuses as defined in subsection (47);~~

488 e.5. ~~Third-party~~ Third party payments made on and after  
489 July 1, 1990; or

490 f.6. ~~Fringe benefits, such as (for example, automobile~~  
491 allowances or housing allowances).

492 (b) For service earned on or after July 1, 2011:

493 1. The average final compensation includes all payments

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494 defined as compensation under this section.

495 2. The average final compensation does not include:

496 a. Compensation paid to professional persons for special or  
497 particular services;

498 b. Payments for accumulated sick leave made due to  
499 retirement or termination;

500 c. Payments for accumulated annual leave;

501 (d) Overtime payments paid from a salary fund in excess of  
502 300 hours;

503 e. Bonuses;

504 f. Third-party payments made on and after July 1, 1990; or

505 g. Fringe benefits, such as automobile allowances or  
506 housing allowances.

507 (45)~~(a)~~ "Vested" or "vesting" means the guarantee that a  
508 member is eligible to receive a future retirement benefit upon  
509 completion of the required years of creditable service for the  
510 employee's class of membership, even though the member may have  
511 terminated covered employment before reaching normal or early  
512 retirement date. Being vested does not entitle a member to a  
513 disability benefit. Provisions governing entitlement to  
514 disability benefits are set forth under s. 121.091(4).

515 ~~(a)~~ (b) Effective July 1, 2001, a 6-year vesting requirement  
516 shall be implemented for the ~~defined benefit program of the~~  
517 Florida Retirement System's pension plan System. Pursuant  
518 ~~thereto~~:

519 1. Any member employed in a regularly established position  
520 on July 1, 2001, who completes or has completed a total of 6  
521 years of creditable service is ~~shall be considered~~ vested as  
522 ~~described in paragraph (a)~~.

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523           2. Any member not employed in a regularly established  
524 position on July 1, 2001, shall be deemed vested upon completion  
525 of 6 years of creditable service ~~if, provided that~~ such member  
526 is employed in a covered position for at least 1 work year after  
527 July 1, 2001. However, a ~~no~~ member may not ~~shall~~ be required to  
528 complete more years of creditable service than would have been  
529 required for that member to vest under retirement laws in effect  
530 before July 1, 2001.

531           (b) Effective July 1, 2011, an 8-year vesting requirement  
532 shall be implemented for the Florida Retirement System's pension  
533 plan.

534           1. Any member employed in a regularly established position  
535 on July 1, 2011, who completes or has completed a total of 8  
536 years of creditable service is vested.

537           2. Any member not employed in a regularly established  
538 position on July 1, 2011, shall be deemed vested upon completion  
539 of 8 years of creditable service if such member is employed in a  
540 covered position for at least 1 work year after July 1, 2011.  
541 However, a member may not be required to complete more years of  
542 creditable service than would have been required for that member  
543 to vest under retirement laws in effect before July 1, 2011.

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

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

550           Section 7. Paragraphs (b), (c), and (d) of subsection (2)  
551 of section 121.051, Florida Statutes, are amended, present

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552 paragraphs (e) and (f) of that subsection are redesignated as  
553 subsections (f) and (g), respectively, a new paragraph (e) is  
554 added to that subsection, and subsection (3) of that section is  
555 amended, to read:

556 121.051 Participation in the system.—

557 (2) OPTIONAL PARTICIPATION.—

558 (b)1. The governing body of any municipality, metropolitan  
559 planning organization, or special district in the state may  
560 elect to participate in the Florida Retirement System upon  
561 proper application to the administrator and may cover all ~~or any~~  
562 of its units as approved by the Secretary of Health and Human  
563 Services and the administrator. The department shall adopt rules  
564 establishing procedures ~~provisions~~ for the submission of  
565 documents necessary for such application. Before ~~Prior to~~ being  
566 approved for participation ~~in the Florida Retirement System~~, the  
567 governing body of a ~~any such~~ municipality, metropolitan planning  
568 organization, or special district that has a local retirement  
569 system must ~~shall~~ submit to the administrator a certified  
570 financial statement showing the condition of the local  
571 retirement system ~~as of a date~~ within 3 months before ~~prior to~~  
572 the proposed effective date of membership in the ~~Florida~~  
573 ~~Retirement~~ system. The statement must be certified by a  
574 recognized accounting firm that is independent of the local  
575 retirement system. All required documents ~~necessary for~~  
576 ~~extending Florida Retirement System coverage~~ must be received by  
577 the department for consideration at least 15 days before ~~prior~~  
578 ~~to~~ the proposed effective date of coverage. If the governing  
579 body ~~municipality, metropolitan planning organization, or~~  
580 ~~special district~~ does not comply with this requirement, the

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581 department may require that the effective date of coverage be  
582 changed.

583 2. A municipality ~~Any city~~, metropolitan planning  
584 organization, or special district that has an existing  
585 retirement system covering the employees in the units that are  
586 to be brought under the Florida Retirement System may  
587 participate only after holding a referendum in which all  
588 employees in the affected units have the right to participate.  
589 Only those employees electing coverage under the Florida  
590 Retirement System by affirmative vote in the said referendum are  
591 ~~shall be~~ eligible for coverage under this chapter, and those not  
592 participating or electing not to be covered by the Florida  
593 Retirement System shall remain in their present systems and are  
594 ~~shall not be~~ eligible for coverage under this chapter. After the  
595 referendum is held, all future employees are ~~shall be~~ compulsory  
596 members of the Florida Retirement System.

597 3. At the time of joining the Florida Retirement System,  
598 the governing body of a municipality ~~any city~~, metropolitan  
599 planning organization, or special district complying with  
600 subparagraph 1. may elect to provide, or not provide, benefits  
601 based on past service of officers and employees as described in  
602 s. 121.081(1). However, if such employer elects to provide past  
603 service benefits, such benefits must be provided for all  
604 officers and employees of its covered group.

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

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610           5. Subject to ~~the conditions set forth in~~ subparagraph 6.,  
611 the governing body of a any hospital licensed under chapter 395  
612 which is governed by the board of a special district as defined  
613 in s. 189.403~~(1)~~ or by the board of trustees of a public health  
614 trust created under s. 154.07, hereinafter referred to as  
615 "hospital district," and which participates in the Florida  
616 Retirement System, may elect to cease participation in the  
617 system with regard to future employees in accordance with the  
618 following ~~procedure~~:

619           a. No more than 30 days and at least 7 days before  
620 adopting a resolution to partially withdraw from the ~~Florida~~  
621 ~~Retirement~~ system and establish an alternative retirement plan  
622 for future employees, a public hearing must be held on the  
623 proposed withdrawal and proposed alternative plan.

624           b. From 7 to 15 days before such hearing, notice of intent  
625 to withdraw, specifying the time and place of the hearing, must  
626 be provided in writing to employees of the hospital district  
627 proposing partial withdrawal and must be published in a  
628 newspaper of general circulation in the area affected, as  
629 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~  
630 ~~notice shall~~ be submitted to the department ~~of Management~~  
631 Services.

632           c. The governing body of a any hospital district seeking to  
633 partially withdraw from the system must, before such hearing,  
634 have an actuarial report prepared and certified by an enrolled  
635 actuary, as defined in s. 112.625~~(3)~~, illustrating the cost to  
636 the hospital district of providing, through the retirement plan  
637 that the hospital district is to adopt, benefits for new  
638 employees comparable to those provided under the ~~Florida~~

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639 Retirement system.

640 d. Upon meeting all applicable requirements of this  
641 subparagraph, and subject to ~~the conditions set forth in~~  
642 subparagraph 6., partial withdrawal from the system and adoption  
643 of the alternative retirement plan may be accomplished by  
644 resolution ~~duly~~ adopted by the hospital district board. The  
645 hospital district board must provide written notice of such  
646 withdrawal to the Division of Retirement by mailing a copy of  
647 the resolution to the division, postmarked by ~~no later than~~  
648 December 15, 1995. The withdrawal shall take effect January 1,  
649 1996.

650 6. Following the adoption of a resolution under sub-  
651 subparagraph 5.d., all employees of the withdrawing hospital  
652 district who were members of ~~participants in~~ the Florida  
653 Retirement system before ~~prior to~~ January 1, 1996, shall remain  
654 as members of ~~participants in~~ the system for as long as they are  
655 employees of the hospital district, and all rights, duties, and  
656 obligations between the hospital district, the system, and the  
657 employees ~~shall~~ remain in full force and effect. Any employee  
658 who is hired or appointed on or after January 1, 1996, may not  
659 participate in the ~~Florida Retirement~~ system, and the  
660 withdrawing hospital district has ~~shall have~~ no obligation to  
661 the system with respect to such employees.

662 (c) Employees of public community colleges or charter  
663 technical career centers sponsored by public community colleges,  
664 designated in s. 1000.21(3), who are members of the Regular  
665 Class of the Florida Retirement System and who comply with the  
666 criteria set forth in this paragraph and s. 1012.875 may, in  
667 lieu of participating in the Florida Retirement System, elect to

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668 withdraw from the system altogether and participate in the State  
669 Community College System Optional Retirement Program provided by  
670 the employing agency under s. 1012.875.

671 1. Through June 30, 2001, the cost to the employer for a  
672 benefit under the optional retirement program ~~such annuity~~  
673 equals the normal cost portion of the employer retirement  
674 contribution which would be required if the employee were a  
675 member of the Regular Class pension plan ~~defined benefit~~  
676 ~~program~~, plus the portion of the contribution rate required by  
677 s. 112.363(8) which would otherwise be assigned to the Retiree  
678 Health Insurance Subsidy Trust Fund. Effective July 1, 2001,  
679 each employer shall contribute on behalf of each member of  
680 ~~participant in~~ the optional program an amount equal to 10.43  
681 percent of the employee's ~~participant's~~ gross monthly  
682 compensation. The employer shall deduct an amount for the  
683 administration of the program. The employer shall contribute an  
684 additional amount to the Florida Retirement System Trust Fund  
685 equal to the unfunded actuarial accrued liability portion of the  
686 Regular Class contribution rate.

687 2. The decision to participate in the ~~an~~ optional  
688 retirement program is irrevocable as long as the employee holds  
689 a position eligible for participation, except as provided in  
690 subparagraph 3. Any service creditable under the Florida  
691 Retirement System is retained after the member withdraws from  
692 the system; however, additional service credit in the system may  
693 not be earned while a member of the optional retirement program.

694 3. An employee who has elected to participate in the  
695 optional retirement program shall have one opportunity, at the  
696 employee's discretion, to transfer from the optional retirement



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697 program to the ~~defined benefit program of the Florida Retirement~~  
698 System's pension plan System or to the investment plan  
699 established under part II of this chapter Public Employee  
700 Optional Retirement Program, subject to the terms of the  
701 applicable optional retirement program contracts.

702 a. If the employee chooses to move to the investment plan  
703 ~~Public Employee Optional Retirement~~ program, any contributions,  
704 interest, and earnings creditable to the employee under the  
705 ~~State Community College System~~ optional retirement program are  
706 retained by the employee in the ~~State Community College System~~  
707 optional retirement program, and the applicable provisions of s.  
708 121.4501(4) govern the election.

709 b. If the employee chooses to move to the pension plan  
710 ~~defined benefit program of the Florida Retirement System~~, the  
711 employee shall receive service credit equal to his or her years  
712 of service under the ~~State Community College System~~ optional  
713 retirement program.

714 (I) The cost for such credit is the amount representing the  
715 present value of the employee's accumulated benefit obligation  
716 for the affected period of service. The cost shall be calculated  
717 as if the benefit commencement occurs on the first date the  
718 employee becomes eligible for unreduced benefits, using the  
719 discount rate and other relevant actuarial assumptions that were  
720 used to value the pension Florida Retirement System defined  
721 benefit plan liabilities in the most recent actuarial valuation.  
722 The calculation must include any service already maintained  
723 under the pension defined benefit plan in addition to the years  
724 under the ~~State Community College System~~ optional retirement  
725 program. The present value of any service already maintained

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726 must be applied as a credit to total cost resulting from the  
727 calculation. The division shall ensure that the transfer sum is  
728 prepared using a formula and methodology certified by an  
729 enrolled actuary.

730 (II) The employee must transfer from his or her ~~State~~  
731 ~~Community College System~~ optional retirement program account and  
732 from other employee moneys as necessary, a sum representing the  
733 present value of the employee's accumulated benefit obligation  
734 immediately following the time of such movement, determined  
735 assuming that attained service equals the sum of service in the  
736 pension plan ~~defined benefit program~~ and service in the ~~State~~  
737 ~~Community College System~~ optional retirement program.

738 4. Participation in the optional retirement program is  
739 limited to employees who satisfy the following eligibility  
740 criteria:

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

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

748 (I) Instructional; or

749 (II) Executive Management, Instructional Management, or  
750 Institutional Management and the, ~~if a~~ community college  
751 determines that recruiting to fill a vacancy in the position is  
752 to be conducted in the national or regional market, and the  
753 duties and responsibilities of the position include the  
754 formulation, interpretation, or implementation of policies, or

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755 the performance of functions that are unique or specialized  
756 within higher education and that frequently support the mission  
757 of the community college.

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

761 5. Members of Participants ~~in~~ the program are subject to  
762 the same reemployment limitations, renewed membership  
763 provisions, and forfeiture provisions ~~as are~~ applicable to  
764 regular members of the Florida Retirement System under ss.  
765 121.091(9), 121.122, and 121.091(5), respectively. A member  
766 ~~participant~~ who receives a program distribution funded by  
767 employer contributions is ~~shall be~~ deemed to be retired from a  
768 state-administered retirement system if the retiree ~~participant~~  
769 is subsequently employed with an employer that participates in  
770 the Florida Retirement System.

771 6. Eligible community college employees are compulsory  
772 members of the Florida Retirement System until, pursuant to s.  
773 1012.875, a written election to withdraw from the system and  
774 participate in the ~~State Community College System~~ optional  
775 retirement program is filed with the program administrator and  
776 received by the division.

777 a. A community college employee whose program eligibility  
778 results from initial employment shall ~~must~~ be enrolled in the  
779 ~~State Community College System~~ optional retirement program  
780 retroactive to the first day of eligible employment. The  
781 employer retirement contributions paid through the month of the  
782 employee plan change shall be transferred to the community  
783 college to the employee's optional program account, and,

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784 effective the first day of the next month, the employer shall  
785 pay the applicable contributions based upon subparagraph 1.

786 b. A community college employee whose program eligibility  
787 is due to the subsequent designation of the employee's position  
788 as one of those specified in subparagraph 4., or due to the  
789 employee's appointment, promotion, transfer, or reclassification  
790 to a position specified in subparagraph 4., must be enrolled in  
791 the program on the first day of the first full calendar month  
792 that such change in status becomes effective. The employer  
793 retirement contributions paid from the effective date through  
794 the month of the employee plan change must be transferred to the  
795 community college to the employee's optional program account,  
796 and, effective the first day of the next month, the employer  
797 shall pay the applicable contributions based upon subparagraph  
798 1.

799 7. Effective July 1, 2003, through December 31, 2008, any  
800 member ~~participant~~ of the ~~State Community College System~~  
801 optional retirement program who has service credit in the  
802 pension ~~defined benefit~~ plan of the Florida Retirement System  
803 for the period between his or her first eligibility to transfer  
804 from the pension ~~defined benefit~~ plan to the optional retirement  
805 program and the actual date of transfer may, during employment,  
806 transfer to the optional retirement program a sum representing  
807 the present value of the accumulated benefit obligation under  
808 the pension plan ~~defined benefit retirement program~~ for the  
809 period of service credit. Upon transfer, all service credit  
810 previously earned under the pension plan ~~defined benefit program~~  
811 ~~of the Florida Retirement System~~ during this period is nullified  
812 for purposes of entitlement to a future benefit under the

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813 ~~pension plan defined benefit program of the Florida Retirement~~  
814 ~~System.~~

815 (d) The governing body of a charter school or a charter  
816 technical career center may elect to participate in the system  
817 upon proper application to the administrator and shall cover its  
818 units as approved by the Secretary of Health and Human Services  
819 and the administrator. At the time of joining the Florida  
820 Retirement System, but before July 1, 2011, the governing body  
821 of the charter school may elect to provide, or not provide,  
822 benefits based on the past service of officers and employees as  
823 described in s. 121.081(1). Once this election is made and  
824 approved, it may not be revoked, and all present officers and  
825 employees selecting coverage under this chapter and all future  
826 officers and employees shall be compulsory members of the  
827 Florida Retirement System.

828 (e) All eligible employees initially enrolled on or after  
829 July 1, 2011, except those who are eligible to and elect to  
830 enroll in an optional retirement program established under s.  
831 121.055(6), s. 121.35, or s. 1012.875, become compulsory members  
832 of the investment plan and membership in the pension plan is not  
833 permitted. Employees initially enrolled on or after July 1,  
834 2011, may not use the election opportunity specified in s.  
835 121.4501(4)(e).

836 (3) SOCIAL SECURITY COVERAGE.—Social security coverage  
837 shall be provided for all officers and employees who become  
838 members under ~~the provisions of~~ subsection (1) or subsection  
839 (2). Any modification of the present agreement with the Social  
840 Security Administration, or referendum required under the Social  
841 Security Act, for the purpose of providing social security

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842 coverage for any member shall be requested by the state agency  
843 in compliance with the applicable provisions of the Social  
844 Security Act governing such coverage. However, retroactive  
845 social security coverage for service ~~prior to December 1, 1970,~~  
846 with the employer before December 1, 1970, may ~~shall~~ not be  
847 provided for a a ~~any~~ member who was not covered under the  
848 agreement as of November 30, 1970.

849 Section 8. Paragraph (b) of subsection (5), paragraph (a)  
850 of subsection (7), and paragraph (c) of subsection (9) of  
851 section 121.0515, Florida Statutes, are amended to read:

852 121.0515 Special risk membership.—

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

859 (b) Contributions for upgrading the additional special risk  
860 credit are ~~pursuant to this subsection shall be~~ equal to the  
861 difference in the employer and, if applicable, employee  
862 contributions paid and the special risk percentage rate of gross  
863 salary in effect at the time of purchase for the period being  
864 claimed, plus interest thereon at the rate of 4 percent a year  
865 compounded annually from the date of such service until July 1,  
866 1975, and 6.5 percent a year thereafter until the date of  
867 payment. ~~This~~ Past service may be purchased by the member or by  
868 the employer on behalf of the member.

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

870 (a) A special risk member who is moved or reassigned to a

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871 nonspecial risk law enforcement, firefighting, correctional, or  
872 emergency medical care administrative support position within  
873 ~~with~~ the same agency, or who is subsequently employed in such a  
874 position with any law enforcement, firefighting, correctional,  
875 or emergency medical care agency under the Florida Retirement  
876 System, shall participate in the Special Risk Administrative  
877 Support Class and ~~shall~~ earn credit for such service at the same  
878 percentage rate as that earned by a regular member.

879 Notwithstanding ~~the provisions of~~ subsection (4), service in  
880 ~~such~~ an administrative support position ~~shall~~, for purposes of  
881 s. 121.091, applies ~~apply~~ toward satisfaction of the special  
882 risk normal retirement date, as defined in s. 121.021~~(29)(b)~~ if,  
883 ~~provided that~~, while in such position, the member remains  
884 certified as a law enforcement officer, firefighter,  
885 correctional officer, emergency medical technician, or  
886 paramedic; remains subject to reassignment at any time to a  
887 position qualifying for special risk membership; and completes  
888 an aggregate of 6 or more years of service as a designated  
889 special risk member before ~~prior to~~ retirement.

890 (9) CREDIT FOR UPGRADED SERVICE.—

891 (c) Any member of the Special Risk Class who has earned  
892 creditable service in another membership class of the Florida  
893 Retirement System in a position with the Department of Law  
894 Enforcement or the Division of State Fire Marshal and became  
895 covered by the Special Risk Class as described in paragraph  
896 (2) (i), or with a local government law enforcement agency or  
897 medical examiner's office and became covered by the Special Risk  
898 Class as described in paragraph (2) (j), which service is within  
899 the purview of the Special Risk Class, and is employed in such

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900 position on or after July 1, 2008, may purchase additional  
901 retirement credit to upgrade such service to Special Risk Class  
902 service, to the extent of the percentages of the member's  
903 average final compensation provided in s. 121.091(1)(a)2. The  
904 cost for such credit must ~~shall~~ be an amount representing the  
905 actuarial accrued liability for the difference in accrual value  
906 during the affected period of service. The cost shall be  
907 calculated using the discount rate and other relevant actuarial  
908 assumptions that were used to value the Florida Retirement  
909 System's pension ~~System defined benefit~~ plan liabilities in the  
910 most recent actuarial valuation. The Division of Retirement  
911 shall ensure that the transfer sum is prepared using a formula  
912 and methodology certified by an enrolled actuary. The cost must  
913 be paid immediately upon notification by the division. The local  
914 government employer may purchase the upgraded service credit on  
915 behalf of the member if the member has been employed by that  
916 employer for at least 3 years.

917 Section 9. Paragraphs (a) and (d) of subsection (4) and  
918 paragraph (b) of subsection (7) of section 121.052, Florida  
919 Statutes, are amended, present paragraph (c) of subsection (7)  
920 of that section is redesignated as paragraph (d), a new  
921 paragraph (c) is added to that subsection, and subsection (8) of  
922 that section is amended, to read:

923 121.052 Membership class of elected officers.—

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

926 (a) An ~~Any~~ ~~duly~~ elected officer whose term of office was  
927 shortened by legislative or judicial apportionment pursuant to  
928 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,



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929 after the term of office to which he or she was elected is  
930 completed, pay into the Florida Retirement System Trust Fund the  
931 amount of contributions that would have been made by the officer  
932 or the officer's employer on his or her behalf, plus 4 percent  
933 interest compounded annually from the date he or she left office  
934 until July 1, 1975, and 6.5 percent interest compounded annually  
935 thereafter, and may receive service credit for the length of  
936 time the officer would have served if such term had not been  
937 shortened by apportionment.

938 (d)1. Any justice or judge, or any retired justice or judge  
939 who retired before July 1, 1993, who has attained the age of 70  
940 years and who is prevented under s. 8, Art. V of the State  
941 Constitution from completing his or her term of office because  
942 of age may elect to purchase credit for all or a portion of the  
943 months he or she would have served during the remainder of the  
944 term of office; however, ~~but~~ he or she may claim those months  
945 only after the date the service would have occurred. The justice  
946 or judge must pay into the Florida Retirement System Trust Fund  
947 the amount of contributions that would have been made by the  
948 employer on his or her behalf for the period of time being  
949 claimed, plus 6.5 percent interest thereon compounded each June  
950 30 from the date he or she left office, in order to receive  
951 service credit in this class for the period of time being  
952 claimed. After the date the service would have occurred, and  
953 upon payment of the required contributions, the retirement  
954 benefit of a retired justice or judge shall ~~will~~ be adjusted  
955 prospectively to include the ~~this~~ additional creditable service;  
956 however, such adjustment may be made only once.

957 2. Any justice or judge who does not seek election to a

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958 subsequent term of office because he or she would be prevented  
959 under s. 8, Art. V of the State Constitution from completing  
960 such term of office upon attaining the age of 70 years may elect  
961 to purchase service credit for service as a temporary judge as  
962 assigned by the court if the temporary assignment ~~follows~~  
963 immediately follows the last full term of office served and the  
964 purchase is limited to the number of months of service needed to  
965 vest retirement benefits. To receive retirement credit for ~~such~~  
966 temporary service beyond termination, the justice or judge must  
967 pay into the Florida Retirement System Trust Fund the amount of  
968 contributions that would have been made by the justice or judge  
969 and the employer on his or her behalf had he or she continued in  
970 office for the period of time being claimed, plus 6.5 percent  
971 interest thereon compounded each June 30 from the date he or she  
972 left office.

973 (7) CONTRIBUTIONS.—

974 (b) The employer paying the salary of a member of the  
975 Elected Officers' Class shall contribute an amount as specified  
976 in this subsection or s. 121.71, as appropriate, which shall  
977 constitute the ~~entire~~ employer retirement contribution with  
978 respect to such member. The employer shall also withhold one-  
979 half of the entire contribution of the member required for  
980 social security coverage. Effective July 1, 2011, members of the  
981 Elected Officers' Class shall pay retirement contributions as  
982 specified in s. 121.71.

983 (c) If a member of the Elected Officers' Class ceases to  
984 fill an office covered by this class for 3 calendar months for  
985 any reason other than retirement and has not been employed in  
986 any capacity with any participating employer for 3 calendar

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987 months, the member is entitled to receive a refund of all  
988 contributions he or she made to the pension plan, subject to the  
989 restrictions otherwise provided in this chapter. Partial refunds  
990 are not permitted. The refund may not include any interest  
991 earnings on contributions to the pension plan. Employer  
992 contributions made on behalf of the member are not refundable. A  
993 member may not receive a refund of employee contributions if a  
994 pending or an approved qualified domestic relations order is  
995 filed against the member's retirement account. By obtaining a  
996 refund of contributions, a member waives all rights under the  
997 Florida Retirement System, including the health insurance  
998 subsidy under this subsection, to the service credit represented  
999 by the refunded contributions, except the right to purchase  
1000 prior service credit in accordance with s. 121.081(2).

1001 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member  
1002 of the Elected Officers' Class has ~~shall have~~ the same normal  
1003 retirement date as defined in s. 121.021~~(29)~~ for a member of the  
1004 regular class of the Florida Retirement System. A ~~Any~~ public  
1005 service commissioner who was removed from the Elected State  
1006 Officers' Class on July 1, 1979, after attaining at least 8  
1007 years of creditable service in that class is ~~shall be~~ considered  
1008 to have reached the normal retirement date upon attaining the  
1009 required age as provided ~~62 as required~~ in s. 121.021(29)~~(a)~~.

1010 Section 10. Paragraph (a) of subsection (7) of section  
1011 121.053, Florida Statutes, is amended to read:

1012 121.053 Participation in the Elected Officers' Class for  
1013 retired members.—

1014 (7) A member who is elected or appointed to an elective  
1015 office and who is participating in the Deferred Retirement

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1016 Option Program is not subject to termination as defined in s.  
1017 121.021, or reemployment limitations as provided in s.  
1018 121.091(9), until the end of his or her current term of office  
1019 or, if the officer is consecutively elected or reelected to an  
1020 elective office eligible for coverage under the Florida  
1021 Retirement System, until he or she no longer holds an elective  
1022 office, as follows:

1023 (a) At the end of the 60-month DROP period:

1024 1. The officer's DROP account may not accrue additional  
1025 monthly benefits, but does continue to earn interest as provided  
1026 in s. 121.091(13). However, an officer whose DROP participation  
1027 begins on or after July 1, 2010, may not continue to earn such  
1028 interest.

1029 2. Retirement contributions are not required of the officer  
1030 or the employer of the elected officer and additional retirement  
1031 credit may not be earned under the Florida Retirement System.

1032 Section 11. Paragraphs (b) and (j) of subsection (1),  
1033 paragraph (b) of subsection (3), and paragraphs (c), (d), and  
1034 (e) of subsection (6) of section 121.055, Florida Statutes, are  
1035 amended, present paragraph (c) of subsection (3) of that section  
1036 is redesignated as paragraph (d), and a new paragraph (c) is  
1037 added to that subsection, to read:

1038 121.055 Senior Management Service Class.—There is hereby  
1039 established a separate class of membership within the Florida  
1040 Retirement System to be known as the "Senior Management Service  
1041 Class," which shall become effective February 1, 1987.

1042 (1)

1043 (b)1. Except as provided in subparagraph 2., effective  
1044 January 1, 1990, participation in the Senior Management Service

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1045 Class is ~~shall be~~ compulsory for the president of each community  
1046 college, the manager of each participating city or county, and  
1047 all appointed district school superintendents. Effective January  
1048 1, 1994, additional positions may be designated for inclusion in  
1049 the Senior Management Service Class if ~~of the Florida Retirement~~  
1050 ~~System, provided that:~~

1051 a. Positions to be included in the class are ~~shall be~~  
1052 designated by the local agency employer. Notice of intent to  
1053 designate positions for inclusion in the class must ~~shall~~ be  
1054 published once a week for 2 consecutive weeks in a newspaper of  
1055 general circulation published in the county or counties  
1056 affected, as provided under ~~in~~ chapter 50.

1057 b. Up to 10 nonelective full-time positions may be  
1058 designated for each local agency employer reporting to the  
1059 department ~~of Management Services~~; for local agencies with 100  
1060 or more regularly established positions, additional nonelective  
1061 full-time positions may be designated, up to ~~not to exceed~~ 1  
1062 percent of the regularly established positions within the  
1063 agency.

1064 c. Each position added to the class must be a managerial or  
1065 policymaking position filled by an employee who is not subject  
1066 to continuing contract and serves at the pleasure of the local  
1067 agency employer without civil service protection, and who:

1068 (I) Heads an organizational unit; or

1069 (II) Has responsibility to effect or recommend personnel,  
1070 budget, expenditure, or policy decisions in his or her areas of  
1071 responsibility.

1072 2. In lieu of participation in the Senior Management  
1073 Service Class, members of the ~~Senior Management Service class,~~

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1074 pursuant to ~~the provisions of~~ subparagraph 1., may withdraw from  
1075 the Florida Retirement System altogether. The decision to  
1076 withdraw from the ~~Florida Retirement~~ system ~~is shall be~~  
1077 irrevocable ~~for~~ as long as the employee holds the ~~such a~~  
1078 position. Any service creditable under the Senior Management  
1079 Service Class shall be retained after the member withdraws from  
1080 the ~~Florida Retirement~~ system; however, additional service  
1081 credit in the Senior Management Service Class ~~may shall~~ not be  
1082 earned after such withdrawal. Such members are ~~shall~~ not be  
1083 eligible to participate in the Senior Management Service  
1084 Optional Annuity Program.

1085 3. Effective January 1, 2006, through June 30, 2006, an  
1086 employee who has withdrawn from the Florida Retirement System  
1087 under subparagraph 2. has one opportunity to elect to  
1088 participate in ~~either~~ the pension plan or investment plan  
1089 ~~defined benefit program or the Public Employee Optional~~  
1090 ~~Retirement Program~~ of the Florida Retirement System.

1091 a. If the employee elects to participate in the investment  
1092 plan ~~Public Employee Optional Retirement Program~~, membership is  
1093 ~~shall be~~ prospective, and the applicable provisions of s.  
1094 121.4501(4) shall govern the election.

1095 b. If the employee elects to participate in the pension  
1096 plan ~~defined benefit program of the Florida Retirement System~~,  
1097 the employee shall, upon payment to the system trust fund of the  
1098 amount calculated under sub-sub-subparagraph (I), receive  
1099 service credit for prior service based upon the time during  
1100 which the employee had withdrawn from the system.

1101 (I) The cost for such credit shall be an amount  
1102 representing the actuarial accrued liability for the affected

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1103 period of service. The cost shall be calculated using the  
 1104 discount rate and other relevant actuarial assumptions that were  
 1105 used to value pension ~~the Florida Retirement System defined~~  
 1106 ~~benefit~~ plan liabilities in the most recent actuarial valuation.  
 1107 The calculation must ~~shall~~ include any service already  
 1108 maintained under the pension ~~defined benefit~~ plan in addition to  
 1109 the period of withdrawal. The actuarial accrued liability  
 1110 attributable to any service already maintained under the pension  
 1111 ~~defined benefit~~ plan shall be applied as a credit to the total  
 1112 cost resulting from the calculation. The division must ~~shall~~  
 1113 ensure that the transfer sum is prepared using a formula and  
 1114 methodology certified by an actuary.

1115 (II) The employee must transfer a sum representing the net  
 1116 cost owed for the actuarial accrued liability in sub-sub-  
 1117 subparagraph (I) immediately following the time of such  
 1118 movement, determined assuming that attained service equals the  
 1119 sum of service in the pension plan ~~defined benefit program~~ and  
 1120 the period of withdrawal.

1121 (j) Except as may otherwise be provided, a ~~any~~ member of  
 1122 the Senior Management Service Class may purchase additional  
 1123 retirement credit in such class for creditable service within  
 1124 the purview of the Senior Management Service Class retroactive  
 1125 to February 1, 1987, and may upgrade retirement credit for such  
 1126 service~~7~~ to the extent of 2 percent of the member's average  
 1127 monthly compensation as specified in paragraph (4) (d) for such  
 1128 service. Contributions for upgrading ~~the~~ additional Senior  
 1129 Management Service credit are pursuant to this paragraph shall  
 1130 ~~be~~ equal to the difference in the employer and, if applicable,  
 1131 employee contributions paid and the Senior Management Service

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1132 Class contribution rate as a percentage of gross salary in  
1133 effect for the period being claimed, plus interest thereon at  
1134 the rate of 6.5 percent a year, compounded annually until the  
1135 date of payment. ~~The~~ This service credit may be purchased by the  
1136 employer on behalf of the member.

1137 (3)

1138 (b) The employer or member of the Senior Management Service  
1139 Class, as applicable, ~~paying the salary of a member of the~~  
1140 ~~Senior Management Service Class~~ shall contribute an amount as  
1141 specified in this section or s. 121.71, as appropriate, which  
1142 shall constitute the entire ~~employer~~ retirement contribution  
1143 with respect to such member. The employer shall also withhold  
1144 one-half of the entire contribution of the member required for  
1145 social security coverage. Effective July 1, 2011, each member  
1146 shall pay employee contributions as specified in s. 121.71.

1147 (c) Three months after termination of employment from all  
1148 participating employers for any reason other than retirement, a  
1149 member is entitled to a refund of all contributions he or she  
1150 made before or after participation in the noncontributory plan,  
1151 subject to the restrictions otherwise provided in this chapter.  
1152 Employer contributions made on behalf of the member are not  
1153 refundable. The refund may not include any interest earnings on  
1154 the contributions to the pension plan. A member may not receive  
1155 a refund of employee contributions if a pending or an approved  
1156 qualified domestic relations order is filed against the member's  
1157 retirement account. By obtaining a refund of contributions, a  
1158 member waives all rights under the Florida Retirement System,  
1159 including the health insurance subsidy under paragraph (d), to  
1160 the service credit represented by the refunded contributions,



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1161 except the right to purchase his or her prior service credit in  
1162 accordance with s. 121.081(2).

1163 (6)

1164 (c) *Participation.*—

1165 1. An eligible employee who is employed on or before  
1166 February 1, 1987, may elect to participate in the optional  
1167 annuity program in lieu of participating ~~participation~~ in the  
1168 Senior Management Service Class. Such election must be made in  
1169 writing and filed with the department and the personnel officer  
1170 of the employer on or before May 1, 1987. An eligible employee  
1171 who is employed on or before February 1, 1987, and who fails to  
1172 make an election to participate in the optional annuity program  
1173 by May 1, 1987, shall be deemed to have elected membership in  
1174 the Senior Management Service Class.

1175 2. Except as provided in subparagraph 6., an employee who  
1176 becomes eligible to participate in the optional annuity program  
1177 by reason of initial employment commencing after February 1,  
1178 1987, may, within 90 days after the date of commencing  
1179 employment, elect to participate in the optional annuity  
1180 program. Such election must be made in writing and filed with  
1181 the personnel officer of the employer. An eligible employee who  
1182 does not within 90 days after commencing employment elect to  
1183 participate in the optional annuity program shall be deemed to  
1184 have elected membership in the Senior Management Service Class.

1185 3. A person who is appointed to a position in the Senior  
1186 Management Service Class and who is a member of an existing  
1187 retirement system or the Special Risk or Special Risk  
1188 Administrative Support Classes of the Florida Retirement System  
1189 may elect to remain in such system or class in lieu of

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1190 participating ~~participation~~ in the Senior Management Service  
1191 Class or optional annuity program. Such election must be made in  
1192 writing and filed with the department and the personnel officer  
1193 of the employer within 90 days after ~~of~~ such appointment. An ~~Any~~  
1194 eligible employee who fails to make an election to participate  
1195 in the existing system, the Special Risk Class of the Florida  
1196 Retirement System, the Special Risk Administrative Support Class  
1197 of the Florida Retirement System, or the optional annuity  
1198 program shall be deemed to have elected membership in the Senior  
1199 Management Service Class.

1200 4. Except as provided in subparagraph 5., an employee's  
1201 election to participate in the optional annuity program is  
1202 irrevocable if the employee continues to be employed in an  
1203 eligible position and continues to meet the eligibility  
1204 requirements set forth in this paragraph.

1205 5. Effective from July 1, 2002, through September 30, 2002,  
1206 an ~~any~~ active employee in a regularly established position who  
1207 has elected to participate in the Senior Management Service  
1208 Optional Annuity Program has one opportunity to choose to move  
1209 from the Senior Management Service Optional Annuity Program to  
1210 the Florida Retirement System's pension plan ~~System-defined~~  
1211 ~~benefit program~~.

1212 a. The election must be made in writing and must be filed  
1213 with the department and the personnel officer of the employer  
1214 before October 1, 2002, or, in the case of an active employee  
1215 who is on a leave of absence on July 1, 2002, within 90 days  
1216 after the conclusion of the leave of absence. This election is  
1217 irrevocable.

1218 b. The employee shall receive service credit under the

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1219 ~~pension plan defined benefit program of the Florida Retirement~~  
1220 ~~System~~ equal to his or her years of service under the Senior  
1221 Management Service Optional Annuity Program. The cost for such  
1222 credit is the amount representing the present value of that  
1223 employee's accumulated benefit obligation for the affected  
1224 period of service.

1225 c. The employee must transfer the total accumulated  
1226 employer contributions and earnings on deposit in his or her  
1227 Senior Management Service Optional Annuity Program account. If  
1228 the transferred amount is not sufficient to pay the amount due,  
1229 the employee must pay a sum representing the remainder of the  
1230 amount due. The employee may not retain any employer  
1231 contributions or earnings ~~thereon~~ from the Senior Management  
1232 Service Optional Annuity Program account.

1233 6. A retiree of a state-administered retirement system who  
1234 is initially reemployed on or after July 1, 2010, may not renew  
1235 membership in the Senior Management Service Optional Annuity  
1236 Program.

1237 (d) *Contributions.*—

1238 1.a. Through June 30, 2001, each employer shall contribute  
1239 on behalf of each member of participant ~~in~~ the Senior Management  
1240 Service Optional Annuity Program an amount equal to the normal  
1241 cost portion of the employer retirement contribution which would  
1242 be required if the employee participant were a Senior Management  
1243 Service Class member of the Florida Retirement System's pension  
1244 plan ~~System defined benefit program~~, plus the portion of the  
1245 contribution rate required in s. 112.363(8) which ~~that~~ would  
1246 otherwise be assigned to the Retiree Health Insurance Subsidy  
1247 Trust Fund.

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1248        b. Effective July 1, 2001, each employer shall contribute  
1249 on behalf of each member of participant in the optional annuity  
1250 program an amount equal to 12.49 percent of the employee's  
1251 ~~participant's~~ gross monthly compensation.

1252        c. Effective July 1, 2011, each member of the optional  
1253 annuity program shall contribute an amount equal to the employee  
1254 contribution required in s. 121.71(3). The employer shall  
1255 contribute on behalf of each such employee an amount equal to  
1256 the difference between 12.49 percent of the employee's gross  
1257 monthly compensation and the amount equal to the employee's  
1258 required contribution based on the employee's gross monthly  
1259 compensation.

1260        d. ~~The department shall deduct an amount approved by the~~  
1261 ~~Legislature to provide for the administration of this program.~~  
1262 The Payment of the contributions, including contributions made  
1263 by the employee, to the optional program which is required by  
1264 ~~this subparagraph for each participant~~ shall be made by the  
1265 employer to the department, which shall forward the  
1266 contributions to the designated company or companies contracting  
1267 for payment of benefits for members of the participant under the  
1268 optional annuity program. The department shall deduct an amount  
1269 approved by the Legislature to provide for the administration of  
1270 the program.

1271        2. Each employer shall contribute on behalf of each member  
1272 of participant in the Senior Management Service Optional Annuity  
1273 Program an amount equal to the unfunded actuarial accrued  
1274 liability portion of the employer contribution which would be  
1275 required for members of the Senior Management Service Class in  
1276 the Florida Retirement System. This contribution shall be paid

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1277 to the department for transfer to the Florida Retirement System  
1278 Trust Fund.

1279 3. An Optional Annuity Program Trust Fund shall be  
1280 established in the State Treasury and administered by the  
1281 department to make payments to provider companies on behalf of  
1282 the optional annuity program members ~~participants~~, and to  
1283 transfer the unfunded liability portion of the state optional  
1284 annuity program contributions to the Florida Retirement System  
1285 Trust Fund.

1286 4. Contributions required for social security by each  
1287 employer and each employee ~~participant~~, in the amount required  
1288 for social security coverage as now or hereafter may be provided  
1289 by the federal Social Security Act, shall be maintained for each  
1290 member of ~~participant in~~ the Senior Management Service  
1291 retirement program and are ~~shall be~~ in addition to the  
1292 retirement contributions specified in this paragraph.

1293 5. Each member of ~~participant in~~ the ~~Senior Management~~  
1294 ~~Service~~ optional annuity program may contribute by way of salary  
1295 reduction or deduction a percentage amount of the employee's  
1296 ~~participant's~~ gross compensation not to exceed the percentage  
1297 amount contributed by the employer to the optional annuity  
1298 program. Payment of the employee's ~~participant's~~ contributions  
1299 shall be made by the employer to the department, which shall  
1300 forward the contributions to the designated company or companies  
1301 contracting for payment of benefits for member's ~~the participant~~  
1302 under the program.

1303 (e) *Benefits.*—

1304 1. Benefits under the Senior Management Service Optional  
1305 Annuity Program are payable only to members of ~~participants in~~

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1306 the program, or their beneficiaries as designated by the member  
1307 ~~participant~~ in the contract with the provider company, and must  
1308 be paid by the designated company in accordance with the terms  
1309 of the annuity contract applicable to the member ~~participant~~. A  
1310 member ~~participant~~ must be terminated from all employment  
1311 relationships with Florida Retirement System employers as  
1312 provided in s. 121.021(39) to begin receiving the employer-  
1313 funded benefit. Benefits funded by employer contributions are  
1314 payable under the terms of the contract to the member  
1315 ~~participant~~, his or her beneficiary, or his or her estate, in  
1316 addition to:

1317 a. A lump-sum payment to the beneficiary upon the death of  
1318 the member ~~participant~~;

1319 b. A cash-out of a de minimis account upon the request of a  
1320 former member ~~participant~~ who has been terminated for a minimum  
1321 of 6 calendar months from the employment that entitled him or  
1322 her to optional annuity program participation. Such cash-out  
1323 must be a complete liquidation of the account balance with that  
1324 company and is subject to the Internal Revenue Code;

1325 c. A mandatory distribution of a de minimis account of a  
1326 former member ~~participant~~ who has been terminated for a minimum  
1327 of 6 calendar months from the employment that entitled him or  
1328 her to optional annuity program participation as authorized by  
1329 the department; or

1330 d. A lump-sum direct rollover distribution whereby all  
1331 accrued benefits, plus interest and investment earnings, are  
1332 paid from the member's ~~participant's~~ account directly to the  
1333 custodian of an eligible retirement plan, as defined in s.  
1334 402(c)(8)(B) of the Internal Revenue Code, on behalf of the

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1335 member participant.

1336 2. The benefits payable to any person under the ~~Senior~~  
1337 ~~Management Service~~ optional annuity program, and any  
1338 contribution accumulated under such program, are not subject to  
1339 assignment, execution, or attachment or to any legal process  
1340 whatsoever.

1341 3. Except as provided in subparagraph 4., a member  
1342 ~~participant~~ who terminates employment and receives a  
1343 distribution, including a rollover or trustee-to-trustee  
1344 transfer, funded by employer or employee contributions is ~~shall~~  
1345 ~~be~~ deemed to be retired from a state-administered retirement  
1346 system if the retiree ~~participant~~ is subsequently employed with  
1347 an employer that participates in the Florida Retirement System.

1348 4. A member ~~participant~~ who receives optional annuity  
1349 program benefits funded by employer or employee contributions as  
1350 a mandatory distribution of a de minimis account authorized by  
1351 the department is not considered a retiree.

1352

1353 As used in this paragraph, a "de minimis account" means an  
1354 account with a provider company containing employer or employee  
1355 contributions and accumulated earnings of not more than \$5,000  
1356 made under this chapter.

1357 Section 12. Subsections (2) and (5) and paragraph (c) of  
1358 subsection (6) of section 121.071, Florida Statutes, are  
1359 amended, present paragraph (d) of subsection (6) of that section  
1360 is redesignated as paragraph (e), and a new paragraph (d) is  
1361 added to that subsection, to read:

1362 121.071 Contributions.—Contributions to the system shall be  
1363 made as follows:

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1364 (2) (a) Effective January 1, 1975, or October 1, 1975, as  
1365 applicable, and through June 30, 2011, each employer shall make  
1366 ~~accomplish~~ the contribution required by subsection (1) by a  
1367 procedure in which no employee's gross salary is ~~shall be~~  
1368 reduced. Effective July 1, 2011, each employee, and his or her  
1369 employer, shall pay retirement contributions as specified in s.  
1370 121.71.

1371 (b) Three calendar months after ~~Upon~~ termination of  
1372 employment from all participating employers for any reason other  
1373 than retirement, a member is ~~shall be~~ entitled to a full refund  
1374 of the contributions he or she ~~has~~ made before or after ~~prior or~~  
1375 ~~subsequent~~ to participation in the noncontributory plan, subject  
1376 to ~~the~~ restrictions otherwise provided in this chapter. Partial  
1377 refunds are not permitted. Employer contributions made on behalf  
1378 of the member are not refundable. The refund may not include  
1379 interest earnings on contributions for a member of the pension  
1380 plan. A member may not receive a refund of employee  
1381 contributions if a pending or approved qualified domestic  
1382 relations order is filed against his or her retirement account.  
1383 By obtaining a refund of contributions, a member waives all  
1384 rights under the Florida Retirement System and the health  
1385 insurance subsidy to the service credit represented by the  
1386 refunded contributions, except the right to purchase his or her  
1387 prior service credit in accordance with s. 121.081(2).

1388 (5) Contributions made in accordance with subsections (1),  
1389 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~  
1390 into the system trust funds in accordance with rules adopted by  
1391 the administrator pursuant to chapter 120, except as ~~may be~~  
1392 otherwise specified herein. Effective July 1, 2002,



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1393 contributions paid under subsections (1) and (4) and  
1394 accompanying payroll data are due and payable by ~~no later than~~  
1395 the 5th working day of the month immediately following the month  
1396 during which the payroll period ended.

1397 (6)

1398 (c) By obtaining a refund of contributions, a member waives  
1399 all rights under the Florida Retirement System, including the  
1400 health insurance subsidy under subsection (4), to the service  
1401 credit represented by the refunded contributions, except the  
1402 right to purchase his or her prior service credit in accordance  
1403 with s. 121.081(2).

1404 (d) If a member or former member of the pension plan  
1405 receives an invalid refund from the Florida Retirement System  
1406 Trust Fund, such person must repay the full amount of the  
1407 refund, plus interest at 6.5 percent compounded annually on each  
1408 June 30 from the date of refund until full repayment is made.  
1409 The invalid refund must be repaid before the member retires or,  
1410 if applicable, transfers to the investment plan.

1411 Section 13. Paragraphs (b) and (c) of subsection (1) and  
1412 subsection (2) of section 121.081, Florida Statutes, are amended  
1413 to read:

1414 121.081 Past service; prior service; contributions.—  
1415 Conditions under which past service or prior service may be  
1416 claimed and credited are:

1417 (1)

1418 (b) Past service earned after January 1, 1975, may be  
1419 claimed by officers or employees of a municipality, metropolitan  
1420 planning organization, charter school, charter technical career  
1421 center, or special district who become a covered group under

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1422 this system. The governing body of a covered group may elect to  
1423 provide benefits for past service earned after January 1, 1975,  
1424 in accordance with this chapter.~~and~~ The cost for such past  
1425 service is established by applying the following formula: The  
1426 employer shall contribute an amount equal to the employer or  
1427 employee contribution rate in effect at the time the service was  
1428 earned, as applicable, multiplied by the employee's gross salary  
1429 for each year of past service claimed, plus 6.5 percent ~~6.5-~~  
1430 ~~percent~~ interest thereon, compounded annually, for ~~figured on~~  
1431 each year of past service, with interest compounded from date of  
1432 annual salary earned until date of payment.

1433 (c) If an ~~Should the~~ employer joined the Florida Retirement  
1434 System before July 1, 2011, and does not elect to provide past  
1435 service for the member on the date of joining the system, then  
1436 the member may claim and pay for the service as provided in  
1437 ~~same, based on~~ paragraphs (a) and (b).

1438 (2) Prior service, as defined in s. 121.021~~(19)~~, may be  
1439 claimed as creditable service under the Florida Retirement  
1440 System after a member has been reemployed for 1 complete year of  
1441 creditable service ~~within a period of 12 consecutive months,~~  
1442 except as provided in paragraph (c). Service performed as a  
1443 member participant of the optional retirement program for the  
1444 State University System under s. 121.35 or the Senior Management  
1445 Service Optional Annuity Program under s. 121.055 may be used to  
1446 satisfy the reemployment requirement of 1 complete year of  
1447 creditable service. The member may ~~shall not be permitted to~~  
1448 make any contributions for prior service until after completion  
1449 of the 1 year of creditable service. If a member does not wish  
1450 to claim credit for all of his or her prior service, the service

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1451 the member claims must be the most recent period of service. The  
1452 required contributions for claiming the various types of prior  
1453 service are:

1454 (a) For prior service performed before ~~prior to~~ the date  
1455 the system becomes noncontributory for the member and for which  
1456 the member had credit under one of the existing retirement  
1457 systems and received a refund of contributions upon termination  
1458 of employment, the member shall contribute 4 percent of all  
1459 salary received during the period being claimed, plus 4 percent  
1460 ~~4 percent~~ interest compounded annually from date of refund until  
1461 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded  
1462 annually thereafter, until full payment is made to the Florida  
1463 Retirement System Trust Fund, and shall receive credit in the  
1464 Regular Class. A member who elected to transfer to the Florida  
1465 Retirement System from an existing system may receive credit for  
1466 prior service under the existing system if he or she was  
1467 eligible under the existing system to claim the prior service at  
1468 the time of the transfer. Contributions for such prior service  
1469 shall be determined by the applicable provisions of the system  
1470 under which the prior service is claimed and shall be paid by  
1471 the member, with matching contributions paid by the employer at  
1472 the time the service was performed. Effective July 1, 1978, the  
1473 account of a person who terminated under s. 238.05(3) may not be  
1474 charged interest for contributions that remained on deposit in  
1475 the Annuity Savings Trust Fund established under chapter 238,  
1476 upon retirement under this chapter or chapter 238.

1477 (b) For prior service performed before ~~prior to~~ the date  
1478 the system becomes noncontributory for the member and for which  
1479 the member had credit under the Florida Retirement System and

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1480 received a refund of contributions upon termination of  
1481 employment, the member shall contribute at the rate that was  
1482 required of him or her during the period of service being  
1483 claimed, on all salary received during such period, plus 4  
1484 percent ~~4-percent~~ interest compounded annually from date of  
1485 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest  
1486 compounded annually thereafter, until the full payment is made  
1487 to the Florida Retirement System Trust Fund, and ~~shall~~ receive  
1488 credit in the membership class in which the member participated  
1489 during the period claimed.

1490 (c) For prior service as defined in s. 121.021(19)(b) and  
1491 (c) during which no contributions were made because the member  
1492 did not participate in a retirement system, the member shall  
1493 contribute 14.38 percent of all salary received during such  
1494 period or 14.38 percent of \$100 per month during such period,  
1495 whichever is greater, plus 4 percent ~~4-percent~~ interest  
1496 compounded annually from the first year of service claimed until  
1497 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded  
1498 annually thereafter, until full payment is made to the  
1499 Retirement Trust Fund, and shall receive credit in the Regular  
1500 Class.

1501 (d) In order to claim credit for prior service as defined  
1502 in s. 121.021(19)(d) for which no retirement contributions were  
1503 paid during the period of such service, the member shall  
1504 contribute the total employee and employer contributions which  
1505 were required to be made to the Highway Patrol Pension Trust  
1506 Fund, as provided in chapter 321, during the period claimed,  
1507 plus 4 percent ~~4-percent~~ interest compounded annually from the  
1508 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~

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1509 ~~percent~~ interest compounded annually thereafter, until full  
1510 payment is made to the Retirement Trust Fund. However, any  
1511 governmental entity that ~~which~~ employed such member may elect to  
1512 pay up to 50 percent of the contributions and interest required  
1513 to purchase the ~~this~~ prior service credit. The service shall be  
1514 credited in accordance with the ~~provisions of the~~ Highway Patrol  
1515 Pension Plan in effect during the period claimed unless the  
1516 member terminated and withdrew his or her retirement  
1517 contributions and was thereafter enrolled in the State and  
1518 County Officers and Employees' Retirement System or the Florida  
1519 Retirement System, in which case the service shall be credited  
1520 as Regular Class service.

1521 (e) For service performed under the Florida Retirement  
1522 System after December 1, 1970, which ~~that~~ was never reported to  
1523 the division or the department due to error, retirement credit  
1524 may be claimed by a member of the Florida Retirement System. The  
1525 department shall adopt rules establishing criteria for claiming  
1526 such credit and detailing the documentation required to  
1527 substantiate the error.

1528 (f) For prior service performed on or after July 1, 2011,  
1529 for which the member had credit under the Florida Retirement  
1530 System and received a refund of contributions 3 months after  
1531 termination of employment, the member shall contribute at the  
1532 rate that was required during the period of service being  
1533 claimed, plus 6.5 percent interest, compounded annually on each  
1534 June 30 from date of refund until the full payment is made to  
1535 the Florida Retirement System Trust Fund, and shall receive  
1536 credit in the membership class in which the member participated  
1537 during the period claimed.

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1538        (g)~~(f)~~ The employer may not ~~be required to~~ make  
1539 contributions for prior service credit for any member, except  
1540 that the employer shall pay the employer portion of  
1541 contributions for any legislator who elects to withdraw from the  
1542 Florida Retirement System and later rejoins the system and pays  
1543 any employee contributions required in accordance with s.  
1544 121.052(3)(d).

1545        Section 14. Paragraph (a) of subsection (3), paragraph (a)  
1546 of subsection (4), paragraphs (a) and (c) of subsection (5),  
1547 paragraph (d) of subsection (9), and paragraph (d) of subsection  
1548 (14) of section 121.091, Florida Statutes, are amended, present  
1549 paragraphs (e) through (k) of subsection (5) of that section are  
1550 renumbered as paragraphs (f) through (l), respectively, and a  
1551 new paragraph (d) is added to that subsection, to read:

1552        121.091 Benefits payable under the system.—Benefits may not  
1553 be paid under this section unless the member has terminated  
1554 employment as provided in s. 121.021(39)(a) or begun  
1555 participation in the Deferred Retirement Option Program as  
1556 provided in subsection (13), and a proper application has been  
1557 filed in the manner prescribed by the department. The department  
1558 may cancel an application for retirement benefits when the  
1559 member or beneficiary fails to timely provide the information  
1560 and documents required by this chapter and the department's  
1561 rules. The department shall adopt rules establishing procedures  
1562 for application for retirement benefits and for the cancellation  
1563 of such application when the required information or documents  
1564 are not received.

1565        (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her  
1566 early retirement date, the member shall receive an immediate

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1567 monthly benefit that shall begin to accrue on the first day of  
1568 the month of the retirement date and be payable on the last day  
1569 of that month and each month thereafter during his or her  
1570 lifetime. Such benefit shall be calculated as follows:

1571 (a) The amount of each monthly payment shall be computed in  
1572 the same manner as ~~for~~ a normal retirement benefit, in  
1573 accordance with subsection (1), but shall be based on the  
1574 member's average monthly compensation and creditable service as  
1575 of the member's early retirement date. The benefit so computed  
1576 shall be reduced by five-twelfths of 1 percent for each complete  
1577 month by which the early retirement date precedes the normal  
1578 retirement date of age 62 for a member of the Regular Class,  
1579 Senior Management Service Class, or the Elected Officers' Class,  
1580 and age 55 for a member of the Special Risk Class, or age 52 if  
1581 a Special Risk member has completed 25 years of creditable  
1582 service in accordance with s. 121.021(29) ~~(b)3~~.

1583 (4) DISABILITY RETIREMENT BENEFIT.—

1584 (a) *Disability retirement; entitlement and effective date.*—

1585 1.a. A member who becomes totally and permanently disabled,  
1586 as defined in paragraph (b), after completing 5 years of  
1587 creditable service, or a member who becomes totally and  
1588 permanently disabled in the line of duty regardless of service,  
1589 is shall be entitled to a monthly disability benefit; except  
1590 that any member with less than 5 years of creditable service on  
1591 July 1, 1980, or any person who becomes a member of the Florida  
1592 Retirement System on or after such date must have completed 10  
1593 years of creditable service before ~~prior~~ to becoming totally and  
1594 permanently disabled in order to receive disability retirement  
1595 benefits for any disability which occurs other than in the line

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1596 of duty. However, if a member employed on July 1, 1980, that has  
1597 ~~with~~ less than 5 years of creditable service as of that date,  
1598 becomes totally and permanently disabled after completing 5  
1599 years of creditable service and is found not to have attained  
1600 fully insured status for benefits under the federal Social  
1601 Security Act, such member is ~~shall be~~ entitled to a monthly  
1602 disability benefit.

1603 b. Effective July 1, 2001, a member of the pension plan  
1604 ~~defined benefit retirement program~~ who becomes totally and  
1605 permanently disabled, as defined in paragraph (b), after  
1606 completing 8 years of creditable service, or a member who  
1607 becomes totally and permanently disabled in the line of duty  
1608 regardless of service, is ~~shall be~~ entitled to a monthly  
1609 disability benefit.

1610 2. If the division has received from the employer the  
1611 required documentation of the member's termination of  
1612 employment, the effective retirement date for a member who  
1613 applies and is approved for disability retirement shall be  
1614 established by rule of the division.

1615 3. For a member who is receiving Workers' Compensation  
1616 payments, the effective disability retirement date may not  
1617 precede the date the member reaches Maximum Medical Improvement  
1618 (MMI), unless the member terminates employment before ~~prior to~~  
1619 reaching MMI.

1620 (5) TERMINATION BENEFITS.—A member whose employment is  
1621 terminated before ~~prior to~~ retirement retains membership rights  
1622 to previously earned member-noncontributory service credit, and  
1623 to member-contributory service credit, if the member leaves the  
1624 member contributions on deposit in his or her retirement



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1625 account. If a terminated member receives a refund of member  
1626 contributions, such member may reinstate membership rights to  
1627 the previously earned service credit represented by the refund  
1628 by completing 1 year of creditable service and repaying the  
1629 refunded member contributions, plus interest.

1630 (a) A member whose employment is terminated for any reason  
1631 other than death or retirement before ~~prior to~~ becoming vested  
1632 is entitled to the return of his or her accumulated employee  
1633 contributions as of the date of termination.

1634 (c) In lieu of the deferred monthly benefit provided in  
1635 paragraph (b), the terminated member may elect to receive a  
1636 lump-sum amount equal to his or her accumulated employee  
1637 contributions as of the date of termination.

1638 (d) Upon termination of employment from all participating  
1639 employers for 3 calendar months for any reason other than  
1640 retirement, a member may receive a refund of all contributions  
1641 he or she has made to the pension plan, subject to restrictions  
1642 otherwise provided in this chapter. Partial refunds are not  
1643 permitted. The refund may not include any interest earnings on  
1644 the contributions for a member of the pension plan. Employer  
1645 contributions made on behalf of the member are not refundable. A  
1646 member may not receive a refund of employee contributions if a  
1647 pending or an approved qualified domestic relations order is  
1648 filed against his or her retirement account. By obtaining a  
1649 refund of contributions, a member waives all rights under the  
1650 Florida Retirement System and the health insurance subsidy to  
1651 the service credit represented by the refunded contributions,  
1652 except the right to purchase his or her prior service credit in  
1653 accordance with s. 121.081(2).

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1654 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

1655 (d) ~~The provisions of~~ This subsection applies apply to  
1656 retirees, as defined in s. 121.4501(2), of the Florida Public  
1657 ~~Employee Optional Retirement System Investment Plan Program,~~  
1658 subject to the following conditions:

1659 1. The retiree ~~retirees~~ may not be reemployed with an  
1660 employer participating in the Florida Retirement System until  
1661 such person has been retired for 6 calendar months.

1662 2. A retiree employed in violation of this subsection and  
1663 an employer that employs or appoints such person are jointly and  
1664 severally liable for reimbursement of any benefits paid to the  
1665 retirement trust fund from which the benefits were paid,  
1666 ~~including the Retirement System Trust Fund and the Public~~  
1667 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~  
1668 The employer must have a written statement from the retiree that  
1669 he or she is not retired from a state-administered retirement  
1670 system.

1671 (14) PAYMENT OF BENEFITS.—This subsection applies to the  
1672 payment of benefits to a payee (retiree or beneficiary) under  
1673 the Florida Retirement System:

1674 (d) A payee whose retirement benefits are reduced by the  
1675 application of maximum benefit limits under s. 415(b) of the  
1676 Internal Revenue Code, as specified in s. 121.30(5), shall have  
1677 the portion of his or her calculated benefit in the Florida  
1678 Retirement System's pension System defined benefit plan which  
1679 exceeds such federal limitation paid through the Florida  
1680 Retirement System Preservation of Benefits Plan, as provided in  
1681 s. 121.1001.

1682 Section 15. Subsection (1) and paragraph (a) of subsection

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1683 (2) of section 121.1001, Florida Statutes, are amended to read:

1684 121.1001 Florida Retirement System Preservation of Benefits  
1685 Plan.—Effective July 1, 1999, the Florida Retirement System  
1686 Preservation of Benefits Plan is established as a qualified  
1687 governmental excess benefit arrangement pursuant to s. 415(m) of  
1688 the Internal Revenue Code. The Preservation of Benefits Plan is  
1689 created as a separate portion of the Florida Retirement System,  
1690 for the purpose of providing benefits to a payee (retiree or  
1691 beneficiary) of the Florida Retirement System whose benefits  
1692 would otherwise be limited by s. 415(b) of the Internal Revenue  
1693 Code.

1694 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF  
1695 BENEFITS PLAN.—A payee of the Florida Retirement System shall  
1696 participate in the Preservation of Benefits Plan if ~~whenever~~ his  
1697 or her earned benefit under the Florida Retirement System's  
1698 pension System ~~defined benefit~~ plan exceeds the benefit maximum  
1699 established under s. 415(b) of the Internal Revenue Code.  
1700 Participation in the Preservation of Benefits Plan shall  
1701 continue for as long as the payee's earned benefit under the  
1702 pension ~~Florida Retirement System defined benefit~~ plan is  
1703 reduced by the application of the maximum benefit limit under s.  
1704 415(b) of the Internal Revenue Code.

1705 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS  
1706 PLAN.—

1707 (a) On and after July 1, 1999, the Division of Retirement  
1708 shall pay to each eligible payee of the Florida Retirement  
1709 System who retires before, on, or after that ~~such~~ date, a  
1710 supplemental retirement benefit equal to the difference between  
1711 the amount of the payee's monthly retirement benefit which would

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1712 have been payable under the Florida Retirement System's pension  
1713 ~~System defined benefit~~ plan if not for a reduction due to the  
1714 application of s. 415(b) of the Internal Revenue Code and the  
1715 reduced monthly retirement benefit as paid to the payee. The  
1716 Preservation of Benefits Plan benefit shall be computed and  
1717 payable under the same terms and conditions and to the same  
1718 person as would have applied under the pension ~~Florida~~  
1719 ~~Retirement System defined benefit~~ plan were it not for the  
1720 federal limitation.

1721 Section 16. Subsection (1) of section 121.121, Florida  
1722 Statutes, is amended to read:

1723 121.121 Authorized leaves of absence.-

1724 (1) A member may purchase creditable service for up to 2  
1725 work years of authorized leaves of absence, including any leaves  
1726 of absence covered under the Family Medical Leave Act, if:

1727 (a) The member has completed a minimum of 6 years of  
1728 creditable service, excluding periods for which a leave of  
1729 absence was authorized;

1730 (b) The leave of absence is authorized in writing by the  
1731 employer of the member and approved by the administrator;

1732 (c) The member returns to active employment performing  
1733 service with a Florida Retirement System employer in a regularly  
1734 established position immediately upon termination of the leave  
1735 of absence and remains on the employer's payroll for 1 calendar  
1736 month, except that a member who retires on disability while on a  
1737 medical leave of absence may ~~shall~~ not be required to return to  
1738 employment. A member whose work year is less than 12 months and  
1739 whose leave of absence terminates between school years is  
1740 eligible to receive credit for the leave of absence if ~~as long~~

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1741 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at  
1742 the beginning of the next school year and remains on the  
1743 employer's payroll for 1 calendar month; and

1744 (d) The member makes the required contributions for service  
1745 credit during the leave of absence, which shall be 8 percent  
1746 until January 1, 1975, and 9 percent thereafter of his or her  
1747 rate of monthly compensation in effect immediately before ~~prior~~  
1748 ~~to~~ the commencement of such leave for each month of such period,  
1749 plus 4 percent interest until July 1, 1975, and 6.5 percent  
1750 interest thereafter on such contributions, compounded annually  
1751 each June 30 from the due date of the contribution to date of  
1752 payment. Effective July 1, 1980, any leave of absence purchased  
1753 pursuant to this section is ~~shall be~~ at the contribution rates  
1754 specified in s. 121.071 or s. 121.71 in effect at the time the  
1755 leave is granted for the class of membership from which the  
1756 leave of absence was granted; however, any member who purchased  
1757 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a  
1758 leave of absence from a position in a class other than the  
1759 regular membership class, may pay the appropriate additional  
1760 contributions plus compound interest thereon and receive  
1761 creditable service for such leave of absence in the membership  
1762 class from which the member was granted the leave of absence.  
1763 Effective July 1, 2011, any leave of absence purchased pursuant  
1764 to this section shall be at the employee and employer  
1765 contribution rates specified in s. 121.71 in effect during the  
1766 leave for the class of membership from which the leave of  
1767 absence was granted.

1768 Section 17. Subsection (2) of section 121.122, Florida  
1769 Statutes, is amended, and subsection (3) is added to that

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1770 section, to read:

1771 121.122 Renewed membership in system.-

1772 (2) A retiree of a state-administered retirement system who  
1773 is initially reemployed on or after July 1, 2010, through June  
1774 30, 2011, shall become a member of the Regular Class and be  
1775 enrolled in the Florida Retirement System Investment Plan on  
1776 July 1, 2011, and must resatisfy the vesting requirements and  
1777 other provisions provided in this chapter ~~is not eligible for~~  
1778 ~~renewed membership.~~

1779 (a) Creditable service, including credit towards the  
1780 retiree health insurance subsidy provided in s. 112.363, does  
1781 not accrue for a retiree's employment in a regularly established  
1782 position with a covered employer during the period from July 1,  
1783 2010, through June 30, 2011.

1784 (b) Employer contributions, interest, earnings, or any  
1785 other funds may not be paid into a renewed member's investment  
1786 plan account for any employment in a regularly established  
1787 position with a covered employer during the period from July 1,  
1788 2010, through June 30, 2011.

1789 (c) To be eligible to receive a retirement benefit under  
1790 the investment plan, the renewed member must meet the vesting  
1791 requirements of the plan as provided in s. 121.4501(6).

1792 (d) The member is not entitled to disability benefits as  
1793 provided in s. 121.091(4) or s. 121.591(2).

1794 (e) The member must meet the reemployment after retirement  
1795 limitations as provided in s. 121.091(9), as applicable.

1796 (f) Upon the renewed membership or reemployment of a  
1797 retiree, the employer of such member and the retiree shall pay  
1798 the applicable employer and employee contributions as required

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1799 by ss. 112.363, 121.71, 121.74, and 121.76. Such contributions  
1800 are payable only for employment in a regularly established  
1801 position with a covered employer on or after July 1, 2011.

1802 (g) The member may not purchase any prior or past service  
1803 in the investment plan, including employment in a regularly  
1804 established position with a covered employer during the period  
1805 from July 1, 2010, through June 30, 2011.

1806 (h) A renewed member who is not receiving the maximum  
1807 health insurance subsidy provided in s. 112.363 is entitled to  
1808 earn additional credit toward the subsidy. Such credit may be  
1809 earned only for employment in a regularly established position  
1810 with a covered employer on or after July 1, 2011. Any additional  
1811 subsidy due because of additional credit may be received only at  
1812 the time of paying the second career retirement benefit. The  
1813 total health insurance subsidy received by a retiree receiving  
1814 benefits from initial and renewed membership may not exceed the  
1815 maximum allowed under s. 112.363.

1816 (3) Any retiree of a state-administered retirement system  
1817 who is initially reemployed on or after July 1, 2011, in a  
1818 regularly established position with a covered employer,  
1819 including an elective public office that does not qualify for  
1820 the Elected Officers' Class, shall become a member of the  
1821 Regular Class and be enrolled in the Florida Retirement System  
1822 Investment Plan, and must resatisfy the vesting requirements and  
1823 other provisions provided in this chapter.

1824 (a) To be eligible to receive a retirement benefit under  
1825 the investment plan, the renewed member must meet the vesting  
1826 requirements of the investment plan as provided in s.  
1827 121.4501(6).

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1828 (b) The member is not entitled to disability benefits as  
1829 provided in s. 121.091(4) or s. 121.591(2).

1830 (c) The member must meet the reemployment after retirement  
1831 limitations provided in s. 121.091(9), as applicable.

1832 (d) Upon renewed membership or reemployment of a retiree,  
1833 the employer of such member and the retiree must pay the  
1834 applicable employer and employee contributions as required by  
1835 ss. 112.363, 121.71, 121.74, and 121.76.

1836 (e) The member may not purchase any prior or past service  
1837 in the investment plan.

1838 (f) A renewed member who is not receiving the maximum  
1839 health insurance subsidy provided in s. 112.363 is entitled to  
1840 earn additional credit toward the subsidy. Any additional  
1841 subsidy due because of additional credit may be received only at  
1842 the time of paying the second career retirement benefit. The  
1843 total health insurance subsidy received by a retiree receiving  
1844 benefits from initial and renewed membership may not exceed the  
1845 maximum allowed under s. 112.363.

1846 Section 18. Section 121.125, Florida Statutes, is amended  
1847 to read:

1848 121.125 Credit for workers' compensation payment periods.—A  
1849 member of the retirement system created by this chapter who has  
1850 been eligible or becomes eligible for ~~to receive~~ workers'  
1851 compensation payments for an injury or illness that occurred  
1852 ~~occurring~~ during ~~his or her~~ employment while a member of a any  
1853 state retirement system shall, upon return to active employment  
1854 with a covered employer for 1 calendar month or upon approval  
1855 for disability retirement in accordance with s. 121.091(4),  
1856 receive full retirement credit for the period before ~~prior to~~



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1857 such return to active employment or disability retirement for  
 1858 which the workers' compensation payments were received. However,  
 1859 a ~~no~~ member may not receive retirement credit for ~~any~~ such  
 1860 period occurring after the earlier of the date of maximum  
 1861 medical improvement as defined in s. 440.02 or the date  
 1862 termination has occurred as defined in s. 121.021~~(39)~~. The  
 1863 employer of record at the time of the worker's compensation  
 1864 injury or illness shall make the required employee and employer  
 1865 retirement contributions based on the member's rate of monthly  
 1866 compensation immediately before ~~prior to his or her~~ receiving  
 1867 workers' compensation payments for retirement credit received by  
 1868 the member.

1869 Section 19. Paragraphs (g) and (i) of subsection (3) and  
 1870 subsection (4) of section 121.35, Florida Statutes, are amended  
 1871 to read:

1872 121.35 Optional retirement program for the State University  
 1873 System.—

1874 (3) ELECTION OF OPTIONAL PROGRAM.—

1875 (g) An eligible employee who is a member of the Florida  
 1876 Retirement System at the time of electing ~~election~~ to  
 1877 participate in the optional retirement program shall retain all  
 1878 retirement service credit earned under the Florida Retirement  
 1879 System, at the rate earned. ~~No~~ Additional service credit in the  
 1880 ~~Florida Retirement~~ system may not ~~shall~~ be earned while the  
 1881 employee participates in the optional program, and ~~nor shall~~ the  
 1882 employee is not ~~be~~ eligible for disability retirement under the  
 1883 ~~Florida Retirement~~ system. An eligible employee may transfer  
 1884 from the Florida Retirement System to his or her accounts under  
 1885 the State University System Optional Retirement Program a sum

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1886 representing the present value of the employee's accumulated  
1887 benefit obligation under the ~~defined benefit program of the~~  
1888 Florida Retirement System's pension plan System for any service  
1889 credit accrued from the employee's first eligible transfer date  
1890 to the optional retirement program through the actual date of  
1891 such transfer, if such service credit was earned ~~in the period~~  
1892 from July 1, 1984, through December 31, 1992. The present value  
1893 of the employee's accumulated benefit obligation shall be  
1894 calculated as described in s. 121.4501(3) ~~s. 121.4501(3)(c)2.~~  
1895 Upon ~~such~~ transfer, all ~~such~~ service credit ~~previously~~ earned  
1896 under the pension plan ~~defined benefit program of the Florida~~  
1897 ~~Retirement System~~ during this period is ~~shall be~~ nullified for  
1898 purposes of entitlement to a future benefit under the pension  
1899 plan ~~defined benefit program of the Florida Retirement System.~~

1900 (i) Effective January 1, 2008, through December 31, 2008,  
1901 except for an employee who is a mandatory member participant of  
1902 the State University System Optional Retirement Program, an  
1903 employee who has elected to participate in the State University  
1904 System Optional Retirement Program shall have one opportunity,  
1905 at the employee's discretion, ~~to choose~~ to transfer from this  
1906 program to the pension plan or the investment plan ~~defined~~  
1907 ~~benefit program of the Florida Retirement System or to the~~  
1908 ~~Public Employee Optional Retirement Program~~, subject to the  
1909 terms of the applicable contracts of the State University System  
1910 Optional Retirement Program.

1911 1. If the employee chooses to move to the investment plan  
1912 ~~Public Employee Optional Retirement~~ program, any contributions,  
1913 interest, and earnings creditable to the employee under the  
1914 State University System Optional Retirement Program must ~~shall~~

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1915 be retained by the employee in the State University System  
1916 Optional Retirement Program, and the applicable provisions of s.  
1917 121.4501(4) shall govern the election.

1918 2. If the employee chooses to move to the pension plan  
1919 ~~defined benefit program of the Florida Retirement System~~, the  
1920 employee shall receive service credit equal to his or her years  
1921 of service under the State University System Optional Retirement  
1922 Program.

1923 a. The cost for such credit must be in ~~shall be~~ an amount  
1924 representing the actuarial accrued liability for the affected  
1925 period of service. The cost must ~~shall~~ be calculated using the  
1926 discount rate and other relevant actuarial assumptions that were  
1927 used to value the pension ~~Florida Retirement System defined~~  
1928 ~~benefit~~ plan liabilities in the most recent actuarial valuation.  
1929 The calculation must ~~shall~~ include any service already  
1930 maintained under the pension ~~defined benefit~~ plan in addition to  
1931 the years under the State University System Optional Retirement  
1932 Program. The actuarial accrued liability of any service already  
1933 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be  
1934 applied as a credit to total cost resulting from the  
1935 calculation. The division must ~~shall~~ ensure that the transfer  
1936 sum is prepared using a formula and methodology certified by an  
1937 enrolled actuary.

1938 b. The employee must transfer from his or her State  
1939 University System Optional Retirement Program account, and from  
1940 other employee moneys as necessary, a sum representing the  
1941 actuarial accrued liability immediately following the time of  
1942 such movement, determined assuming that attained service equals  
1943 the sum of service in the pension plan ~~defined benefit program~~

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1944 and service in the State University System Optional Retirement  
1945 Program.

1946 (4) CONTRIBUTIONS.—

1947 (a) 1. Through June 30, 2001, each employer shall contribute  
1948 on behalf of each member of ~~participant in~~ the optional  
1949 retirement program an amount equal to the normal cost portion of  
1950 the employer retirement contribution which would be required if  
1951 the employee ~~participant~~ were a regular member of the Florida  
1952 Retirement System's pension plan ~~System defined benefit program~~,  
1953 plus the portion of the contribution rate required in s.  
1954 112.363(8) that would otherwise be assigned to the Retiree  
1955 Health Insurance Subsidy Trust Fund.

1956 2. Effective July 1, 2001, through June 30, 2011, each  
1957 employer shall contribute on behalf of each member of  
1958 ~~participant in~~ the optional retirement program an amount equal  
1959 to 10.43 percent of the employee's ~~participant's~~ gross monthly  
1960 compensation.

1961 3. Effective July 1, 2011, each member of the optional  
1962 retirement program shall contribute an amount equal to the  
1963 employee contribution required in s. 121.71(3). The employer  
1964 shall contribute on behalf of each such member an amount equal  
1965 to the difference between 10.43 percent of the employee's gross  
1966 monthly compensation and the amount equal to the employee's  
1967 required contribution based on the employee's gross monthly  
1968 compensation.

1969 4. ~~The department shall deduct an amount approved by the~~  
1970 ~~Legislature to provide for the administration of this program.~~  
1971 The payment of the contributions, including contributions by the  
1972 employee, to the optional program which is required by this

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1973 ~~paragraph for each participant~~ shall be made by the employer to  
1974 the department, which shall forward the contributions to the  
1975 designated company or companies contracting for payment of  
1976 benefits for member's of ~~the participant under~~ the program.  
1977 However, such contributions paid on behalf of an employee  
1978 described in paragraph (3) (c) may ~~shall~~ not be forwarded to a  
1979 company and do ~~shall~~ not begin to accrue interest until the  
1980 employee has executed a contract and notified the department.  
1981 The department shall deduct an amount from the contributions to  
1982 provide for the administration of this program.

1983 (b) Each employer shall contribute on behalf of each member  
1984 of ~~participant in~~ the optional retirement program an amount  
1985 equal to the unfunded actuarial accrued liability portion of the  
1986 employer contribution which would be required for members of the  
1987 Florida Retirement System. This contribution shall be paid to  
1988 the department for transfer to the Florida Retirement System  
1989 Trust Fund.

1990 (c) An Optional Retirement Program Trust Fund shall be  
1991 established in the State Treasury and administered by the  
1992 department to make payments to the provider companies on behalf  
1993 of ~~the~~ optional retirement program members ~~participants~~, and to  
1994 transfer the unfunded liability portion of the state optional  
1995 retirement program contributions to the Florida Retirement  
1996 System Trust Fund.

1997 (d) Contributions required for social security by each  
1998 employer and each employee ~~participant~~, in the amount required  
1999 for social security coverage as now or hereafter may be provided  
2000 by the federal Social Security Act, shall be maintained for each  
2001 member of ~~participant in~~ the optional retirement program and are

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2002 ~~shall be~~ in addition to the retirement contributions specified  
2003 in this subsection.

2004 (e) Each member of participant ~~in~~ the optional retirement  
2005 program who has executed a contract may contribute by way of  
2006 salary reduction or deduction a percentage amount of the  
2007 employee's participant's gross compensation not to exceed the  
2008 percentage amount contributed by the employer to the optional  
2009 program, but ~~in no case may~~ such contribution may not exceed  
2010 federal limitations. Payment of the employee's participant's  
2011 contributions shall be made by the financial officer of the  
2012 employer to the division which shall forward the contributions  
2013 to the designated company or companies contracting for payment  
2014 of benefits for members ~~the participant~~ under the program. A  
2015 member participant may not make, through salary reduction, any  
2016 voluntary employee contributions to any other plan under s.  
2017 403(b) of the Internal Revenue Code, with the exception of a  
2018 custodial account under s. 403(b)(7) of the Internal Revenue  
2019 Code, until he or she has made an employee contribution to his  
2020 or her optional program equal to the employer contribution. An  
2021 employee A participant is responsible for monitoring his or her  
2022 individual tax-deferred income to ensure he or she does not  
2023 exceed the maximum deferral amounts permitted under the Internal  
2024 Revenue Code.

2025 (f) The Optional Retirement Trust Fund may accept for  
2026 deposit into member participant contracts contributions in the  
2027 form of rollovers or direct trustee-to-trustee transfers by or  
2028 on behalf of members participants who are reasonably determined  
2029 by the department to be eligible for rollover or transfer to the  
2030 optional retirement program pursuant to the Internal Revenue

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2031 Code, if such contributions are made in accordance with rules  
2032 adopted by the department. Such contributions shall be accounted  
2033 for in accordance with any applicable requirements of the  
2034 Internal Revenue Code and department rules ~~of the department~~.

2035 (g) Effective July 1, 2008, for purposes of paragraph (a)  
2036 and notwithstanding s. 121.021(22)(b)1., the term "employee's  
2037 ~~participant's~~ gross monthly compensation" includes salary  
2038 payments made to eligible clinical faculty from a state  
2039 university using funds provided by a faculty practice plan  
2040 authorized by the Board of Governors of the State University  
2041 System if:

2042 1. There is no ~~not any~~ employer contribution from the state  
2043 university to any other retirement program with respect to such  
2044 salary payments; and

2045 2. The employer contribution on behalf of a member of the  
2046 ~~participant in~~ the optional retirement program with respect to  
2047 such salary payments is made using funds provided by the faculty  
2048 practice plan.

2049 Section 20. Section 121.355, Florida Statutes, is amended  
2050 to read:

2051 121.355 Community College Optional Retirement Program and  
2052 State University System Optional Retirement Program member  
2053 transfer.—Effective January 1, 2009, through December 31, 2009,  
2054 an employee who is a former member of ~~participant in~~ the  
2055 Community College Optional Retirement Program or the State  
2056 University System Optional Retirement Program and present  
2057 mandatory member of ~~participant in~~ the Florida Retirement  
2058 System's pension ~~System defined benefit~~ plan may receive service  
2059 credit equal to his or her years of service under the Community

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2060 College Optional Retirement Program or the State University  
2061 System Optional Retirement Program under the following  
2062 conditions:

2063 (1) The cost for such credit must represent ~~shall be an~~  
2064 ~~amount representing~~ the actuarial accrued liability for the  
2065 affected period of service. The cost shall be calculated using  
2066 the discount rate and other relevant actuarial assumptions that  
2067 were used to value the Florida Retirement System's pension  
2068 ~~System defined benefit~~ plan liabilities in the most recent  
2069 actuarial valuation. The calculation must ~~shall~~ include any  
2070 service already maintained under the pension ~~defined benefit~~  
2071 plan in addition to the years under the Community College  
2072 Optional Retirement Program or the State University System  
2073 Optional Retirement Program. The actuarial accrued liability of  
2074 any service already maintained under the pension ~~defined benefit~~  
2075 plan shall be applied as a credit to total cost resulting from  
2076 the calculation. The division shall ensure that the transfer sum  
2077 is prepared using a formula and methodology certified by an  
2078 enrolled actuary.

2079 (2) The employee must transfer from his or her Community  
2080 College Optional Retirement Program account or State University  
2081 System Optional Retirement Program account, subject to the terms  
2082 of the applicable optional retirement program contract, and from  
2083 other employee moneys as necessary, a sum representing the  
2084 actuarial accrued liability immediately following the time of  
2085 such movement, determined assuming that attained service equals  
2086 the sum of service in the pension plan ~~defined benefit program~~  
2087 and service in the Community College Optional Retirement Program  
2088 or State University System Optional Retirement Program.



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2089 (3) The employee may not receive service credit for a  
 2090 period of mandatory participation in the State University  
 2091 Optional Retirement Program or for a period for which a  
 2092 distribution was received from the Community College Optional  
 2093 Retirement Program or State University System Optional  
 2094 Retirement Program.

2095 Section 21. Section 121.4501, Florida Statutes, is amended  
 2096 to read:

2097 121.4501 Florida Public Employee Optional Retirement System  
 2098 Investment Plan Program.—

2099 (1) The Trustees of the State Board of Administration shall  
 2100 establish a ~~an optional~~ defined contribution ~~retirement~~ program  
 2101 called the Florida Retirement System Investment Plan for members  
 2102 of the Florida Retirement System under which retirement benefits  
 2103 are will be provided for eligible employees initially employed  
 2104 before July 1, 2011, who elect to enroll participate in the  
 2105 plan. Enrollment is compulsory for members of the Elected  
 2106 Officers Class, the Senior Management Class, and any member of  
 2107 any class for which the starting salary of the position in which  
 2108 the member is employed is in excess of \$75,000 who are employed  
 2109 on or after July 1, 2011, except for those who are eligible to  
 2110 and elect to enroll in an optional retirement program  
 2111 established under s. 121.055(6), s. 121.35, or s. 1012.875  
 2112 program. The retirement benefits to be provided for or on behalf  
 2113 of participants in such optional retirement program shall be  
 2114 provided through employee-directed investments, in accordance  
 2115 with s. 401(a) of the Internal Revenue Code and ~~its~~ related  
 2116 regulations. ~~The Employers~~ and employees shall make  
 2117 contributions contribute, as provided in this section and, ss.

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2118 121.571~~7~~ and 121.71~~7~~, to the Florida Public Employee Optional  
2119 Retirement System Investment Plan Program Trust Fund toward the  
2120 funding of ~~such optional~~ benefits.

2121 (2) DEFINITIONS.—As used in this part, the term:

2122 (a) "Approved provider" or "provider" means a private  
2123 sector company that is selected and approved by the state board  
2124 to offer one or more investment products or services to the  
2125 investment plan optional retirement program. The term includes a  
2126 bundled provider that offers plan members ~~participants~~ a range  
2127 of individually allocated or unallocated investment products and  
2128 may offer a range of administrative and customer services, which  
2129 may include accounting and administration of individual member  
2130 ~~participant~~ benefits and contributions; individual member  
2131 ~~participant~~ recordkeeping; asset purchase, control, and  
2132 safekeeping; direct execution of the member's ~~participant's~~  
2133 instructions as to asset and contribution allocation;  
2134 calculation of daily net asset values; direct access to member  
2135 ~~participant~~ account information; periodic reporting to members  
2136 ~~participants~~, at least quarterly, on account balances and  
2137 transactions; guidance, advice, and allocation services directly  
2138 relating to the provider's own investment options or products,  
2139 but only if the bundled provider complies with the standard of  
2140 care of s. 404(a)(1)(A-B) of the Employee Retirement Income  
2141 Security Act of 1974 (ERISA) and if providing such guidance,  
2142 advice, or allocation services does not constitute a prohibited  
2143 transaction under s. 4975(c)(1) of the Internal Revenue Code or  
2144 s. 406 of ERISA, notwithstanding that such prohibited  
2145 transaction provisions do not apply to the ~~optional~~ retirement  
2146 program; a broad array of distribution options; asset

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2147 allocation; and retirement counseling and education. Private  
2148 sector companies include investment management companies,  
2149 insurance companies, depositories, and mutual fund companies.

2150 (b) "Average monthly compensation" means one-twelfth of  
2151 average final compensation as defined in s. 121.021.

2152 (c) "Covered employment" means employment in a regularly  
2153 established position as defined in s. 121.021.

2154 ~~(d) "Defined benefit program" means the defined benefit  
2155 program of the Florida Retirement System administered under part  
2156 I of this chapter.~~

2157 (d) "District school board employer" means a district  
2158 school board that participates in the Florida Retirement System  
2159 for the benefit of certain employees, or a charter school or  
2160 charter technical career center that participates in the Florida  
2161 Retirement System as provided under s. 121.051(2)(d).

2162 (e) "Division" means the Division of Retirement within the  
2163 department.

2164 (f) "Electronic means" means by telephone, if ~~the required~~  
2165 information is received on a recorded line, or through Internet  
2166 access, if ~~the required~~ information is captured online.

2167 (g) "Eligible employee" means an officer or employee, as  
2168 defined in s. 121.021, who:

2169 1. Is a member of, or is eligible for membership in, the  
2170 Florida Retirement System, including any renewed member of the  
2171 Florida Retirement System initially enrolled before July 1,  
2172 2010; or

2173 2. Participates in, or is eligible to participate in, the  
2174 Senior Management Service Optional Annuity Program as  
2175 established under s. 121.055(6), the State Community College

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2176 System Optional Retirement Program as established under s.  
2177 121.051(2)(c), or the State University System Optional  
2178 Retirement Program established under s. 121.35.

2179  
2180 The term does not include any member participating in the  
2181 Deferred Retirement Option Program established under s.  
2182 121.091(13), a retiree of a state-administered retirement system  
2183 initially reemployed on or after July 1, 2010, or a mandatory  
2184 member participant of the State University System Optional  
2185 Retirement Program established under s. 121.35.

2186 (h) "Employer" means an employer, as defined in s. 121.021,  
2187 of an eligible employee.

2188 (i) "Investment plan" means the Florida Retirement System  
2189 Investment Plan, a defined contribution program established  
2190 under this part.

2191 (j) "Local employer" means an employer that is not a state  
2192 employer or a district school board employer.

2193 ~~(i) "Optional retirement program" or "optional program"~~  
2194 ~~means the Public Employee Optional Retirement Program~~  
2195 ~~established under this part.~~

2196 (k) ~~(j)~~ "Member Participant" means an eligible employee who  
2197 is enrolled enrolls in the investment plan optional program as  
2198 provided in subsection (4) or a terminated Deferred Retirement  
2199 Option Program participant as described in subsection (21).

2200 (l) "Pension plan" means the defined benefit program of the  
2201 Florida Retirement System administered under part I of this  
2202 chapter.

2203 (m) ~~(k)~~ "Retiree" means a former member participant of the  
2204 investment plan optional retirement program who has terminated

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2205 employment and has taken a distribution as provided in s.  
2206 121.591, except for a mandatory distribution of a de minimis  
2207 account authorized by the state board.

2208 (n) "State employer" means an agency, board, branch,  
2209 commission, community college, department, institution,  
2210 institution of higher education, or water management district  
2211 that participates in the Florida Retirement System for the  
2212 benefit of certain employees.

2213 (o) ~~(l)~~ "Vested" or "vesting" means the guarantee that a  
2214 member ~~participant~~ is eligible to receive a retirement benefit  
2215 upon completion of the required years of service under the  
2216 investment plan ~~optional retirement program~~.

2217 (3) ~~ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF~~  
2218 ~~BENEFITS.~~—

2219 ~~(a) Participation in the Public Employee Optional~~  
2220 ~~Retirement Program is limited to eligible employees.~~  
2221 ~~Participation in the optional retirement program is in lieu of~~  
2222 ~~participation in the defined benefit program of the Florida~~  
2223 ~~Retirement System.~~

2224 (a) ~~(b)~~ An eligible employee who is employed in a regularly  
2225 established position by a state employer on June 1, 2002; by a  
2226 district school board employer on September 1, 2002; or by a  
2227 local employer on December 1, 2002, and who is a member of the  
2228 pension plan ~~defined benefit retirement program of the Florida~~  
2229 Retirement System at the time of his or her election to enroll  
2230 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
2231 ~~Retirement Program~~ shall retain all retirement service credit  
2232 earned under the pension plan ~~defined benefit retirement program~~  
2233 of the Florida Retirement System as credited under the Florida

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2234 Retirement System and is ~~shall be~~ entitled to a deferred benefit  
2235 upon termination, ~~if eligible under the system~~. However,  
2236 election to enroll ~~participate~~ in the investment plan ~~Public~~  
2237 ~~Employee Optional Retirement Program~~ terminates the active  
2238 membership of the employee in the pension plan ~~defined benefit~~  
2239 ~~program of the Florida Retirement System~~, and the service of a  
2240 member of participant ~~in the investment plan~~ is ~~Public Employee~~  
2241 ~~Optional Retirement Program~~ shall not be creditable under the  
2242 pension plan ~~defined benefit retirement program of the Florida~~  
2243 ~~Retirement System~~ for purposes of benefit accrual but is  
2244 creditable ~~shall be credited~~ for purposes of vesting.

2245 (b)(e)1. Notwithstanding paragraph (a), ~~an (b)~~, each  
2246 eligible employee who elects to enroll ~~participate~~ in the  
2247 investment plan ~~Public Employee Optional Retirement Program~~ and  
2248 establishes one or more individual member ~~participant~~ accounts  
2249 ~~under the optional program~~ may elect to transfer to the  
2250 investment plan ~~optional program~~ a sum representing the present  
2251 value of the employee's accumulated benefit obligation under the  
2252 pension plan ~~defined benefit retirement program of the Florida~~  
2253 ~~Retirement System~~. Upon ~~such~~ transfer, all service credit  
2254 ~~previously~~ earned under the pension plan ~~defined benefit~~  
2255 ~~program of the Florida Retirement System~~ shall be nullified for  
2256 purposes of entitlement to a future benefit under the pension  
2257 plan ~~defined benefit program of the Florida Retirement System~~. A  
2258 member may not transfer ~~participant is precluded from~~  
2259 ~~transferring~~ the accumulated benefit obligation balance from the  
2260 pension plan ~~after the time defined benefit program upon the~~  
2261 ~~expiration of the period~~ for enrolling ~~afforded to enroll~~ in the  
2262 investment plan ~~optional program~~.

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2263           ~~1.2.~~ For purposes of this subsection, the present value of  
2264 the member's accumulated benefit obligation is based upon the  
2265 member's estimated creditable service and estimated average  
2266 final compensation under the pension plan ~~defined benefit~~  
2267 program, subject to recomputation under subparagraph 2. 3. ~~3.~~ For  
2268 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial  
2269 estimates shall ~~will~~ be based upon creditable service and  
2270 average final compensation as of midnight on June 30, 2002; for  
2271 district school board employees ~~enrolling under subparagraph~~  
2272 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable  
2273 service and average final compensation as of midnight on  
2274 September 30, 2002; and for local government employees ~~enrolling~~  
2275 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be  
2276 based upon creditable service and average final compensation as  
2277 of midnight on December 31, 2002. The dates ~~respectively~~  
2278 specified are above ~~shall be construed as~~ the "estimate date"  
2279 for these employees. The actuarial present value of the  
2280 employee's accumulated benefit obligation shall be based on the  
2281 following:

2282           a. The discount rate and other relevant actuarial  
2283 assumptions used to value the Florida Retirement System Trust  
2284 Fund at the time the amount to be transferred is determined,  
2285 consistent with the factors provided in sub-subparagraphs b. and  
2286 c.

2287           b. A benefit commencement age, based on the member's  
2288 estimated creditable service as of the estimate date. The  
2289 benefit commencement age is ~~shall be~~ the younger of the  
2290 following, but may ~~shall~~ not be younger than the member's age as  
2291 of the estimate date:

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2292 (I) Age 62; or

2293 (II) The age the member would attain if the member  
2294 completed 30 years of service with an employer, assuming the  
2295 member worked continuously from the estimate date, and  
2296 disregarding any vesting requirement that would otherwise apply  
2297 under the pension plan ~~defined benefit program of the Florida~~  
2298 ~~Retirement System.~~

2299 c. For members of the Special Risk Class, and for members  
2300 of the Special Risk Administrative Support Class entitled to  
2301 retain the special risk normal retirement date, the benefit  
2302 commencement age is ~~shall be~~ the younger of the following, but  
2303 may ~~shall~~ not be younger than the member's age as of the  
2304 estimate date:

2305 (I) Age 55; or

2306 (II) The age the member would attain if the member  
2307 completed 25 years of service with an employer, assuming the  
2308 member worked continuously from the estimate date, and  
2309 disregarding any vesting requirement that would otherwise apply  
2310 under the pension plan ~~defined benefit program of the Florida~~  
2311 ~~Retirement System.~~

2312 d. The calculation must ~~shall~~ disregard vesting  
2313 requirements and early retirement reduction factors that would  
2314 otherwise apply under the pension plan ~~defined benefit~~  
2315 ~~retirement program.~~

2316 ~~2.3.~~ For each member ~~participant~~ who elects to transfer  
2317 moneys from the pension plan ~~defined benefit program~~ to his or  
2318 her account in the investment plan ~~optional program~~, the  
2319 division shall recompute the amount transferred under  
2320 subparagraph 1. ~~within 2.~~ ~~not later than~~ 60 days after the



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2321 actual transfer of funds based upon the member's ~~participant's~~  
2322 actual creditable service and actual final average compensation  
2323 as of the initial date of participation in the investment plan  
2324 ~~optional program~~. If the recomputed amount differs from the  
2325 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the  
2326 division shall:

2327       a. Transfer, or cause to be transferred, from the Florida  
2328 Retirement System Trust Fund to the member's ~~participant's~~  
2329 account ~~in the optional program~~ the excess, if any, of the  
2330 recomputed amount over the previously transferred amount  
2331 together with interest from the initial date of transfer to the  
2332 date of transfer under this subparagraph, based upon the  
2333 effective annual interest equal to the assumed return on the  
2334 actuarial investment which was used in the most recent actuarial  
2335 valuation of the system, compounded annually.

2336       b. Transfer, or cause to be transferred, from the member's  
2337 ~~participant's~~ account to the Florida Retirement System Trust  
2338 Fund the excess, if any, of the previously transferred amount  
2339 over the recomputed amount, together with interest from the  
2340 initial date of transfer to the date of transfer under this  
2341 subparagraph, based upon 6 percent effective annual interest,  
2342 compounded annually, pro rata based on the member's  
2343 ~~participant's~~ allocation plan.

2344       3. If contribution adjustments are made as a result of  
2345 employer errors or corrections, including plan corrections,  
2346 following recomputation of the amount transferred under  
2347 subparagraph 1., the member is entitled to the additional  
2348 contributions or is responsible for returning any excess  
2349 contributions resulting from the correction if the return of

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2350 such contributions by the plan is made within 1 year after the  
2351 making of the erroneous contributions or such other period  
2352 allowed by applicable Internal Revenue Service guidance. The  
2353 present value of the member's accumulated benefit obligation may  
2354 not be recalculated.

2355 4. As directed by the member participant, the state board  
2356 shall transfer or cause to be transferred the appropriate  
2357 amounts to the designated accounts within. ~~The board shall~~  
2358 ~~establish transfer procedures by rule, but the actual transfer~~  
2359 ~~shall not be later than~~ 30 days after the effective date of the  
2360 member's participation in the investment plan optional program  
2361 unless the major financial markets for securities available for  
2362 a transfer are seriously disrupted by an unforeseen event that  
2363 ~~which also~~ causes the suspension of trading on any national  
2364 securities exchange in the country where the securities are were  
2365 issued. In that event, the such 30-day period ~~of time~~ may be  
2366 extended by a resolution of the state board trustees. The state  
2367 board shall establish transfer procedures by rule. Transfers are  
2368 not commissionable or subject to other fees and may be in the  
2369 form of securities or cash, as determined by the state board.  
2370 Such securities are shall be valued as of the date of receipt in  
2371 the member's participant's account.

2372 5. If the state board or the division receives notification  
2373 from the United States Internal Revenue Service that this  
2374 paragraph or any portion of this paragraph will cause the  
2375 retirement system, or a portion thereof, to be disqualified for  
2376 tax purposes under the Internal Revenue Code, ~~then~~ the portion  
2377 that will cause the disqualification does not apply. Upon such  
2378 notice, the state board and the division shall notify the

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2379 presiding officers of the Legislature.

2380 (4) PARTICIPATION; ENROLLMENT.—

2381 (a)~~1~~. With respect to an eligible employee who is employed  
2382 in a regularly established position by a state employer after on  
2383 June 1, 2002; by a district school board employer after  
2384 September 1, 2002; or by a local employer after December 1,  
2385 2002, but before July 1, 2011, the, by a state employer:

2386 ~~a. Any such employee may elect to participate in the Public~~  
2387 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
2388 ~~her membership in the defined benefit program of the Florida~~  
2389 ~~Retirement System. The election must be made in writing or by~~  
2390 ~~electronic means and must be filed with the third party~~  
2391 ~~administrator by August 31, 2002, or, in the case of an active~~  
2392 ~~employee who is on a leave of absence on April 1, 2002, by the~~  
2393 ~~last business day of the 5th month following the month the leave~~  
2394 ~~of absence concludes. This election is irrevocable, except as~~  
2395 ~~provided in paragraph (c). Upon making such election, the~~  
2396 ~~employee shall be enrolled as a participant of the Public~~  
2397 ~~Employee Optional Retirement Program, the employee's membership~~  
2398 ~~in the Florida Retirement System shall be governed by the~~  
2399 ~~provisions of this part, and the employee's membership in the~~  
2400 ~~defined benefit program of the Florida Retirement System shall~~  
2401 ~~terminate. The employee's enrollment in the Public Employee~~  
2402 ~~Optional Retirement Program shall be effective the first day of~~  
2403 ~~the month for which a full month's employer contribution is made~~  
2404 ~~to the optional program.~~

2405 ~~b. Any such employee who fails to elect to participate in~~  
2406 ~~the Public Employee Optional Retirement Program within the~~  
2407 ~~prescribed time period is deemed to have elected to retain~~

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2408 ~~membership in the defined benefit program of the Florida~~  
2409 ~~Retirement System, and the employee's option to elect to~~  
2410 ~~participate in the optional program is forfeited.~~

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

2415 ~~a. Any such~~ employee shall, by default, be enrolled in the  
2416 pension plan defined benefit retirement program of the Florida  
2417 ~~Retirement System~~ at the commencement of employment, and may, by  
2418 the last business day of the 5th month following the employee's  
2419 month of hire, elect to enroll ~~participate~~ in the investment  
2420 plan ~~Public Employee Optional Retirement Program~~. The employee's  
2421 election must be made in writing or by electronic means and must  
2422 be filed with the third-party administrator. The election to  
2423 enroll ~~participate~~ in the investment plan ~~optional program~~ is  
2424 irrevocable, except as provided in paragraph (e).

2425 ~~1.b.~~ If the employee files such election within the  
2426 prescribed time period, enrollment in the investment plan is  
2427 ~~optional program shall be~~ effective on the first day of  
2428 employment. The employer and employee ~~retirement~~ contributions  
2429 paid through the month of the employee plan change shall be  
2430 transferred to the investment plan ~~optional program~~, and,  
2431 effective the first day of the next month, the employer and  
2432 employee must ~~shall~~ pay the applicable contributions based on  
2433 the employee membership class in the plan ~~optional program~~.

2434 ~~2.c.~~ ~~An Any such~~ employee who fails to elect to enroll  
2435 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
2436 ~~Retirement Program~~ within the prescribed time period is deemed

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2437 to have elected to retain membership in the pension plan ~~defined~~  
2438 ~~benefit program of the Florida Retirement System~~, and the  
2439 employee's option to elect to enroll ~~participate~~ in the  
2440 investment plan ~~optional program~~ is forfeited.

2441 3. With respect to employees who become eligible to enroll  
2442 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
2443 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.  
2444 121.35(3)(i), the any such employee may elect to enroll  
2445 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
2446 ~~Retirement Program~~ in lieu of retaining his or her participation  
2447 in the State Community College System Optional Retirement  
2448 Program or the State University System Optional Retirement  
2449 Program. The election must be made in writing or by electronic  
2450 means and must be filed with the third-party administrator. This  
2451 election is irrevocable, except as provided in paragraph (e).  
2452 Upon making such election, the employee shall be enrolled in as  
2453 ~~a participant of the investment plan~~ ~~Public Employee Optional~~  
2454 ~~Retirement Program~~, the employee's membership in the Florida  
2455 Retirement System shall be governed by the provisions of this  
2456 part, and the employee's participation in the State Community  
2457 College System Optional Retirement Program or the State  
2458 University System Optional Retirement Program shall terminate.  
2459 The employee's enrollment in the investment plan ~~is~~ ~~Public~~  
2460 ~~Employee Optional Retirement Program~~ shall be effective on the  
2461 first day of the month for which a full month's employer  
2462 employee contributions are ~~contribution is~~ made to the  
2463 investment plan ~~optional program~~.

2464 4. ~~For purposes of this paragraph, "state employer" means~~  
2465 ~~any agency, board, branch, commission, community college,~~

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2466 ~~department, institution, institution of higher education, or~~  
2467 ~~water management district of the state, which participates in~~  
2468 ~~the Florida Retirement System for the benefit of certain~~  
2469 ~~employees.~~

2470 ~~(b)1. With respect to an eligible employee who is employed~~  
2471 ~~in a regularly established position on September 1, 2002, by a~~  
2472 ~~district school board employer:~~

2473 ~~a. Any such employee may elect to participate in the Public~~  
2474 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
2475 ~~her membership in the defined benefit program of the Florida~~  
2476 ~~Retirement System. The election must be made in writing or by~~  
2477 ~~electronic means and must be filed with the third party~~  
2478 ~~administrator by November 30, or, in the case of an active~~  
2479 ~~employee who is on a leave of absence on July 1, 2002, by the~~  
2480 ~~last business day of the 5th month following the month the leave~~  
2481 ~~of absence concludes. This election is irrevocable, except as~~  
2482 ~~provided in paragraph (c). Upon making such election, the~~  
2483 ~~employee shall be enrolled as a participant of the Public~~  
2484 ~~Employee Optional Retirement Program, the employee's membership~~  
2485 ~~in the Florida Retirement System shall be governed by the~~  
2486 ~~provisions of this part, and the employee's membership in the~~  
2487 ~~defined benefit program of the Florida Retirement System shall~~  
2488 ~~terminate. The employee's enrollment in the Public Employee~~  
2489 ~~Optional Retirement Program shall be effective the first day of~~  
2490 ~~the month for which a full month's employer contribution is made~~  
2491 ~~to the optional program.~~

2492 ~~b. Any such employee who fails to elect to participate in~~  
2493 ~~the Public Employee Optional Retirement Program within the~~  
2494 ~~prescribed time period is deemed to have elected to retain~~

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2495 ~~membership in the defined benefit program of the Florida~~  
2496 ~~Retirement System, and the employee's option to elect to~~  
2497 ~~participate in the optional program is forfeited.~~

2498 ~~2. With respect to employees who become eligible to~~  
2499 ~~participate in the Public Employee Optional Retirement Program~~  
2500 ~~by reason of employment in a regularly established position with~~  
2501 ~~a district school board employer commencing after July 1, 2002:~~

2502 ~~a. Any such employee shall, by default, be enrolled in the~~  
2503 ~~defined benefit retirement program of the Florida Retirement~~  
2504 ~~System at the commencement of employment, and may, by the last~~  
2505 ~~business day of the 5th month following the employee's month of~~  
2506 ~~hire, elect to participate in the Public Employee Optional~~  
2507 ~~Retirement Program. The employee's election must be made in~~  
2508 ~~writing or by electronic means and must be filed with the third-~~  
2509 ~~party administrator. The election to participate in the optional~~  
2510 ~~program is irrevocable, except as provided in paragraph (c).~~

2511 ~~b. If the employee files such election within the~~  
2512 ~~prescribed time period, enrollment in the optional program shall~~  
2513 ~~be effective on the first day of employment. The employer~~  
2514 ~~retirement contributions paid through the month of the employee~~  
2515 ~~plan change shall be transferred to the optional program, and,~~  
2516 ~~effective the first day of the next month, the employer shall~~  
2517 ~~pay the applicable contributions based on the employee~~  
2518 ~~membership class in the optional program.~~

2519 ~~e. Any such employee who fails to elect to participate in~~  
2520 ~~the Public Employee Optional Retirement Program within the~~  
2521 ~~prescribed time period is deemed to have elected to retain~~  
2522 ~~membership in the defined benefit program of the Florida~~  
2523 ~~Retirement System, and the employee's option to elect to~~

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2524 ~~participate in the optional program is forfeited.~~

2525 ~~3. For purposes of this paragraph, "district school board~~  
2526 ~~employer" means any district school board that participates in~~  
2527 ~~the Florida Retirement System for the benefit of certain~~  
2528 ~~employees, or a charter school or charter technical career~~  
2529 ~~center that participates in the Florida Retirement System as~~  
2530 ~~provided in s. 121.051(2) (d).~~

2531 ~~(c)1. With respect to an eligible employee who is employed~~  
2532 ~~in a regularly established position on December 1, 2002, by a~~  
2533 ~~local employer:~~

2534 ~~a. Any such employee may elect to participate in the Public~~  
2535 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
2536 ~~her membership in the defined benefit program of the Florida~~  
2537 ~~Retirement System. The election must be made in writing or by~~  
2538 ~~electronic means and must be filed with the third-party~~  
2539 ~~administrator by February 28, 2003, or, in the case of an active~~  
2540 ~~employee who is on a leave of absence on October 1, 2002, by the~~  
2541 ~~last business day of the 5th month following the month the leave~~  
2542 ~~of absence concludes. This election is irrevocable, except as~~  
2543 ~~provided in paragraph (c). Upon making such election, the~~  
2544 ~~employee shall be enrolled as a participant of the Public~~  
2545 ~~Employee Optional Retirement Program, the employee's membership~~  
2546 ~~in the Florida Retirement System shall be governed by the~~  
2547 ~~provisions of this part, and the employee's membership in the~~  
2548 ~~defined benefit program of the Florida Retirement System shall~~  
2549 ~~terminate. The employee's enrollment in the Public Employee~~  
2550 ~~Optional Retirement Program shall be effective the first day of~~  
2551 ~~the month for which a full month's employer contribution is made~~  
2552 ~~to the optional program.~~



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2553 ~~b. Any such employee who fails to elect to participate in~~  
2554 ~~the Public Employee Optional Retirement Program within the~~  
2555 ~~prescribed time period is deemed to have elected to retain~~  
2556 ~~membership in the defined benefit program of the Florida~~  
2557 ~~Retirement System, and the employee's option to elect to~~  
2558 ~~participate in the optional program is forfeited.~~

2559 ~~2. With respect to employees who become eligible to~~  
2560 ~~participate in the Public Employee Optional Retirement Program~~  
2561 ~~by reason of employment in a regularly established position with~~  
2562 ~~a local employer commencing after October 1, 2002:~~

2563 ~~a. Any such employee shall, by default, be enrolled in the~~  
2564 ~~defined benefit retirement program of the Florida Retirement~~  
2565 ~~System at the commencement of employment, and may, by the last~~  
2566 ~~business day of the 5th month following the employee's month of~~  
2567 ~~hire, elect to participate in the Public Employee Optional~~  
2568 ~~Retirement Program. The employee's election must be made in~~  
2569 ~~writing or by electronic means and must be filed with the third-~~  
2570 ~~party administrator. The election to participate in the optional~~  
2571 ~~program is irrevocable, except as provided in paragraph (c).~~

2572 ~~b. If the employee files such election within the~~  
2573 ~~prescribed time period, enrollment in the optional program shall~~  
2574 ~~be effective on the first day of employment. The employer~~  
2575 ~~retirement contributions paid through the month of the employee~~  
2576 ~~plan change shall be transferred to the optional program, and,~~  
2577 ~~effective the first day of the next month, the employer shall~~  
2578 ~~pay the applicable contributions based on the employee~~  
2579 ~~membership class in the optional program.~~

2580 ~~e. Any such employee who fails to elect to participate in~~  
2581 ~~the Public Employee Optional Retirement Program within the~~

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2582 ~~prescribed time period is deemed to have elected to retain~~  
2583 ~~membership in the defined benefit program of the Florida~~  
2584 ~~Retirement System, and the employee's option to elect to~~  
2585 ~~participate in the optional program is forfeited.~~

2586 ~~3. For purposes of this paragraph, "local employer" means~~  
2587 ~~any employer not included in paragraph (a) or paragraph (b).~~

2588 ~~(b) (d)~~ Contributions available for self-direction by a  
2589 ~~member participant~~ who has not selected one or more specific  
2590 investment products shall be allocated as prescribed by the  
2591 state board. The third-party administrator shall notify the  
2592 ~~member any such participant~~ at least quarterly that the member  
2593 ~~participant~~ should take an affirmative action to make an asset  
2594 allocation among the investment plan ~~optional program~~ products.

2595 (c) On or after July 1, 2011, a member of the pension plan  
2596 who obtains a refund of employee contributions retains his or  
2597 her prior plan choice upon return to employment in a regularly  
2598 established position with a participating employer.

2599 (d) A member of the investment plan who takes a  
2600 distribution of any contributions from his or her investment  
2601 plan account is considered a retiree. Upon reemployment in a  
2602 regularly established position with a participating employer,  
2603 the member returns as a new hire and, if applicable, may  
2604 participate in the Florida Retirement System.

2605 (e) After the period during which an eligible employee had  
2606 the choice to elect the pension plan ~~defined benefit program~~ or  
2607 the investment plan ~~optional retirement program~~, or the month  
2608 following the receipt of the eligible employee's plan election,  
2609 if sooner, the employee shall have one opportunity, at the  
2610 employee's discretion, to choose to move from the pension plan

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2611 ~~defined benefit program~~ to the investment plan optional  
2612 ~~retirement program~~ or from the investment plan optional  
2613 ~~retirement program~~ to the pension plan defined benefit program.  
2614 Eligible employees may elect to move between Florida Retirement  
2615 System programs only if they are earning service credit in an  
2616 employer-employee relationship consistent with s.  
2617 121.021(17)(b), excluding leaves of absence without pay.  
2618 Effective July 1, 2005, such elections are effective on the  
2619 first day of the month following the receipt of the election by  
2620 the third-party administrator and are not subject to the  
2621 requirements regarding an employer-employee relationship or  
2622 receipt of contributions for the eligible employee in the  
2623 effective month, except when the election is received by the  
2624 third-party administrator. This paragraph is contingent upon  
2625 receiving approval from the Internal Revenue Service to include  
2626 ~~for including~~ the choice described herein within the programs  
2627 offered by the Florida Retirement System.

2628 1. If the employee chooses to move to the investment plan  
2629 ~~optional retirement program~~, the applicable provisions of  
2630 subsection (3) this section shall govern the transfer.

2631 2. If the employee chooses to move to the pension plan  
2632 ~~defined benefit program~~, the employee must transfer from his or  
2633 her investment plan optional retirement program account, and  
2634 from other employee moneys as necessary, a sum representing the  
2635 present value of that employee's accumulated benefit obligation  
2636 immediately following the time of such movement, determined  
2637 assuming that attained service equals the sum of service in the  
2638 pension plan defined benefit program and service in the  
2639 investment plan optional retirement program. Benefit

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2640 commencement occurs on the first date the employee is eligible  
2641 for unreduced benefits, using the discount rate and other  
2642 relevant actuarial assumptions that were used to value the  
2643 pension ~~defined benefit~~ plan liabilities in the most recent  
2644 actuarial valuation. For any employee who, at the time of the  
2645 second election, already maintains an accrued benefit amount in  
2646 the pension plan ~~defined benefit program~~, the then-present value  
2647 of the accrued benefit shall be deemed part of the required  
2648 transfer amount. The division shall ensure that the transfer sum  
2649 is prepared using a formula and methodology certified by an  
2650 enrolled actuary. A refund of any employee contributions or  
2651 additional employee payments which exceed the employee  
2652 contributions that would have accrued had the employee remained  
2653 in the pension plan and not transferred to the investment plan  
2654 is not permitted.

2655 3. Notwithstanding subparagraph 2., an employee who chooses  
2656 to move to the pension plan ~~defined benefit program~~ and who  
2657 ~~became eligible to participate in the optional retirement~~  
2658 ~~program by reason of employment in a regularly established~~  
2659 ~~position with a state employer after June 1, 2002; a district~~  
2660 ~~school board employer after September 1, 2002; or a local~~  
2661 ~~employer after December 1, 2002,~~ must transfer from his or her  
2662 investment plan ~~optional retirement program~~ account, and from  
2663 other employee moneys as necessary, a sum representing the  
2664 employee's actuarial accrued liability. A refund of any employee  
2665 contributions or additional employee payments which exceed the  
2666 employee contributions that would have accrued had the employee  
2667 remained in the pension plan and not transferred to the  
2668 investment plan is not permitted.

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2669           4. An employee's ability to transfer from the pension plan  
2670 ~~defined benefit program~~ to the investment plan ~~optional~~  
2671 ~~retirement program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~,  
2672 and the ability of a current employee to have an option to later  
2673 transfer back into the pension plan ~~defined benefit program~~  
2674 under subparagraph 2., shall be deemed a significant system  
2675 amendment. Pursuant to s. 121.031(4), any resulting unfunded  
2676 liability arising from actual original transfers from the  
2677 pension plan ~~defined benefit program~~ to the investment plan  
2678 ~~optional program~~ must be amortized within 30 plan years as a  
2679 separate unfunded actuarial base independent of the reserve  
2680 stabilization mechanism defined in s. 121.031(3)(f). For the  
2681 first 25 years, a direct amortization payment may not be  
2682 calculated for this base. During this 25-year period, the  
2683 separate base shall be used to offset the impact of employees  
2684 exercising their second program election under this paragraph.  
2685 It is the intent of the Legislature that the actuarial funded  
2686 status of the pension plan ~~defined benefit program~~ not be  
2687 affected by such second program elections in any significant  
2688 manner, after due recognition of the separate unfunded actuarial  
2689 base. Following the initial 25-year period, any remaining  
2690 balance of the original separate base shall be amortized over  
2691 the remaining 5 years of the required 30-year amortization  
2692 period.

2693           5. If the employee chooses to transfer from the investment  
2694 plan ~~optional retirement program~~ to the pension plan ~~defined~~  
2695 ~~benefit program~~ and retains an excess account balance in the  
2696 investment plan ~~optional program~~ after satisfying the buy-in  
2697 requirements under this paragraph, the excess may not be

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2698 distributed until the member retires from the pension plan  
2699 ~~defined benefit program~~. The excess account balance may be  
2700 rolled over to the pension plan ~~defined benefit program~~ and used  
2701 to purchase service credit or upgrade creditable service in that  
2702 program.

2703 (f) On or after July 1, 2011, an employee in the pension  
2704 plan who obtains a refund of employee contributions shall retain  
2705 his or her prior plan choice upon return to employment in a  
2706 regularly established position with an employer participating in  
2707 the Florida Retirement System.

2708 (g) A member who terminates covered employment in the  
2709 Florida Retirement System and takes a distribution of any  
2710 contributions from his investment plan account is considered a  
2711 retiree. Upon reemployment in a regularly established position  
2712 with a covered employer, the retiree returns as a new hire and,  
2713 if applicable, may participate in the Florida Retirement System.

2714 (5) CONTRIBUTIONS.—

2715 (a) The ~~Each~~ employer and employee shall make the required  
2716 contributions to the investment plan based on a percentage of  
2717 the employee's gross monthly compensation ~~contribute on behalf~~  
2718 ~~of each participant in the Public Employee optional retirement~~  
2719 ~~Program~~, as provided in part III of this chapter.

2720 (b) Employee contributions shall be paid on a pretax basis,  
2721 as provided in s. 401 of the Internal Revenue Code. Such  
2722 contributions may not exceed federal limitations. An employee is  
2723 responsible for monitoring his or her individual contributions  
2724 to ensure that he or she does not exceed the maximum deferral  
2725 amounts permitted under the Internal Revenue Code. A employee's  
2726 total contribution equals the sum of all amounts deducted from

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2727 the employee's salary by his or her employer in accordance with  
2728 s. 121.71(2) and credited to his or her individual account in  
2729 the investment plan, plus any earnings on such amounts and any  
2730 contributions specified in paragraph (e).

2731 (c) The state board, acting as plan fiduciary, shall ensure  
2732 that all plan assets are held in a trust, pursuant to s. 401 of  
2733 the Internal Revenue Code. The fiduciary shall ensure that said  
2734 contributions are allocated as follows:

2735 1. The employer and employee portion earmarked for member  
2736 ~~participant~~ accounts shall be used to purchase interests in the  
2737 appropriate investment vehicles ~~for the accounts of each~~  
2738 ~~participant~~ as specified by the member participant, or in  
2739 accordance with paragraph (4)(b) ~~(4)(d)~~.

2740 2. The employer portion earmarked for administrative and  
2741 educational expenses shall be transferred to the state board.

2742 3. The employer portion earmarked for disability benefits  
2743 shall be transferred to the department.

2744 ~~(d)(b)~~ Employers are responsible for notifying employees  
2745 ~~participants~~ regarding maximum contribution levels authorized  
2746 ~~permitted~~ under the Internal Revenue Code. If a member  
2747 ~~participant~~ contributes to any other tax-deferred plan, he or  
2748 she is responsible for ensuring that total contributions made to  
2749 the investment plan ~~optional program~~ and to any other such plan  
2750 do not exceed federally permitted maximums.

2751 ~~(e)(c)~~ The investment plan ~~Public Employee Optional~~  
2752 ~~Retirement Program~~ may accept for deposit into member  
2753 ~~participant~~ accounts contributions in the form of rollovers or  
2754 direct trustee-to-trustee transfers by or on behalf of members  
2755 ~~participants~~, reasonably determined by the state board to be

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2756 eligible for rollover or transfer to the investment plan  
2757 ~~optional retirement program~~ pursuant to the Internal Revenue  
2758 Code, if such contributions are made in accordance with rules ~~as~~  
2759 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be  
2760 accounted for in accordance with ~~any~~ applicable Internal Revenue  
2761 Code requirements and rules of the state board.

2762 (6) VESTING REQUIREMENTS.—

2763 (a) A member is fully and immediately vested in all  
2764 employee contributions paid to the investment plan as provided  
2765 in s. 121.72(2), plus interest and earnings thereon and less  
2766 investment fees and administrative charges.

2767 (b) ~~(a)~~1. With respect to employer contributions paid on  
2768 behalf of a member of the participant to the investment plan  
2769 ~~optional retirement program~~, plus interest and earnings thereon  
2770 and less investment fees and administrative charges, a member  
2771 who voluntarily elected to enroll in the investment plan before  
2772 July 1, 2011, or an eligible employee initially enrolled in the  
2773 Florida Retirement System before July 1, 2011, who has the  
2774 option to voluntarily elect to enroll in the investment plan,  
2775 ~~participant~~ is vested after completing 1 work year with an  
2776 employer, including any service while the employee participant  
2777 was a member of the pension plan defined benefit program or an  
2778 optional retirement program authorized under s. 121.051(2)(c),  
2779 ~~or~~ s. 121.055(6), or s. 121.35.

2780 2. With respect to employer contributions paid on behalf of  
2781 the member of the investment plan, plus interest and earnings  
2782 thereon and less investment fees and administrative charges, an  
2783 employee initially enrolled in the Florida Retirement System on  
2784 or after July 1, 2011, is vested according to the following



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- 2785 schedule:
- 2786     a. Prior to completion of 3 years of service.....0%
- 2787     b. Upon completion of 3 years of service.....40%
- 2788     c. Upon completion of 4 years of service.....80%
- 2789     d. Upon completion of 5 or more years of service.....100%

2790

2791 Years of service includes any service completed while the

2792 employee was a member of the pension plan or an optional

2793 retirement program authorized under s. 121.051(2)(c), s.

2794 121.055(6), or s. 121.35.

2795     ~~3.2.~~ If the member participant terminates employment before

2796 satisfying the vesting requirements, the nonvested accumulation

2797 must be transferred from the member's participant's accounts to

2798 the state board for deposit and investment by the state board in

2799 the suspense account created within the Florida Public Employee

2800 Optional Retirement System Investment Plan Program Trust Fund.

2801 If the terminated member participant is reemployed as an

2802 eligible employee within 5 years, the state board shall transfer

2803 to the member's participant's account any amount previously

2804 transferred from the member's participant's accounts to the

2805 suspense account, plus actual earnings on such amount while in

2806 the suspense account.

2807     ~~(c)(b)~~1. With respect to amounts transferred from the

2808 pension plan defined benefit program to the investment plan

2809 program, plus interest and earnings, and less investment fees

2810 and administrative charges, a member participant shall be vested

2811 in the employer amount transferred upon meeting the service

2812 requirements for the employee's participant's membership class

2813 as set forth in s. 121.021(29). The third-party administrator

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2814 shall account for such amounts for each member participant. The  
2815 division shall notify the member participant and the third-party  
2816 administrator when the member participant has satisfied the  
2817 vesting period for Florida Retirement System purposes.

2818 2. If the member participant terminates employment before  
2819 satisfying the vesting requirements, the nonvested employer  
2820 accumulation must be transferred from the member's participant's  
2821 accounts to the state board for deposit and investment by the  
2822 state board in the suspense account created within the Florida  
2823 Public Employee Optional Retirement System Investment Plan  
2824 Program Trust Fund. If the terminated member participant is  
2825 reemployed as an eligible employee within 5 years, the state  
2826 board shall transfer to the member's participant's account any  
2827 amount previously transferred from the member's participant's  
2828 accounts to the suspense account, plus the actual earnings on  
2829 such amount while in the suspense account.

2830 (d) ~~(e)~~ Any nonvested accumulations transferred from a  
2831 member's participant's account to the state board's suspense  
2832 account, including any accompanying services credit, shall be  
2833 forfeited by the member participant if the member participant is  
2834 not reemployed as an eligible employee within 5 years after  
2835 termination.

2836 (e) If the member elects to receive any of his or her  
2837 vested employer or employee contributions upon termination of  
2838 employment as defined in s. 121.021, except for a mandatory  
2839 distribution of a de minimis account authorized by the state  
2840 board or a minimum required distribution provided by s.  
2841 401(a)(9) of the Internal Revenue Code, the employee shall  
2842 forfeit all nonvested employer contributions and accompanying

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2843 service credit paid on behalf of the employee to the investment  
2844 plan.

2845 (7) BENEFITS.—Under the investment plan the normal  
2846 retirement date is the date on which a member attains age 62 or  
2847 completes 5 years of service, whichever occurs later. Plan  
2848 benefits must ~~Public Employee Optional Retirement program:~~

2849 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)  
2850 of the Internal Revenue Code.

2851 (b) ~~Benefits shall~~ Accrue in individual accounts that are  
2852 member-directed participant-directed, portable, and funded by  
2853 employer contributions and earnings thereon.

2854 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~  
2855 ~~provisions of~~ s. 121.591.

2856 (8) ADMINISTRATION OF PLAN PROGRAM.—

2857 ~~(a)~~ The investment plan optional retirement program shall  
2858 be administered by the state board and affected employers. The  
2859 state board may require oaths, by affidavit or otherwise, and  
2860 acknowledgments from persons in connection with the  
2861 administration of its statutory duties and responsibilities for  
2862 the plan this program. An oath, by affidavit or otherwise, may  
2863 not be required of an employee ~~participant~~ at the time of  
2864 enrollment. For members enrolled before July 1, 2011,  
2865 acknowledgment of an employee's election to enroll participate  
2866 in the plan may program shall be no greater than necessary to  
2867 confirm the employee's election. The state board shall adopt  
2868 rules to carry out its statutory duties with respect to  
2869 administering the investment plan optional retirement program,  
2870 including ~~establishing~~ the roles and responsibilities of  
2871 affected state, local government, and education-related

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2872 employers, the state board, the department, and third-party  
2873 contractors. The department shall adopt rules necessary to  
2874 administer the investment plan ~~optional program~~ in coordination  
2875 with the pension plan ~~defined benefit program~~ and the disability  
2876 benefits available under the investment plan ~~optional program~~.

2877 (a) ~~(b)~~1. The state board shall select and contract with a  
2878 ~~one~~ third-party administrator to provide administrative services  
2879 if those services cannot be competitively and contractually  
2880 provided by the division ~~of Retirement within the Department of~~  
2881 ~~Management Services~~. With the approval of the state board, the  
2882 third-party administrator may subcontract ~~with other~~  
2883 ~~organizations or individuals~~ to provide components of the  
2884 administrative services. As a cost of administration, the state  
2885 board may compensate ~~any~~ such contractor for its services, in  
2886 accordance with the terms of the contract, as is deemed  
2887 necessary or proper by the board. The third-party administrator  
2888 may not be an approved provider or be affiliated with an  
2889 approved provider.

2890 2. These administrative services may include, but are not  
2891 limited to, enrollment of eligible employees, collection of  
2892 employer and employee contributions, disbursement of ~~such~~  
2893 contributions to approved providers in accordance with the  
2894 allocation directions of members ~~participants~~; services relating  
2895 to consolidated billing; individual and collective recordkeeping  
2896 and accounting; asset purchase, control, and safekeeping; and  
2897 direct disbursement of funds to and from the third-party  
2898 administrator, the division, the state board, employers, plan  
2899 members ~~participants~~, approved providers, and beneficiaries.  
2900 This section does not prevent or prohibit a bundled provider

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2901 from providing any administrative or customer service, including  
2902 accounting and administration of individual member participant  
2903 benefits and contributions; individual member participant  
2904 recordkeeping; asset purchase, control, and safekeeping; direct  
2905 execution of the member's participant's instructions as to asset  
2906 and contribution allocation; calculation of daily net asset  
2907 values; direct access to member participant account information;  
2908 or periodic reporting to members participants, at least  
2909 quarterly, on account balances and transactions, if these  
2910 services are authorized by the state board as part of the  
2911 contract.

2912 (b)1.3. The state board shall select and contract with one  
2913 or more organizations to provide educational services. With  
2914 approval of the state board, the organizations may subcontract  
2915 ~~with other organizations or individuals~~ to provide components of  
2916 the educational services. As a cost of administration, the state  
2917 board may compensate any such contractor for its services in  
2918 accordance with the terms of the contract, as is deemed  
2919 necessary or proper by the board. The education organization may  
2920 not be an approved provider or be affiliated with an approved  
2921 provider.

2922 2.4. Educational services shall be designed by the state  
2923 board and department to assist employers, eligible employees,  
2924 members participants, and beneficiaries in order to maintain  
2925 compliance with United States Department of Labor regulations  
2926 under s. 404(c) of the Employee Retirement Income Security Act  
2927 of 1974, ~~and~~ to assist employees in understanding their choice  
2928 ~~of defined benefit or defined contribution~~ retirement program,  
2929 and, if applicable, the choice between the pension plan and the

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2930 investment plan alternatives. Educational services include, but  
2931 are not limited to, disseminating educational materials;  
2932 providing retirement planning education; explaining the pension  
2933 ~~differences between the defined benefit retirement plan and the~~  
2934 investment defined contribution retirement plan; and offering  
2935 financial planning guidance on matters such as investment  
2936 diversification, investment risks, investment costs, and asset  
2937 allocation. An approved provider may also provide educational  
2938 information, including retirement planning and investment  
2939 allocation information concerning its products and services.

2940 (c)1. In evaluating and selecting a third-party  
2941 administrator, the state board shall establish criteria for  
2942 evaluating ~~under which it shall consider~~ the relative  
2943 capabilities and qualifications of each proposed administrator.  
2944 In developing such criteria, the state board shall consider:

2945 a. The administrator's demonstrated experience in providing  
2946 administrative services to public or private sector retirement  
2947 systems.

2948 b. The administrator's demonstrated experience in providing  
2949 daily valued recordkeeping for investment ~~to defined~~  
2950 ~~contribution~~ plans.

2951 c. The administrator's ability and willingness to  
2952 coordinate its activities with ~~the Florida Retirement System~~  
2953 employers, the state board, and the division, and to supply to  
2954 such employers, the board, and the division the information and  
2955 data they require, including, but not limited to, monthly  
2956 management reports, quarterly member participant reports, and ad  
2957 hoc reports requested by the department or state board.

2958 d. The cost-effectiveness and levels of the administrative

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2959 services provided.

2960 e. The administrator's ability to interact with the members  
2961 ~~participants~~, the employers, the state board, the division, and  
2962 the providers; the means by which members ~~participants~~ may  
2963 access account information, direct investment of contributions,  
2964 make changes to their accounts, transfer moneys between  
2965 available investment vehicles, and transfer moneys between  
2966 investment products; and any fees that apply to such activities.

2967 f. Any other factor deemed necessary by the ~~Trustees of the~~  
2968 state board ~~of Administration~~.

2969 2. In evaluating and selecting an educational provider, the  
2970 state board shall establish criteria under which it shall  
2971 consider the relative capabilities and qualifications of each  
2972 proposed educational provider. In developing such criteria, the  
2973 board shall consider:

2974 a. Demonstrated experience in providing educational  
2975 services to public or private sector retirement systems.

2976 b. Ability and willingness to coordinate its activities  
2977 with the ~~Florida Retirement System~~ employers, the state board,  
2978 and the division, and to supply to such employers, the board,  
2979 and the division the information and data they require,  
2980 including, but not limited to, reports on educational contacts.

2981 c. The cost-effectiveness and levels of the educational  
2982 services provided.

2983 d. Ability to provide educational services via different  
2984 media, including, but not limited to, the Internet, personal  
2985 contact, seminars, brochures, and newsletters.

2986 e. Any other factor deemed necessary by the ~~Trustees of the~~  
2987 state board ~~of Administration~~.

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2988           3. The establishment of the criteria shall be solely within  
2989 the discretion of the state board.

2990           (d) The state board shall develop the form and content of  
2991 any contracts to be offered under the investment plan ~~Public~~  
2992 ~~Employee Optional Retirement Program~~. In developing the ~~its~~  
2993 contracts, the board shall ~~must~~ consider:

2994           1. The nature and extent of the rights and benefits to be  
2995 afforded in relation to the ~~required~~ contributions required  
2996 under the plan ~~program~~.

2997           2. The suitability of the rights and benefits provided ~~to~~  
2998 ~~be afforded~~ and the interests of employers in the recruitment  
2999 and retention of eligible employees.

3000           (e)1. The state board may contract ~~with any consultant~~ for  
3001 professional services, including legal, consulting, accounting,  
3002 and actuarial services, deemed necessary to implement and  
3003 administer the investment plan ~~optional program by the Trustees~~  
3004 ~~of the state board of Administration~~. The board may enter into a  
3005 contract with one or more vendors to provide low-cost investment  
3006 advice to members ~~participants~~, supplemental to education  
3007 provided by the third-party administrator. All fees under ~~any~~  
3008 such contract shall be paid by those members ~~participants~~ who  
3009 choose to use the services of the vendor.

3010           2. The department may contract ~~with consultants~~ for  
3011 professional services, including legal, consulting, accounting,  
3012 and actuarial services, deemed necessary to implement and  
3013 administer the investment plan ~~optional program~~ in coordination  
3014 with the pension plan ~~defined benefit program of the Florida~~  
3015 ~~Retirement System~~. The department, in coordination with the  
3016 state board, may enter into a contract with the third-party



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3017 administrator in order to coordinate services common to the  
3018 various programs within the Florida Retirement System.

3019 (f) The third-party administrator may ~~shall~~ not receive  
3020 direct or indirect compensation from an approved provider,  
3021 except as specifically provided for in the contract with the  
3022 state board.

3023 (g) The state board shall receive and resolve member  
3024 ~~participant~~ complaints against the investment plan program, the  
3025 third-party administrator, or any plan program vendor or  
3026 provider; shall resolve any conflict between the third-party  
3027 administrator and an approved provider if such conflict  
3028 threatens the implementation or administration of the plan  
3029 ~~program~~ or the quality of services to employees; and may resolve  
3030 any other conflicts. The third-party administrator shall retain  
3031 all member participant records for at least 5 years for use in  
3032 resolving any member participant conflicts. The state board, the  
3033 third-party administrator, or a provider is not required to  
3034 produce documentation or an audio recording to justify action  
3035 taken with regard to a member participant if the action occurred  
3036 5 or more years before the complaint is submitted to the ~~state~~  
3037 board. It is presumed that all action taken 5 or more years  
3038 before the complaint is submitted was taken at the request of  
3039 the member participant and with the member's participant's full  
3040 knowledge and consent. To overcome this presumption, the member  
3041 ~~participant~~ must present documentary evidence or an audio  
3042 recording demonstrating otherwise.

3043 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3044 (a) The state board shall develop policy and procedures for  
3045 selecting, evaluating, and monitoring the performance of

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3046 approved providers and investment products ~~to which employees~~  
3047 ~~may direct retirement contributions~~ under the investment plan  
3048 ~~program~~. In accordance with such policy and procedures, the  
3049 state board shall designate and contract for a number of  
3050 investment products as determined by the board. The board shall  
3051 also select one or more bundled providers, each of which ~~whom~~  
3052 may offer multiple investment options and related services, if  
3053 ~~when~~ such ~~an~~ approach is determined by the board to provide  
3054 ~~afford~~ value to the members ~~participants~~ otherwise not available  
3055 through individual investment products. Each approved bundled  
3056 provider may offer investment options that provide members  
3057 ~~participants~~ with the opportunity to invest in each of the  
3058 following asset classes, to be composed of individual options  
3059 that represent ~~either~~ a single asset class or a combination  
3060 thereof: money markets, United States fixed income, United  
3061 States equities, and foreign stock. The state board shall review  
3062 and manage all educational materials, contract terms, fee  
3063 schedules, and other aspects of ~~the~~ approved provider  
3064 relationships to ensure that no provider is unduly favored or  
3065 penalized by virtue of its status within the investment plan.

3066 (b) The state board shall consider investment options or  
3067 products it considers appropriate to give members ~~participants~~  
3068 the opportunity to accumulate retirement benefits, subject to  
3069 the following:

3070 1. The investment plan ~~Public Employee Optional Retirement~~  
3071 ~~Program~~ must offer a diversified mix of low-cost investment  
3072 products that span the risk-return spectrum and may include a  
3073 guaranteed account as well as investment products, such as  
3074 individually allocated guaranteed and variable annuities, which

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3075 meet the requirements of this subsection and combine the ability  
3076 to accumulate investment returns with the option of receiving  
3077 lifetime income consistent with the long-term retirement  
3078 security of a pension plan and similar to the lifetime-income  
3079 benefit provided by the Florida Retirement System.

3080 2. Investment options or products offered by ~~the group of~~  
3081 approved providers may include mutual funds, group annuity  
3082 contracts, individual retirement annuities, interests in trusts,  
3083 collective trusts, separate accounts, and other such financial  
3084 instruments, and ~~may include~~ products that give members  
3085 ~~participants~~ the option of committing their contributions for an  
3086 extended time period in an effort to obtain returns higher than  
3087 those that could be obtained from investment products offering  
3088 full liquidity.

3089 3. The state board may ~~shall~~ not contract with a any  
3090 provider that imposes a front-end, back-end, contingent, or  
3091 deferred sales charge, or any other fee that limits or restricts  
3092 the ability of members ~~participants~~ to select any investment  
3093 product available in the investment plan ~~optional program~~. This  
3094 prohibition does not apply to fees or charges that are imposed  
3095 on withdrawals from products that give members ~~participants~~ the  
3096 option of committing ~~their~~ contributions for an extended time  
3097 period in an effort to obtain returns higher than those that  
3098 could be obtained from investment products offering full  
3099 liquidity, provided that the product ~~in question~~, net of all  
3100 fees and charges, produces material benefits relative to other  
3101 comparable products in the plan ~~program~~ offering full liquidity.

3102 4. Fees or charges for insurance features, such as  
3103 mortality and expense-risk charges, must be reasonable relative

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3104 to the benefits provided.

3105 (c) In evaluating and selecting approved providers and  
3106 products, the state board shall establish criteria for  
3107 evaluating ~~under which it shall consider~~ the relative  
3108 capabilities and qualifications of each proposed provider  
3109 company and product. In developing such criteria, the board  
3110 shall consider the following to the extent such factors may be  
3111 applied in connection with investment products, services, or  
3112 providers:

3113 1. Experience in the United States providing retirement  
3114 products and related financial services under investment ~~defined~~  
3115 ~~contribution retirement~~ plans.

3116 2. Financial strength and stability as ~~which shall be~~  
3117 evidenced by the highest ratings assigned by nationally  
3118 recognized rating services when comparing proposed providers  
3119 that are so rated.

3120 3. Intrastate and interstate portability of the product  
3121 offered, including early withdrawal options.

3122 4. Compliance with the Internal Revenue Code.

3123 5. The cost-effectiveness of the product provided and the  
3124 levels of service supporting the product relative to its  
3125 benefits and its characteristics, including, ~~without limitation,~~  
3126 the level of risk borne by the provider.

3127 6. The provider company's ability and willingness to  
3128 coordinate its activities with Florida Retirement System  
3129 employers, the department, and the state board, and to supply ~~to~~  
3130 the ~~such~~ employers, the department, and the board with the  
3131 information and data they require.

3132 7. The methods available to members ~~participants~~ to

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3133 interact with the provider company; the means by which members  
3134 ~~participants~~ may access account information, direct investment  
3135 of contributions, make changes to their accounts, transfer  
3136 moneys between available investment vehicles, and transfer  
3137 moneys between provider companies; and any fees that apply to  
3138 such activities.

3139 8. The provider company's policies with respect to the  
3140 transfer of individual account balances, contributions, and  
3141 earnings thereon, both internally among investment products  
3142 offered by the provider company and externally between approved  
3143 providers, as well as any fees, charges, reductions, or  
3144 penalties that may be applied.

3145 9. An evaluation of specific investment products, taking  
3146 into account each product's experience in meeting its investment  
3147 return objectives net of all related fees, expenses, and  
3148 charges, including, but not limited to, investment management  
3149 fees, loads, distribution and marketing fees, custody fees,  
3150 recordkeeping fees, education fees, annuity expenses, and  
3151 consulting fees.

3152 10. Organizational factors, including, but not limited to,  
3153 financial solvency, organizational depth, and experience in  
3154 providing institutional and retail investment services.

3155 (d) ~~By March 1, 2010,~~ The state board shall identify and  
3156 offer at least one terror-free investment product that allocates  
3157 its funds among securities not subject to divestiture as  
3158 provided in s. 215.473 if the investment product is deemed by  
3159 the board to be consistent with prudent investor standards. No  
3160 person may bring a civil, criminal, or administrative action  
3161 against an approved provider; the state board; or any employee,

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3162 officer, director, or trustee of such provider based upon the  
3163 divestiture of any security or the offering of a terror-free  
3164 investment product as specified in this paragraph.

3165 (e) As a condition of offering an ~~any~~ investment option or  
3166 product in the investment plan ~~optional retirement program~~, the  
3167 approved provider must agree to make the investment product or  
3168 service available under the most beneficial terms offered to any  
3169 other customer, subject to approval by the ~~Trustees of the state~~  
3170 board ~~of Administration~~.

3171 (f) The state board shall regularly review the performance  
3172 of each approved provider and product and related organizational  
3173 factors to ensure continued compliance with established  
3174 selection criteria and with board policy and procedures.

3175 Providers and products may be terminated subject to contract  
3176 provisions. The state board shall adopt procedures to transfer  
3177 account balances from terminated products or providers to other  
3178 products or providers in the investment plan ~~optional program~~.

3179 (g)1. An approved provider shall comply with all applicable  
3180 federal and state securities and insurance laws and regulations  
3181 ~~applicable to the provider~~, as well as with the applicable rules  
3182 and guidelines of the National Association of Securities Dealers  
3183 which govern the ethical marketing of investment products. In  
3184 furtherance of this mandate, an approved provider must agree in  
3185 its contract with the state board to establish and maintain a  
3186 compliance education and monitoring system to supervise the  
3187 activities of all personnel who directly communicate with  
3188 individual members ~~participants~~ and recommend investment  
3189 products, which system is consistent with rules of the National  
3190 Association of Securities Dealers.

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3191           2. Approved provider personnel who directly communicate  
3192 with individual members ~~participants~~ and who recommend  
3193 investment products shall make an independent and unbiased  
3194 determination as to whether an investment product is suitable  
3195 for a particular member ~~participant~~.

3196           3. The state board shall develop procedures to receive and  
3197 resolve member ~~participant~~ complaints against a provider or  
3198 approved provider personnel, and, if ~~when~~ appropriate, refer  
3199 such complaints to the appropriate agency.

3200           4. Approved providers may not sell or in any way distribute  
3201 any customer list or member ~~participant~~ identification  
3202 information generated through their offering of products or  
3203 services through the investment plan ~~optional retirement~~  
3204 ~~program~~.

3205           (10) EDUCATION COMPONENT.—

3206           (a) The state board, in coordination with the department,  
3207 shall provide ~~for~~ an education component for eligible employees  
3208 ~~system members~~ in a manner consistent with ~~the provisions of~~  
3209 this section. The education component must be available to  
3210 eligible employees at least 90 days before ~~prior to~~ the  
3211 beginning date of the election period for the employees of the  
3212 respective types of employers.

3213           (b) The education component must provide eligible employees  
3214 ~~system members~~ with impartial and balanced information about  
3215 plan choices. The education component must involve multimedia  
3216 formats. Plan Program ~~comparisons~~ must, to the greatest extent  
3217 possible, be based upon the retirement income that different  
3218 retirement programs may provide to the member ~~participant~~. The  
3219 state board shall monitor the performance of the contract for

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3220 the education component to ensure that the program is conducted  
3221 in accordance with the contract, applicable law, and the rules  
3222 of the board.

3223 (c) The state board, in coordination with the department,  
3224 shall provide for an initial and ongoing transfer education  
3225 component to provide system members with information necessary  
3226 to make informed plan choice decisions. The transfer education  
3227 component must include, but is not limited to, information on:

3228 1. The amount of money available to a member to transfer to  
3229 the investment plan ~~defined contribution program~~.

3230 2. The features of and differences between the pension plan  
3231 ~~defined benefit program~~ and the investment plan ~~defined~~  
3232 ~~contribution program~~, both generally and specifically, as those  
3233 differences may affect the member.

3234 3. The expected benefit available if the member were to  
3235 retire under each of the retirement programs, based on  
3236 appropriate alternative sets of assumptions.

3237 4. The rate of return from investments in the investment  
3238 plan ~~defined contribution program~~ and the period of time over  
3239 which such rate of return must be achieved to equal or exceed  
3240 the expected monthly benefit payable to the member under the  
3241 pension plan ~~defined benefit program~~.

3242 5. The historical rates of return for the investment  
3243 alternatives available in the investment plan ~~defined~~  
3244 ~~contribution programs~~.

3245 6. The benefits and historical rates of return on  
3246 investments available in a typical deferred compensation plan or  
3247 a typical plan under s. 403(b) of the Internal Revenue Code for  
3248 which the employee may be eligible.



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3249 7. The program choices available to employees of the State  
3250 University System and the comparative benefits of each available  
3251 program, if applicable.

3252 8. Payout options available in each of the retirement  
3253 programs.

3254 (d) An ongoing education and communication component must  
3255 provide eligible employees ~~system members~~ with information  
3256 necessary to make informed decisions about choices within their  
3257 retirement program ~~of membership~~ and in preparation for  
3258 retirement. The component must include, but is not limited to,  
3259 information concerning:

3260 1. Rights and conditions of membership.

3261 2. Benefit features within the program, options, and  
3262 effects of certain decisions.

3263 3. Coordination of contributions and benefits with a  
3264 deferred compensation plan under s. 457 or a plan under s.  
3265 403(b) of the Internal Revenue Code.

3266 4. Significant program changes.

3267 5. Contribution rates and program funding status.

3268 6. Planning for retirement.

3269 (e) Descriptive materials must be prepared under the  
3270 assumption that the employee is an unsophisticated investor, and  
3271 all materials used in the education component must be approved  
3272 by the state board before ~~prior to~~ dissemination.

3273 (f) The state board and the department shall also establish  
3274 a communication component to provide program information to  
3275 participating employers and the employers' personnel and payroll  
3276 officers and to explain their respective responsibilities in  
3277 conjunction with the retirement programs.

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3278 (g) Funding for education of new employees may reflect  
3279 administrative costs to the investment plan ~~optional program~~ and  
3280 the pension plan ~~defined benefit program~~.

3281 (h) Pursuant to paragraph (8)(a), all Florida Retirement  
3282 System employers have an obligation to regularly communicate the  
3283 existence of the two Florida Retirement System plans and the  
3284 plan choice in the natural course of administering their  
3285 personnel functions, using the educational materials supplied by  
3286 the state board and the department ~~of Management Services~~.

3287 (11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.—The state  
3288 board shall ensure that each member participant is provided a  
3289 quarterly statement that accounts for employer and employee ~~the~~  
3290 contributions made on behalf of the member ~~such participant~~; the  
3291 interest and investment earnings thereon; and any fees,  
3292 penalties, or other deductions that apply ~~thereto~~. At a minimum,  
3293 such statements must:

3294 (a) Indicate the member's ~~participant's~~ investment options.

3295 (b) State the market value of the account at the close of  
3296 the current quarter and previous quarter.

3297 (c) Show account gains and losses ~~for the period~~ and  
3298 changes in account accumulation unit values for the quarter  
3299 ~~period~~.

3300 (d) Itemize account contributions for the quarter.

3301 (e) Indicate any account changes due to adjustment of  
3302 contribution levels, reallocation of contributions, balance  
3303 transfers, or withdrawals.

3304 (f) Set forth any fees, charges, penalties, and deductions  
3305 that apply to the account.

3306 (g) Indicate the amount of the account in which the member

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3307 ~~participant~~ is fully vested and the amount of the account in  
3308 which the member ~~participant~~ is not vested.

3309 (h) Indicate each investment product's performance relative  
3310 to an appropriate market benchmark.

3311  
3312 The third-party administrator shall provide quarterly and annual  
3313 summary reports to the state board and any other reports  
3314 requested by the department or the board. In any solicitation or  
3315 offer of coverage under the investment plan ~~an optional~~  
3316 ~~retirement program~~, a provider company shall be governed by the  
3317 contract readability provisions of s. 627.4145, notwithstanding  
3318 s. 627.4145(6)(c). In addition, all descriptive materials must  
3319 be prepared under the assumption that the member ~~participant~~ is  
3320 an unsophisticated investor. Provider companies must maintain an  
3321 internal system of quality assurance, have proven functional  
3322 systems that are date-calculation compliant, and be subject to a  
3323 due-diligence inquiry that proves their capacity and fitness to  
3324 undertake service responsibilities.

3325 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The  
3326 Investment Advisory Council, created pursuant to s. 215.444,  
3327 shall assist the state board in implementing and administering  
3328 the investment plan ~~Public Employee Optional Retirement Program~~.  
3329 ~~The Investment Advisory council, created pursuant to s. 215.444,~~  
3330 shall review the state board's initial recommendations regarding  
3331 the criteria to be used in selecting and evaluating approved  
3332 providers and investment products. The council may provide  
3333 comments on the recommendations to the board within 45 days  
3334 after receiving the initial recommendations. The state board  
3335 shall make the final determination as to whether any investment

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3336 provider or product, any contractor, or any and all contract  
3337 provisions are ~~shall be~~ approved for the investment plan  
3338 ~~program~~.

3339 (13) FEDERAL REQUIREMENTS.-

3340 (a) ~~Provisions of~~ This section shall be construed, and the  
3341 investment plan ~~Public Employee Optional Retirement Program~~  
3342 shall be administered, so as to comply with the Internal Revenue  
3343 Code, 26 U.S.C., and specifically with plan qualification  
3344 requirements imposed on governmental plans under s. 401(a) of  
3345 the Internal Revenue Code. The state board may ~~shall have the~~  
3346 ~~power and authority to~~ adopt rules reasonably necessary to  
3347 establish or maintain the qualified status of the investment  
3348 plan ~~Optional Retirement Program~~ under the Internal Revenue Code  
3349 and to implement and administer the plan ~~Optional Retirement~~  
3350 ~~Program~~ in compliance with the Internal Revenue Code and this  
3351 part; ~~provided however, that~~ the board may ~~shall not have the~~  
3352 ~~authority to~~ adopt any rule which makes a substantive change to  
3353 the investment plan ~~Optional Retirement Program~~ as designed by  
3354 this part.

3355 (b) Any section or provision of this chapter which is  
3356 susceptible to more than one construction shall ~~must~~ be  
3357 interpreted in favor of the construction most likely to satisfy  
3358 requirements imposed by s. 401(a) of the Internal Revenue Code.

3359 (c) Employer and employee contributions payable under this  
3360 section for any limitation year may not exceed the maximum  
3361 amount allowable for qualified defined contribution ~~pension~~  
3362 plans under applicable provisions of the Internal Revenue Code.  
3363 If an employee who is enrolled ~~who has elected to participate~~ in  
3364 the investment plan enrolls ~~Public Employee Optional Retirement~~

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3365 ~~Program~~ participates in any other plan that is maintained by the  
3366 participating employer, benefits that accrue under the  
3367 investment plan ~~Public Employee Optional Retirement Program~~  
3368 ~~shall be~~ considered primary for any aggregate limitation  
3369 applicable under s. 415 of the Internal Revenue Code.

3370 (14) INVESTMENT POLICY STATEMENT.—

3371 (a) Investment products and approved providers selected for  
3372 the investment plan ~~Public Employee Optional Retirement Program~~  
3373 must ~~shall~~ conform with the Florida Public Employee Optional  
3374 Retirement System Program Investment Plan Policy Statement,  
3375 herein referred to as the "statement," as developed and approved  
3376 by the ~~Trustees of the~~ state board of Administration. The  
3377 statement must include, among other items, the investment  
3378 objectives of the investment plan ~~Public Employee Optional~~  
3379 ~~Retirement Program~~, manager selection and monitoring guidelines,  
3380 and performance measurement criteria. As required from time to  
3381 time, the executive director of the state board may present  
3382 recommended changes in the statement to the board for approval.

3383 (b) Before ~~Prior to~~ presenting the statement, or any  
3384 recommended changes ~~thereto~~, to the state board, the executive  
3385 director of the board shall present such statement or changes to  
3386 the Investment Advisory Council for review. The council shall  
3387 present the results of its review to the board prior to the  
3388 board's final approval of the statement or changes in the  
3389 statement.

3390 (15) STATEMENT OF FIDUCIARY STANDARDS AND  
3391 RESPONSIBILITIES.—

3392 (a) Investment of investment plan ~~optional defined~~  
3393 ~~contribution retirement plan~~ assets shall be made for the sole

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3394 interest and exclusive purpose of providing benefits to plan  
3395 members ~~participants~~ and beneficiaries and defraying reasonable  
3396 expenses of administering the plan. The program's assets shall  
3397 ~~are to be invested,~~ on behalf of the members ~~program~~  
3398 ~~participants,~~ with the care, skill, and diligence that a prudent  
3399 person acting in a like manner would undertake. The performance  
3400 of the investment duties set forth in this paragraph shall  
3401 comply with the fiduciary standards set forth in the Employee  
3402 Retirement Income Security Act of 1974 at 29 U.S.C. s.  
3403 1104(a)(1)(A)-(C). In case of conflict with other provisions of  
3404 law authorizing investments, the investment and fiduciary  
3405 standards set forth in this subsection shall prevail.

3406 (b) If a member ~~participant~~ or beneficiary of the  
3407 investment plan ~~Public Employee Optional Retirement program~~  
3408 exercises control over the assets in his or her account, as  
3409 determined by reference to regulations of the United States  
3410 Department of Labor under s. 404(c) of the Employee Retirement  
3411 Income Security Act of 1974 and all applicable laws governing  
3412 the operation of the program, a ~~no~~ program fiduciary is not  
3413 ~~shall be~~ liable for any loss to a member's ~~participant's~~ or  
3414 beneficiary's account which results from the member's ~~such~~  
3415 ~~participant's~~ or beneficiary's exercise of control.

3416 (c) Subparagraph (8)(b)2. ~~(8)(b)4.~~ and paragraph ~~(15)(b)~~  
3417 incorporate the federal law concept of member ~~participant~~  
3418 control, established by regulations of the United States  
3419 Department of Labor under s. 404(c) of the Employee Retirement  
3420 Income Security Act of 1974 (ERISA). The purpose of this  
3421 paragraph is to assist employers and the state board ~~of~~  
3422 ~~Administration~~ in maintaining compliance with s. 404(c), while

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3423 avoiding unnecessary costs and eroding member ~~participant~~  
3424 benefits under the investment plan ~~Public Employee Optional~~  
3425 ~~Retirement program~~. Pursuant to 29 C.F.R. s. 2550.404c-  
3426 1(b)(2)(i)(B)(1)(viii), the state board of ~~Administration~~ or its  
3427 designated agents shall deliver to members ~~participants~~ of the  
3428 investment plan ~~Public Employee Optional Retirement program~~ a  
3429 copy of the prospectus most recently provided to the plan, and,  
3430 pursuant to 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(2)(ii), shall  
3431 provide such members ~~participants~~ an opportunity to obtain this  
3432 information, except that:

3433 1. The requirement to deliver a prospectus shall be ~~deemed~~  
3434 ~~to be~~ satisfied by delivery of a fund profile or summary profile  
3435 that contains the information that would be included in a  
3436 summary prospectus as described by Rule 498 under the Securities  
3437 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,  
3438 expense information, or other information provided by a mutual  
3439 fund in the prospectus does not reflect terms negotiated by the  
3440 state board of ~~Administration~~ or its designated agents, the  
3441 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery  
3442 of a separate document described by Rule 498 substituting  
3443 accurate information; and

3444 2. Delivery shall be ~~deemed to have been~~ effected if  
3445 delivery is through electronic means and the following standards  
3446 are satisfied:

3447 a. Electronically-delivered documents are prepared and  
3448 provided consistent with style, format, and content requirements  
3449 applicable to printed documents;

3450 b. Each member ~~participant~~ is provided timely and adequate  
3451 notice of the documents that are to be delivered and their

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3452 significance thereof, and of the member's ~~participant's~~ right to  
3453 obtain a paper copy of such documents free of charge;

3454 c. ~~(I)~~ Members ~~Participants~~ have adequate access to the  
3455 electronic documents, at locations such as their worksites or  
3456 public facilities, and have the ability to convert the documents  
3457 to paper free of charge by the state board ~~of Administration~~,  
3458 and the board or its designated agents take appropriate and  
3459 reasonable measures to ensure that the system for furnishing  
3460 electronic documents results in actual receipt. ~~, or~~

3461 ~~(II)~~ Members ~~Participants~~ have provided consent to receive  
3462 information in electronic format, which consent may be revoked;  
3463 and

3464 d. The state board ~~of Administration~~, or its designated  
3465 agent, actually provides paper copies of the documents free of  
3466 charge, upon request.

3467 (16) DISABILITY BENEFITS.—For any member ~~participant~~ of the  
3468 investment plan ~~optional retirement program~~ who becomes totally  
3469 and permanently disabled, benefits must ~~shall~~ be paid in  
3470 accordance with ~~the provisions of~~ s. 121.591.

3471 (17) SOCIAL SECURITY COVERAGE.—Social security coverage  
3472 shall be provided for all officers and employees who become  
3473 members ~~participants~~ of the investment plan ~~optional program~~.  
3474 Any modification of the present agreement with the Social  
3475 Security Administration, or referendum required under the Social  
3476 Security Act, for the purpose of providing social security  
3477 coverage for any member shall be requested by the state agency  
3478 in compliance with the applicable provisions of the Social  
3479 Security Act governing such coverage. However, retroactive  
3480 social security coverage for service before ~~prior to~~ December 1,



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3481 1970, with the employer may ~~shall~~ not be provided for any member  
3482 who was not covered under the agreement as of November 30, 1970.

3483 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and  
3484 employees who are members ~~participants~~ of the investment plan  
3485 are optional program ~~shall be~~ eligible to receive the retiree  
3486 health insurance subsidy, subject to ~~the provisions of~~ s.  
3487 112.363.

3488 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying  
3489 information of a member of participant ~~in the investment plan~~  
3490 ~~Public Employee Optional Retirement Program~~ contained in Florida  
3491 Retirement System records held by the state board ~~of~~  
3492 ~~Administration~~ or the department ~~of Management Services~~ is  
3493 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
3494 Constitution.

3495 (20) DESIGNATION OF BENEFICIARIES.—

3496 (a) Each member ~~participant~~ may, on a form provided for  
3497 that purpose, signed and filed with the third-party  
3498 administrator, designate a choice of one or more persons, named  
3499 sequentially or jointly, as his or her beneficiary for receiving  
3500 ~~who shall receive~~ the benefits, if any, which may be payable  
3501 pursuant to this chapter in the event of the member's  
3502 ~~participant's~~ death. If no beneficiary is named in this manner,  
3503 or if no beneficiary designated by the member ~~participant~~  
3504 survives the member ~~participant~~, the beneficiary shall be the  
3505 spouse of the deceased, if living. If the member's ~~participant's~~  
3506 spouse is not alive at the time of the beneficiary's ~~his or her~~  
3507 death, the beneficiary shall be the member's living children ~~of~~  
3508 ~~the participant~~. If no children survive, the beneficiary shall  
3509 be the member's ~~participant's~~ father or mother, if living;

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3510 otherwise, the beneficiary shall be the member's participant's  
3511 estate. The beneficiary most recently designated by a member  
3512 ~~participant on a form or letter filed with the third-party~~  
3513 ~~administrator~~ shall be the beneficiary entitled to any benefits  
3514 payable at the time of the member's participant's death. However  
3515 ~~Notwithstanding any other provision in this subsection to the~~  
3516 ~~contrary, if a member for a participant who dies before prior to~~  
3517 his or her effective date of retirement, the spouse at the time  
3518 of death shall be the member's participant's beneficiary unless  
3519 the member such participant designates a different beneficiary  
3520 ~~as provided in this subsection~~ subsequent to the member's  
3521 ~~participant's~~ most recent marriage.

3522 (b) If a member participant designates a primary  
3523 beneficiary other than the member's participant's spouse, the  
3524 member's participant's spouse must sign the beneficiary  
3525 designation form to acknowledge the designation. This  
3526 requirement does not apply to the designation of one or more  
3527 contingent beneficiaries to receive benefits remaining upon the  
3528 death of the primary beneficiary or beneficiaries.

3529 (c) Notwithstanding the member's participant's designation  
3530 of benefits to be paid through a trust to a beneficiary that is  
3531 a natural person, ~~and notwithstanding~~ the provisions of the  
3532 trust, benefits must shall be paid directly to the beneficiary  
3533 if the person is no longer a minor or an incapacitated person as  
3534 defined in s. 744.102.

3535 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION  
3536 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law  
3537 ~~to the contrary~~, participants in the Deferred Retirement Option  
3538 Program offered under part I may, after conclusion of their

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3539 participation in the program, elect to roll over or authorize a  
3540 direct trustee-to-trustee transfer to an account under the  
3541 investment plan ~~Public Employee Optional Retirement Program~~ of  
3542 their Deferred Retirement Option Program proceeds distributed as  
3543 provided under s. 121.091(13)(c)5. The transaction must  
3544 constitute an "eligible rollover distribution" within the  
3545 meaning of s. 402(c)(4) of the Internal Revenue Code.

3546 (a) The investment plan ~~Public Employee Optional Retirement~~  
3547 ~~Program~~ may accept such amounts for deposit into member  
3548 ~~participant~~ accounts as provided in paragraph (5)(e) ~~(5)(e)~~.

3549 (b) The affected participant shall direct the investment of  
3550 his or her investment account; however, unless he or she becomes  
3551 a renewed member of the Florida Retirement System under s.  
3552 121.122 and elects to enroll ~~participate~~ in the investment plan  
3553 ~~Public Employee Optional Retirement program~~, employer and  
3554 employee contributions may not be made to the participant's  
3555 account as provided under paragraph (5)(a).

3556 (c) The state board or the department is not responsible  
3557 for locating those persons who may be eligible to enroll  
3558 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
3559 ~~Retirement Program~~ under this subsection.

3560 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any  
3561 member of the investment program includes ~~Public Employee~~  
3562 ~~Optional Retirement Program shall include~~ military service in  
3563 the Armed Forces of the United States as provided in ~~the~~  
3564 ~~conditions outlined in~~ s. 121.111(1).

3565 Section 22. Section 121.4502, Florida Statutes, is amended  
3566 to read:

3567 121.4502 Florida ~~Public Employee Optional Retirement System~~

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3568 Investment Plan Program Trust Fund.—

3569 (1) The Florida Public Employee Optional Retirement System  
3570 Investment Plan Program Trust Fund is created to hold the assets  
3571 of the Florida Public Employee Optional Retirement System  
3572 Investment Plan Program in trust for the exclusive benefit of  
3573 plan members ~~such program's participants~~ and beneficiaries, and  
3574 for the payment of reasonable administrative expenses of the  
3575 plan program, in accordance with s. 401 of the Internal Revenue  
3576 Code, and shall be administered by the State Board of  
3577 Administration as trustee. Funds shall be credited to the trust  
3578 fund as provided in this part ~~and, to be~~ used for the purposes  
3579 of this part. The trust fund is exempt from the service charges  
3580 imposed by s. 215.20.

3581 (2) The Florida Public Employee Optional Retirement System  
3582 Investment Plan Program Trust Fund is a ~~retirement~~ trust fund of  
3583 the Florida Retirement System that accounts for retirement plan  
3584 assets held by the state in a trustee capacity as a fiduciary  
3585 for individual members ~~participants~~ in the Florida Public  
3586 ~~Employee Optional Retirement System Investment Plan Program~~ and,  
3587 pursuant to s. 19(f), Art. III of the State Constitution, is not  
3588 subject to termination.

3589 Section 23. Subsections (1) and (3) of section 121.4503,  
3590 Florida Statutes, are amended to read:

3591 121.4503 Florida Retirement System Contributions Clearing  
3592 Trust Fund.—

3593 (1) The Florida Retirement System Contributions Clearing  
3594 Trust Fund is created as a clearing fund for disbursing employer  
3595 and employee contributions to the component plans of the Florida  
3596 Retirement System and shall be administered by the department ~~of~~

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3597 ~~Management Services~~. Funds shall be credited to the trust fund  
3598 as provided in this chapter and ~~shall be~~ held in trust for the  
3599 contributing employers and employees until ~~such time as~~ the  
3600 assets are transferred by the department to the Florida  
3601 Retirement System Trust Fund, the Florida Public Employee  
3602 ~~Optional Retirement System Investment Plan Program~~ Trust Fund,  
3603 or other trust funds as authorized by law, to be used for the  
3604 purposes of this chapter. The trust fund is exempt from the  
3605 service charges imposed by s. 215.20.

3606 (3) The department ~~of Management Services~~ may adopt rules  
3607 governing the receipt and disbursement of amounts received by  
3608 the Florida Retirement System Contributions Clearing Trust Fund  
3609 from employers and employees contributing to the component plans  
3610 of the Florida Retirement System.

3611 Section 24. Section 121.571, Florida Statutes, is amended  
3612 to read:

3613 121.571 Contributions.—Contributions to the Florida Public  
3614 ~~Employee Optional Retirement System Investment Plan Program~~  
3615 shall be made as follows:

3616 (1) CONTRIBUTORY NONCONTRIBUTORY PLAN.—Each employer and  
3617 employee shall submit ~~accomplish the~~ contributions as required  
3618 under by s. 121.71 ~~by a procedure in which no employee's gross~~  
3619 ~~salary shall be reduced.~~

3620 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the  
3621 retirement and disability benefits provided under this part must  
3622 ~~shall~~ be based on the uniform contribution rates established by  
3623 s. 121.71 and on the membership class or subclass of the  
3624 employee participant. Such contributions must ~~shall~~ be allocated  
3625 as provided in ss. 121.72 and 121.73.

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3626 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR  
3627 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under  
3628 s. 121.71 are ~~this section shall be~~ in addition to employer and  
3629 member contributions ~~required~~ for social security and the  
3630 Retiree Health Insurance Subsidy Trust Fund as required under  
3631 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as  
3632 appropriate.

3633 Section 25. Section 121.591, Florida Statutes, is amended  
3634 to read:

3635 121.591 Payment of benefits payable under the Public  
3636 ~~Employee Optional Retirement Program of the Florida Retirement~~  
3637 ~~System.~~—Benefits may not be paid under the Florida Retirement  
3638 System Investment Plan ~~this section~~ unless the member has  
3639 terminated employment as provided in s. 121.021(39)(a) or is  
3640 deceased and a proper application has been filed as in the  
3641 ~~manner~~ prescribed by the state board or the department. The  
3642 state board or department, as appropriate, may cancel an  
3643 application for retirement benefits if when the member or  
3644 beneficiary fails to timely provide the information and  
3645 documents required by this chapter and the rules of the state  
3646 board and department. In accordance with their respective  
3647 responsibilities ~~as provided herein~~, the state board ~~of~~  
3648 ~~Administration~~ and the department ~~of Management Services~~ shall  
3649 adopt rules establishing procedures for application for  
3650 retirement benefits and for the cancellation of such application  
3651 if when the required information or documents are not received.  
3652 The state board ~~of Administration~~ and the department ~~of~~  
3653 ~~Management Services~~, as appropriate, are authorized to cash out  
3654 a de minimis account of not more than \$5,000 of a member

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3655 ~~participant~~ who has been terminated from Florida Retirement  
3656 System covered employment for a minimum of 6 calendar months. ~~A~~  
3657 ~~de minimis account is an account containing employer~~  
3658 ~~contributions and accumulated earnings of not more than \$5,000~~  
3659 ~~made under the provisions of this chapter.~~ Such cash-out must  
3660 ~~either~~ be a complete lump-sum liquidation of the account  
3661 balance, subject to the provisions of the Internal Revenue Code,  
3662 or a lump-sum direct rollover distribution paid directly to the  
3663 custodian of an eligible retirement plan, as defined by the  
3664 Internal Revenue Code, on behalf of the member participant. Any  
3665 nonvested accumulations, including amounts transferred to the  
3666 suspense account of the Florida Retirement System Investment  
3667 Plan Trust Fund, are forfeited upon payment of any vested  
3668 benefit to a member or beneficiary, except for de minimis  
3669 distributions or minimum required distributions as provided  
3670 under this section. If any financial instrument issued for the  
3671 payment of retirement benefits under this section is not  
3672 presented for payment within 180 days after the last day of the  
3673 month in which it was originally issued, the third-party  
3674 administrator or other duly authorized agent of the state board  
3675 ~~of Administration~~ shall cancel the instrument and credit the  
3676 amount of the instrument to the suspense account of the Florida  
3677 ~~Public Employee Optional Retirement System Investment Plan~~  
3678 ~~Program~~ Trust Fund authorized under s. 121.4501(6). Any ~~such~~  
3679 amounts transferred to the suspense account are payable upon a  
3680 proper application, not to include earnings thereon, as provided  
3681 in this section, within 10 years after the last day of the month  
3682 in which the instrument was originally issued, after which time  
3683 such amounts and any earnings attributable to employer

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3684 contributions are thereon shall be forfeited. Any ~~such~~ forfeited  
3685 amounts are assets of the ~~Public Employee Optional Retirement~~  
3686 ~~Program~~ trust fund and are not subject to the provisions of  
3687 chapter 717.

3688 (1) NORMAL BENEFITS.—Under the Florida Public Employee  
3689 ~~Optional Retirement System Investment Plan Program~~:

3690 (a) Benefits in the form of vested accumulations as  
3691 described in s. 121.4501(6) are payable under this subsection in  
3692 accordance with the following terms and conditions:

3693 1. ~~To the extent vested,~~ Benefits are payable only to a  
3694 member, alternate payee or a qualified domestic relations order,  
3695 or a beneficiary participant.

3696 2. Benefits shall be paid by the third-party administrator  
3697 or designated approved providers in accordance with the law, the  
3698 contracts, and any applicable board rule or policy.

3699 3. ~~To receive benefits,~~ The member participant must be  
3700 terminated from all employment with all Florida Retirement  
3701 System employers, as provided in s. 121.021(39).

3702 4. Benefit payments may not be made until the member  
3703 ~~participant~~ has been terminated for 3 calendar months, except  
3704 that the state board may authorize by rule for the distribution  
3705 of up to 10 percent of the member's participant's account after  
3706 being terminated for 1 calendar month if the member participant  
3707 has reached the normal retirement date as defined in s. 121.021  
3708 ~~of the defined benefit plan.~~

3709 5. If a member or former member of the Florida Retirement  
3710 System receives an invalid distribution ~~from the Public Employee~~  
3711 ~~Optional Retirement Program Trust Fund,~~ such person must repay  
3712 the full amount ~~invalid distribution to the trust fund~~ within 90



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3713 days after receipt of final notification by the state board or  
3714 the third-party administrator that the distribution was invalid,  
3715 or, in lieu of repayment, must terminate employment from all  
3716 participating employers. If such person fails to repay the full  
3717 invalid distribution within 90 days after receipt of final  
3718 notification, the person may be deemed retired from the  
3719 investment plan ~~optional retirement program~~ by the state board,  
3720 ~~as provided pursuant to s. 121.4501(2)(k)~~, and is subject to s.  
3721 121.122. If such person is deemed retired ~~by the state board~~,  
3722 any joint and several liability set out in s. 121.091(9)(d)2. is  
3723 ~~becomes~~ null and void, and the state board, the department, or  
3724 the employing agency is not liable for gains on payroll  
3725 contributions that have not been deposited to the person's  
3726 account in the investment plan ~~retirement program~~, pending  
3727 resolution of the invalid distribution. The member or former  
3728 member who has been deemed retired or who has been determined by  
3729 the state board to have taken an invalid distribution may appeal  
3730 the agency decision through the complaint process as provided  
3731 under s. 121.4501(9)(g)3. As used in this subparagraph, the term  
3732 "invalid distribution" means any distribution from an account in  
3733 the investment plan ~~optional retirement program~~ which is taken  
3734 in violation of this section, s. 121.091(9), or s. 121.4501.

3735 (b) If a member ~~participant~~ elects to receive his or her  
3736 benefits upon termination of employment as defined in s.  
3737 121.021, the member ~~participant~~ must submit a written  
3738 application or an application by electronic means to the third-  
3739 party administrator indicating his or her preferred distribution  
3740 date and selecting an authorized method of distribution as  
3741 provided in paragraph (c). The member ~~participant~~ may defer

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3742 receipt of benefits until he or she chooses to make such  
3743 application, subject to federal requirements.

3744 (c) Upon receipt by the third-party administrator of a  
3745 properly executed application for distribution of benefits, the  
3746 total accumulated benefit is ~~shall be~~ payable to the member  
3747 participant, as:

3748 1. A lump-sum or partial distribution to the member  
3749 participant;

3750 2. A lump-sum direct rollover distribution whereby all  
3751 accrued benefits, plus interest and investment earnings, are  
3752 paid from the member's participant's account directly to the  
3753 custodian of an eligible retirement plan, as defined in s.  
3754 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
3755 participant; or

3756 3. Periodic distributions, as authorized by the state  
3757 board.

3758 (d) The distribution payment method selected by the plan  
3759 member or beneficiary, and the retirement of the member or  
3760 beneficiary, is final and irrevocable at the time a benefit  
3761 distribution payment is cashed, deposited, or transferred to  
3762 another financial institution. Any additional service that  
3763 remains unclaimed at retirement may not be claimed or purchased,  
3764 and the type of retirement may not be changed, except that if a  
3765 member recovers from a disability, the member may subsequently  
3766 request normal service benefits under subsection (2).

3767 (e) A member may not receive a distribution of employee  
3768 contributions if a pending or approved qualified domestic  
3769 relations order is filed against the member's investment plan  
3770 account.

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3771 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under  
3772 this subsection are payable in lieu of the benefits that ~~which~~  
3773 would otherwise be payable under the provisions of subsection  
3774 (1). Such benefits must ~~shall~~ be funded entirely from employer  
3775 contributions ~~made under s. 121.571~~, transferred employee  
3776 contributions and participant funds accumulated pursuant to  
3777 paragraph (a), and interest and earnings thereon. ~~Pursuant~~  
3778 ~~thereto:~~

3779 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly  
3780 disability benefits under this subsection:

3781 1. All moneys accumulated in the member's ~~participant's~~  
3782 ~~Public Employee Optional Retirement Program~~ accounts, including  
3783 vested and nonvested accumulations as described in s.  
3784 121.4501(6), must ~~shall~~ be transferred from such individual  
3785 accounts to the division ~~of Retirement~~ for deposit in the  
3786 disability account of the Florida Retirement System Trust Fund.  
3787 Such moneys must ~~shall~~ be ~~separately~~ accounted for separately.  
3788 Earnings must ~~shall~~ be credited on an annual basis for amounts  
3789 held in the disability accounts ~~of the Florida Retirement System~~  
3790 ~~Trust Fund~~ based on actual earnings of the ~~Florida Retirement~~  
3791 ~~System~~ trust fund.

3792 2. If the member ~~participant~~ has retained retirement credit  
3793 ~~he or she had~~ earned under the pension plan ~~defined benefit~~  
3794 ~~program of the Florida Retirement System~~ as provided in s.  
3795 121.4501(3) ~~s. 121.4501(3)(b)~~, a sum representing the actuarial  
3796 present value of such credit within the Florida Retirement  
3797 System Trust Fund shall be reassigned by the division ~~of~~  
3798 ~~Retirement~~ from the pension plan ~~defined benefit program~~ to the  
3799 disability program as implemented under this subsection and

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3800 shall be deposited in the disability account of the ~~Florida~~  
 3801 ~~Retirement System~~ trust fund. Such moneys must ~~shall~~ be  
 3802 ~~separately~~ accounted for separately.

3803 (b) *Disability retirement; entitlement.*-

3804 1. A member participant of the investment plan ~~Public~~  
 3805 ~~Employee Optional Retirement program~~ who becomes totally and  
 3806 permanently disabled, as defined in paragraph (d) ~~s.~~  
 3807 ~~121.091(4)(b)~~, after completing 8 years of creditable service,  
 3808 or a member participant who becomes totally and permanently  
 3809 disabled in the line of duty regardless of ~~his or her~~ length of  
 3810 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~  
 3811 ~~provided herein~~.

3812 2. In order for service to apply toward the 8 years of  
 3813 creditable service required ~~to vest~~ for regular disability  
 3814 benefits, or toward the creditable service used in calculating a  
 3815 service-based benefit as provided ~~for~~ under paragraph (g), the  
 3816 service must be creditable service as described below:

3817 a. The member's participant's period of service under the  
 3818 investment plan shall ~~Public Employee Optional Retirement~~  
 3819 ~~program will~~ be considered creditable service, except as  
 3820 provided in subparagraph d.

3821 b. If the member participant has elected to retain credit  
 3822 for ~~his or her~~ service under the pension plan ~~defined benefit~~  
 3823 ~~program of the Florida Retirement System~~ as provided under s.  
 3824 121.4501(3) ~~s. 121.4501(3)(b)~~, all such service shall ~~will~~ be  
 3825 considered creditable service.

3826 c. If the member elects participant ~~has elected~~ to transfer  
 3827 to his or her member participant accounts a sum representing the  
 3828 present value of his or her retirement credit under the pension

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3829 ~~plan defined benefit program~~ as provided under s. 121.4501(3) ~~s.~~  
3830 ~~121.4501(3)(e)~~, the period of service under the pension plan  
3831 ~~defined benefit program~~ represented in the present value amounts  
3832 transferred shall ~~will~~ be considered creditable service ~~for~~  
3833 ~~purposes of vesting for disability benefits~~, except as provided  
3834 in subparagraph d.

3835 d. If a member ~~Whenever a participant~~ has terminated  
3836 employment and has taken distribution of his or her funds as  
3837 provided in subsection (1), all creditable service represented  
3838 by such distributed funds is forfeited for purposes of this  
3839 subsection.

3840 (c) *Disability retirement effective date.*—The effective  
3841 retirement date for a member ~~participant~~ who applies and is  
3842 approved for disability retirement shall be established as  
3843 provided under s. 121.091(4)(a)2. and 3.

3844 (d) *Total and permanent disability.*—A member is ~~participant~~  
3845 ~~shall be~~ considered totally and permanently disabled if, in the  
3846 opinion of the division, he or she is prevented, by reason of a  
3847 medically determinable physical or mental impairment, from  
3848 rendering useful and efficient service as an officer or  
3849 employee.

3850 (e) *Proof of disability.*—~~The division,~~ Before approving  
3851 payment of any disability retirement benefit, the division shall  
3852 require proof that the member ~~participant~~ is totally and  
3853 permanently disabled ~~in the same manner~~ as provided ~~for members~~  
3854 ~~of the defined benefit program of the Florida Retirement System~~  
3855 under s. 121.091(4)(c).

3856 (f) *Disability retirement benefit.*—Upon the disability  
3857 retirement of a member ~~participant~~ under this subsection, the

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3858 ~~member participant~~ shall receive a monthly benefit that begins  
3859 accruing ~~shall begin to accrue~~ on the first day of the month of  
3860 disability retirement, as approved by the division, and is ~~shall~~  
3861 ~~be~~ payable on the last day of that month and each month  
3862 thereafter during his or her lifetime and continued disability.  
3863 All disability benefits must ~~payable to such member shall~~ be  
3864 paid out of the disability account of the Florida Retirement  
3865 System Trust Fund established under this subsection.

3866 (g) *Computation of disability retirement benefit.*—The  
3867 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~  
3868 ~~same manner~~ as provided ~~for members of the defined benefit~~  
3869 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).  
3870 ~~For such purpose,~~ Creditable service under both the pension plan  
3871 ~~defined benefit program~~ and the investment plan ~~Public Employee~~  
3872 ~~Optional Retirement Program of the Florida Retirement System~~  
3873 shall be applicable as provided under paragraph (b).

3874 (h) *Reapplication.*—A member participant whose initial  
3875 application for disability retirement is ~~has been~~ denied may  
3876 reapply for disability benefits in the same manner, and under  
3877 the same conditions, as provided for members of the pension plan  
3878 ~~defined benefit program of the Florida Retirement System~~ under  
3879 s. 121.091(4)(g).

3880 (i) *Membership.*—Upon approval of a member's ~~an~~ application  
3881 for disability benefits ~~under this subsection,~~ the applicant  
3882 shall be transferred to the pension plan ~~defined benefit program~~  
3883 ~~of the Florida Retirement System,~~ effective upon his or her  
3884 disability retirement effective date.

3885 (j) *Option to cancel.*—A member ~~Any participant~~ whose  
3886 application for disability benefits is approved may cancel the

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3887 ~~his or her~~ application if ~~for disability benefits,~~ ~~provided that~~  
3888 the cancellation request is received by the division before a  
3889 disability retirement warrant has been deposited, cashed, or  
3890 received by direct deposit. Upon ~~such~~ cancellation:

3891 1. The member's ~~participant's~~ transfer to the pension plan  
3892 ~~defined benefit program~~ under paragraph (i) shall be nullified;

3893 2. The member ~~participant~~ shall be retroactively reinstated  
3894 in the investment plan ~~Public Employee Optional Retirement~~  
3895 ~~program~~ without hiatus;

3896 3. All funds transferred to the Florida Retirement System  
3897 Trust Fund under paragraph (a) must ~~shall~~ be returned to the  
3898 member ~~participant~~ accounts from which the ~~such~~ funds were  
3899 drawn; and

3900 4. The member ~~participant~~ may elect to receive the benefit  
3901 payable under ~~the provisions of~~ subsection (1) in lieu of  
3902 disability benefits ~~as provided under this subsection.~~

3903 (k) *Recovery from disability.*—

3904 1. The division may require periodic reexaminations at the  
3905 expense of the disability program account of the Florida  
3906 Retirement System Trust Fund. Except as ~~otherwise~~ provided in  
3907 subparagraph 2., the requirements, procedures, and restrictions  
3908 relating to the conduct and review of such reexaminations,  
3909 discontinuation or termination of benefits, reentry into  
3910 employment, disability retirement after reentry into covered  
3911 employment, and all other matters relating to recovery from  
3912 disability are ~~shall be the same as provided are set forth~~ under  
3913 s. 121.091(4) (h).

3914 2. Upon recovery from disability, the ~~any~~ recipient of  
3915 disability retirement benefits under this subsection shall be

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3916 transferred back to the investment plan ~~a compulsory member of~~  
3917 ~~the Public Employee Optional Retirement Program of the Florida~~  
3918 ~~Retirement System.~~ The net difference between the recipient's  
3919 original account balance transferred to the Florida Retirement  
3920 System Trust Fund, including earnings, ~~under paragraph (a)~~ and  
3921 total disability benefits paid to such recipient, if any, shall  
3922 be determined as provided in sub-subparagraph a.

3923 a. An amount equal to the total benefits paid shall be  
3924 subtracted from that portion of the transferred account balance  
3925 consisting of vested accumulations as described under s.  
3926 121.4501(6), if any, and an amount equal to the remainder of  
3927 benefit amounts paid, if any, shall ~~then~~ be subtracted from any  
3928 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~  
3929 ~~described under s. 121.4501(6).~~

3930 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~  
3931 be retained within the disability account of the Florida  
3932 Retirement System Trust Fund. Any remaining account balance  
3933 shall be transferred to the third-party administrator for  
3934 disposition as provided under sub-subparagraph c. or sub-  
3935 subparagraph d., as appropriate.

3936 c. If the recipient returns to covered employment,  
3937 transferred amounts must ~~shall~~ be deposited in individual  
3938 accounts under the investment plan ~~Public Employee Optional~~  
3939 ~~Retirement program~~, as directed by the member ~~participant~~.  
3940 Vested and nonvested amounts shall be separately accounted for  
3941 as provided in s. 121.4501(6).

3942 d. If the recipient fails to return to covered employment  
3943 upon recovery from disability:

3944 (I) Any remaining vested amount must ~~shall~~ be deposited in



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3945 individual accounts under the investment plan ~~Public-Employee~~  
3946 ~~Optional-Retirement program~~, as directed by the member  
3947 ~~participant~~, and is shall be payable as provided in subsection  
3948 (1).

3949 (II) Any remaining nonvested amount must shall be held in a  
3950 suspense account and is shall be forfeitable after 5 years as  
3951 provided in s. 121.4501(6).

3952 3. If present value was reassigned from the pension plan  
3953 ~~defined benefit program~~ to the disability program ~~of the Florida~~  
3954 ~~Retirement System~~ as provided under subparagraph (a)2., the full  
3955 present value amount must shall be returned to the pension plan  
3956 ~~defined benefit account~~ within the Florida Retirement System  
3957 Trust Fund and the recipient's affected individual's associated  
3958 retirement credit under the pension plan must defined benefit  
3959 ~~program shall~~ be reinstated in full. Any benefit based upon such  
3960 credit must shall be calculated as provided in s.  
3961 121.091(4)(h)1.

3962 (1) *Nonadmissible causes of disability.*—A member is  
3963 ~~participant shall~~ not be entitled to ~~receive~~ a disability  
3964 retirement benefit if the disability results from any injury or  
3965 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

3966 (m) *Disability retirement of justice or judge by order of*  
3967 *Supreme Court.*—

3968 1. If a member participant is a justice of the Supreme  
3969 Court, judge of a district court of appeal, circuit judge, or  
3970 judge of a county court who has served for 6 years or more as an  
3971 elected constitutional judicial officer, including service as a  
3972 judicial officer in any court abolished pursuant to Art. V of  
3973 the State Constitution, and who is retired for disability ~~by~~

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3974 ~~order of the Supreme Court upon recommendation of the Judicial~~  
3975 ~~Qualifications Commission pursuant to s. 12, the provisions of~~  
3976 ~~Art. V of the State Constitution, the member's participant's~~  
3977 ~~Option 1 monthly disability benefit amount as provided in s.~~  
3978 ~~121.091(6)(a)1. shall be two-thirds of his or her monthly~~  
3979 ~~compensation as of the member's participant's disability~~  
3980 ~~retirement date. The member ~~Such a participant~~ may alternatively~~  
3981 ~~elect to receive an actuarially adjusted disability retirement~~  
3982 ~~benefit under any other option as provided in s. 121.091(6)(a),~~  
3983 ~~or ~~to~~ receive the normal benefit payable under ~~the Public~~~~  
3984 ~~Employee Optional Retirement Program as set forth in subsection~~  
3985 ~~(1).~~

3986       2. If any justice or judge who is a member participant of  
3987 ~~the investment plan ~~Public Employee Optional Retirement program~~~~  
3988 ~~of the ~~Florida Retirement System~~ is retired for disability ~~by~~~~  
3989 ~~order of the Supreme Court upon recommendation of the Judicial~~  
3990 ~~Qualifications Commission pursuant to s. 12, the provisions of~~  
3991 ~~Art. V of the State Constitution, and elects to receive a~~  
3992 ~~monthly disability benefit under ~~the provisions of~~ this~~  
3993 ~~paragraph:~~

3994       a. Any present value amount that was transferred to his or  
3995 ~~her plan program account and all employer contributions made to~~  
3996 ~~such account on his or her behalf, plus interest and earnings~~  
3997 ~~thereon, must ~~shall~~ be transferred to and deposited in the~~  
3998 ~~disability account of the Florida Retirement System Trust Fund;~~  
3999 ~~and~~

4000       b. The monthly disability benefits payable under this  
4001 ~~paragraph for any affected justice or judge retired from the~~  
4002 ~~Florida Retirement System pursuant to Art. V of the State~~

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4003 Constitution shall be paid from the disability account of the  
4004 Florida Retirement System Trust Fund.

4005 (n) *Death of retiree or beneficiary.*—Upon the death of a  
4006 disabled retiree or beneficiary of the retiree ~~thereof~~ who is  
4007 receiving monthly disability benefits under this subsection, the  
4008 monthly benefits shall be paid through the last day of the month  
4009 of death and shall terminate, or be adjusted, if applicable, as  
4010 of that date in accordance with the optional form of benefit  
4011 selected at the time of retirement. The department ~~of Management~~  
4012 ~~Services~~ may adopt rules necessary to administer this paragraph.

4013 (3) DEATH BENEFITS.—Under the Florida Public Employee  
4014 ~~Optional Retirement System Investment Plan Program~~:

4015 (a) Survivor benefits are ~~shall be~~ payable in accordance  
4016 with the following terms and conditions:

4017 1. ~~To the extent vested,~~ Benefits are ~~shall be~~ payable only  
4018 to a member's participant's ~~beneficiary or~~ beneficiaries as  
4019 designated by the member participant as provided in s.  
4020 121.4501(20).

4021 2. Benefits shall be paid by the third-party administrator  
4022 or designated approved providers in accordance with the law, the  
4023 contracts, and any applicable state board rule or policy.

4024 3. To receive benefits ~~under this subsection,~~ the member  
4025 ~~participant~~ must be deceased.

4026 (b) Except as provided in paragraph (d), if the employment  
4027 of a member is terminated by reason of his or her ~~In the event~~  
4028 ~~of a participant's death:~~

4029 1. Before being vested, the member's accumulated  
4030 contributions are payable to his or her designated beneficiary.

4031 2. After being vested, all vested accumulations as

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4032 described in s. 121.4501(6), less withholding taxes remitted to  
4033 the Internal Revenue Service, shall be distributed, as provided  
4034 in paragraph (c) or as described in s. 121.4501(20), as if the  
4035 member participant retired on the date of death. No other death  
4036 benefits are ~~shall be~~ available for survivors of members  
4037 ~~participants~~ under the investment plan ~~Public Employee Optional~~  
4038 ~~Retirement Program~~, except for ~~such~~ benefits, or coverage for  
4039 ~~such~~ benefits, as are otherwise provided by law or ~~are~~  
4040 separately provided ~~afforded~~ by the employer, at the employer's  
4041 discretion.

4042 (c) Upon receipt by the third-party administrator of a  
4043 properly executed application for distribution of benefits under  
4044 paragraph (b), the total accumulated benefit ~~is~~ ~~shall be~~ payable  
4045 by the third-party administrator to the member's participant's  
4046 surviving beneficiary or beneficiaries, as:

4047 1. A lump-sum distribution payable to the beneficiary or  
4048 beneficiaries, or to the deceased member's participant's estate;

4049 2. An eligible rollover distribution on behalf of the  
4050 surviving spouse of a deceased member participant, whereby all  
4051 accrued benefits, plus interest and investment earnings, are  
4052 paid from the deceased member's participant's account directly  
4053 to the custodian of an eligible retirement plan, as described in  
4054 s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
4055 surviving spouse; or

4056 3. A partial lump-sum payment whereby a portion of the  
4057 accrued benefit is paid to the deceased member's participant's  
4058 surviving spouse or other designated beneficiaries, less  
4059 withholding taxes remitted to the Internal Revenue Service, and  
4060 the remaining amount is transferred directly to the custodian of

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4061 an eligible retirement plan, as described in s. 402(c)(8)(B) of  
4062 the Internal Revenue Code, on behalf of the surviving spouse.  
4063 The proportions must be specified by the member participant or  
4064 the surviving beneficiary.

4065 (d) Notwithstanding paragraphs (b) and (c), if a member is  
4066 killed in the line of duty, benefits are payable from employer  
4067 contributions made pursuant to s. 121.571, transferred members  
4068 funds accumulated pursuant to sub-subparagraph 1.a., and  
4069 interest and earnings thereon.

4070 1. Transfer of funds.-

4071 a. All moneys accumulated in the deceased member's  
4072 investment plan accounts, including vested and nonvested  
4073 accumulations described in s. 121.4501(6), shall be transferred  
4074 from such individual accounts to the Division of Retirement for  
4075 deposit in the death benefits program of the Florida Retirement  
4076 System Trust Fund. Such moneys must be separately accounted for.  
4077 Earnings shall be credited on an annual basis for amounts held  
4078 in the death benefits accounts of the trust fund based on actual  
4079 earnings of the trust fund.

4080 b. If the deceased member retained retirement credit he or  
4081 she earned under the pension plan as provided in s.  
4082 121.4501(3)(b), a sum representing the actuarial present value  
4083 of such credit within the Florida Retirement System Trust Fund  
4084 shall be reassigned by the Division of Retirement from the  
4085 pension plan to the death benefits program as implemented under  
4086 this paragraph and deposited in the death benefits account of  
4087 the trust fund. Such moneys shall be separately accounted for.

4088 2. Death benefit entitlement and payments.-

4089 a. The surviving spouse of a member killed in the line of

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4090 duty may receive a monthly pension equal to one-half of the  
4091 monthly salary being received by the member at the time of death  
4092 for the rest of the surviving spouse's lifetime.

4093 b. If the surviving spouse of a member killed in the line  
4094 of duty dies, the monthly payments that would have been payable  
4095 to the surviving spouse had such surviving spouse lived shall be  
4096 paid for the use and benefit of such member's children under 18  
4097 years of age and unmarried until the 18th birthday of the  
4098 member's youngest child.

4099 c. If a member killed in the line of duty leaves no  
4100 surviving spouse but is survived by children under 18 years of  
4101 age, the benefits provided by sub-subparagraph a., normally  
4102 payable to a surviving spouse, shall be paid for the use and  
4103 benefit of the member's child or children under 18 years of age  
4104 and unmarried until the 18th birthday of the member's youngest  
4105 child.

4106  
4107 This paragraph does not abrogate other applicable provisions of  
4108 state or federal law providing for payment of death benefits.

4109 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
4110 any person under the Florida Public Employee Optional Retirement  
4111 System Investment Plan Program, and any contributions  
4112 accumulated under such plan program, are not subject to  
4113 assignment, execution, attachment, or any legal process, except  
4114 for qualified domestic relations orders by a court of competent  
4115 jurisdiction, income deduction orders as provided in s. 61.1301,  
4116 and federal income tax levies.

4117 Section 26. Section 121.5911, Florida Statutes, is amended  
4118 to read:

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4119           121.5911 Disability retirement program; qualified status;  
 4120 rulemaking authority.—It is the intent of the Legislature that  
 4121 the disability retirement program for members ~~participants~~ of  
 4122 the Florida Public Employee Optional Retirement System  
 4123 Investment Plan Program ~~as created in this act~~ must meet all  
 4124 applicable requirements of federal law for a qualified plan. The  
 4125 department ~~of Management Services~~ shall seek a private letter  
 4126 ruling from the Internal Revenue Service on the disability  
 4127 retirement program ~~for participants of the Public Employee~~  
 4128 ~~Optional Retirement Program~~. Consistent with the private letter  
 4129 ruling, the department ~~of Management Services~~ shall adopt any  
 4130 necessary rules necessary ~~required~~ to maintain the qualified  
 4131 status of the disability retirement program and the Florida  
 4132 Retirement System's pension System ~~defined benefit~~ plan.

4133           Section 27. Subsection (1) of section 121.70, Florida  
 4134 Statutes, is amended to read:

4135           121.70 Legislative purpose and intent.—

4136           (1) This part provides for a uniform system for funding  
 4137 benefits provided under the Florida Retirement System defined  
 4138 benefit program established under part I of this chapter,  
 4139 ~~(referred to in this part as the pension plan, ~~defined benefit~~~~  
 4140 ~~program)~~ and under the Florida Public Employee Optional  
 4141 Retirement System Investment Plan Program established under part  
 4142 II of this chapter, ~~(referred to in this part as the investment~~  
 4143 ~~plan optional retirement program)~~. The Legislature recognizes  
 4144 and declares that the Florida Retirement System is a single  
 4145 retirement system, consisting of two retirement plans and other  
 4146 nonintegrated programs. Employers participating in the Florida  
 4147 Retirement System collectively shall be responsible for making

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4148 contributions to support the benefits provided ~~afforded~~ under  
 4149 both programs ~~plans~~. ~~The As provided in this part,~~ employers  
 4150 ~~participating in the Florida Retirement System~~ shall make  
 4151 contributions based upon uniform contribution rates determined  
 4152 as a percentage of the total payroll for each class or subclass  
 4153 of Florida Retirement System membership, irrespective of which  
 4154 retirement program the plan individual employee is enrolled in  
 4155 ~~employees may elect~~. This shall be known as a uniform or blended  
 4156 contribution rate system.

4157 Section 28. Subsections (1) and (2) of section 121.71,  
 4158 Florida Statutes, are amended, present subsections (3) and (4)  
 4159 of that section are renumbered as subsections (4) and (7),  
 4160 respectively, and new subsections (3), (5), and (6) are added to  
 4161 that section, to read:

4162 121.71 Uniform rates; process; calculations; levy.—

4163 (1) In conducting the system actuarial study required under  
 4164 s. 121.031, the actuary shall follow all requirements specified  
 4165 ~~thereunder~~ to determine, by Florida Retirement System employee  
 4166 membership class, the dollar contribution amounts necessary for  
 4167 the next forthcoming fiscal year for the pension plan defined  
 4168 ~~benefit program~~. In addition, the actuary shall determine, by  
 4169 Florida Retirement System membership class, based on an estimate  
 4170 for the forthcoming fiscal year of the gross compensation of  
 4171 employees participating in the investment plan optional  
 4172 ~~retirement program~~, the dollar contribution amounts necessary to  
 4173 make the allocations required under ss. 121.72 and 121.73. For  
 4174 each employee membership class and subclass, the actuarial study  
 4175 must shall establish a uniform rate necessary to fund the  
 4176 benefit obligations under both Florida Retirement System



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4177 retirement plans by dividing the sum of total dollars required  
4178 by the estimated gross compensation of members in both plans.

4179 (2) Based on the uniform rates set forth in subsections  
4180 ~~subsection~~ (3), (4), and (5), employers and employees shall make  
4181 monthly contributions to the Division of Retirement as required  
4182 under s. 121.061(1), which shall initially deposit the funds  
4183 into the Florida Retirement System Contributions Clearing Trust  
4184 Fund. A change in a contribution rate is effective on the first  
4185 day of the month for which a full month's ~~employer~~ contribution  
4186 may be made on or after the beginning date of the change.  
4187 Beginning July 1, 2011, each employee shall contribute the  
4188 contributions required in subsection (3) to the plan. The  
4189 employer shall deduct the contribution from the employee's  
4190 monthly salary and submit it to the division. The contributions  
4191 shall be reported as employer-paid employee contributions, and  
4192 shall be credited to the account of the employee. The  
4193 contributions shall be deducted from the employee's salary  
4194 before the computation of applicable federal taxes and treated  
4195 as employer contributions under 26 U.S.C. 414(b)(2). Although  
4196 designated as employee contributions, the employer specifies  
4197 that the contributions are being paid by the employer in lieu of  
4198 contributions by the employee. The employee does not have the  
4199 option of choosing to receive the contributed amounts directly  
4200 instead of having them paid to the plan. Such contributions are  
4201 mandatory and each employee is deemed to have consented to the  
4202 payroll deductions. Payment of an employee's salary or wages,  
4203 less the contribution, is a full and complete discharge and  
4204 satisfaction of all claims and demands for the service rendered  
4205 by employees during the period covered by the payment, except

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4206 for claims to benefits to which they may be entitled under this  
 4207 chapter.

4208 (3) Employee retirement contributions are not required if  
 4209 the Florida Retirement System reaches or exceeds 100 percent of  
 4210 actuarial funding. However, employee contributions shall be set  
 4211 for an entire fiscal year. Effective July 1, 2011, required  
 4212 employee retirement contribution rates for all members for the  
 4213 2011-2012 fiscal year shall be 0 percent for gross compensation  
 4214 up to and including \$40,000, plus no more than 2 percent for  
 4215 gross compensation in excess of \$40,000 and up to and including  
 4216 \$75,000, plus no more than 4 percent for gross compensation that  
 4217 is greater than \$75,000.

4218 (4)~~(3)~~ Required employer retirement contribution rates for  
 4219 each membership class and subclass of the Florida Retirement  
 4220 System for both retirement plans are as follows:  
 4221

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u> <del>2009</del>	Percentage of Gross Compensation, Effective July 1, <u>2012</u> <del>2010</del>
4222		
4223		
4224	<u>9.76%</u> <del>8.69%</del>	<u>9.54%</u> <del>9.63%</del>
4225	<u>22.20%</u> <del>19.76%</del>	<u>21.92%</u> <del>22.11%</del>

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Special Risk

Administrative

Support Class

11.41% ~~11.39%~~

11.02% ~~12.10%~~

4226

Elected Officers'  
Class-

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

14.48% ~~13.32%~~

14.15% ~~15.20%~~

4227

Elected Officers'  
Class-

Justices, Judges

19.43% ~~18.40%~~

19.15% ~~20.65%~~

4228

Elected Officers'  
Class-

County Elected  
Officers

16.73% ~~15.37%~~

16.39% ~~17.50%~~

4229

Senior Management Class

11.70% ~~11.96%~~

16.39% ~~13.43%~~

4230

DROP

13.79% ~~9.80%~~

14.21% ~~11.14%~~

4231

4232

(5) In order to address unfunded actuarial liabilities of

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4233 the system, the required employer retirement contribution rates  
 4234 for each membership class and subclass of the Florida Retirement  
 4235 System for both retirement plans are as follows:

4236  
 4237

	<u>Percentage of</u> <u>Gross</u> <u>Compensation,</u> <u>Effective</u> <u>July 1, 2011</u>	<u>Percentage of</u> <u>Gross</u> <u>Compensation,</u> <u>Effective</u> <u>July 1, 2012</u>
<u>Membership Class</u>		
4238 <u>Regular Class</u>	_____ %	<u>1.58%</u>
4239		
4240 <u>Special Risk Class</u>	_____ %	<u>5.97%</u>
4241 <u>Special Risk</u> <u>Administrative</u> <u>Support Class</u>	_____ %	<u>15.97%</u>
4242 <u>Elected Officers'</u> <u>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>

4243

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Elected Officers'

Class-

<u>Justices, Judges</u>	<u>      </u> %	<u>11.00%</u>
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4244

Elected Officers'

Class-

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

4245

<u>Senior Management Class</u>	<u>      </u> %	<u>9.26%</u>
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4246

<u>DROP</u>	<u>      </u> %	<u>4.97%</u>
-------------	-----------------	--------------

4247

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

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4256

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

4257

4258

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4260

4261

Section 29. Section 121.72, Florida Statutes, is amended to read:

4262

4263

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4264           121.72 Allocations to investment plan member ~~optional~~  
4265 ~~retirement program participant~~ accounts; percentage amounts.—

4266           (1) The allocations established in subsection (4) shall  
4267 fund retirement benefits under the investment plan under part II  
4268 of this chapter ~~optional retirement program~~ and shall be  
4269 transferred monthly by the Division of Retirement from the  
4270 Florida Retirement System Contributions Clearing Trust Fund to  
4271 the third-party administrator for deposit in each participating  
4272 employee's individual account based on the membership class of  
4273 the employee participant.

4274           (2) The allocations are stated as a percentage of each  
4275 investment plan member's ~~optional retirement program~~  
4276 ~~participant's~~ gross compensation for the calendar month. A  
4277 change in a contribution percentage is effective the first day  
4278 of the month for which retirement contributions ~~a full month's~~  
4279 ~~employer contribution~~ may be made on or after the beginning date  
4280 of the change. Contribution percentages may be modified by  
4281 general law.

4282           (3) Employer and employee participant contributions to  
4283 member's participant accounts shall be accounted for separately.  
4284 ~~Participant contributions may be made only if expressly~~  
4285 ~~authorized by law.~~ Interest and investment earnings on  
4286 contributions shall accrue on a tax-deferred basis until  
4287 proceeds are distributed.

4288           (4) Effective July 1, 2011 ~~July 1, 2002~~, allocations from  
4289 the Florida Retirement System Contributions Clearing Trust Fund  
4290 to investment plan member ~~optional retirement program~~  
4291 participant accounts, including employee contributions required  
4292 under s. 121.71(3), are ~~shall be~~ as follows:

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4293

Membership Class

Percentage of Gross  
Compensation

Regular Class

9.00%

4294

Special Risk Class

20.00%

4295

Special Risk Administrative Support  
Class

11.35%

4296

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

13.40%

4297

Elected Officers' Class—  
Justices, Judges

18.90%

4298

Elected Officers' Class—  
County Elected Officers

16.20%

4299

Senior Management Service Class

10.95%

4300

4301

4302 Section 30. Section 121.73, Florida Statutes, is amended to  
4303 read:

4304 121.73 Allocations for member ~~optional retirement program~~

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4305 ~~participant~~ disability coverage; percentage amounts.-

4306 (1) The allocations established in subsection (3) shall be  
 4307 used to provide disability coverage for members of the  
 4308 investment plan ~~participants in the optional retirement program~~  
 4309 and shall be transferred monthly by the Division of Retirement  
 4310 from the Florida Retirement System Contributions Clearing Trust  
 4311 Fund to the disability account of the Florida Retirement System  
 4312 Trust Fund.

4313 (2) The allocations are stated as a percentage of each  
 4314 investment plan participant's ~~optional retirement program~~  
 4315 ~~participant's~~ gross compensation for the calendar month. A  
 4316 change in a contribution percentage is effective the first day  
 4317 of the month for which retirement contributions ~~a full month's~~  
 4318 ~~employer contribution~~ may be made on or after the beginning date  
 4319 of the change. Contribution percentages may be modified by  
 4320 general law.

4321 (3) Effective July 1, 2002, allocations from the Florida  
 4322 Retirement System ~~FRS~~ Contribution Clearing Fund to provide  
 4323 disability coverage for members of the investment plan  
 4324 ~~participants in the optional retirement program~~, and to offset  
 4325 the costs of administering said coverage, shall be as follows:  
 4326

Membership Class	Percentage of Gross Compensation
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4327

4328

Regular Class	0.25%
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4329



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4330	Special Risk Class	1.33%
4331	Special Risk Administrative Support Class	0.45%
4332	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
4333	Elected Officers' Class— Justices, Judges	0.73%
4334	Elected Officers' Class— County Elected Officers	0.41%
4335	Senior Management Service Class	0.26%

4336

4337 (4) Effective July 1, 2011, allocations from the Florida  
 4338 Retirement System Contribution Clearing Fund to provide  
 4339 disability coverage for members of the investment plan and to  
 4340 offset the costs of administering such coverage shall be the  
 4341 actuarially indicated amount necessary to fund the statutorily  
 4342 authorized benefit for the plan year as determined by the  
 4343 department's actuary.

4344 Section 31. Section 121.74, Florida Statutes, is amended to  
 4345 read:

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4346           121.74 Administrative and educational expenses.—In addition  
4347 to contributions required under ss. ~~s.~~ 121.71 and 121.73,  
4348 effective July 1, 2010, through June 30, 2014, employers  
4349 participating in the Florida Retirement System shall contribute  
4350 an amount equal to 0.03 percent of the payroll reported for each  
4351 class or subclass of Florida Retirement System membership;  
4352 effective July 1, 2014, the contribution rate shall be 0.04  
4353 percent of the payroll reported for each class or subclass of  
4354 membership. The amount contributed shall be transferred by the  
4355 Division of Retirement from the Florida Retirement System  
4356 Contributions Clearing Trust Fund to the state board's ~~Board of~~  
4357 ~~Administration's~~ administrative trust fund to offset the costs  
4358 of administering the investment plan ~~optional retirement program~~  
4359 and the costs of providing educational services to participants  
4360 in the pension plan ~~defined benefit program~~ and the investment  
4361 plan ~~optional retirement program~~. Approval of the trustees is  
4362 required before the expenditure of these funds. Payments for  
4363 third-party administrative or educational expenses shall be made  
4364 only pursuant to the terms of the approved contracts for such  
4365 services.

4366           Section 32. Section 121.75, Florida Statutes, is amended to  
4367 read:

4368           121.75 Allocation for pension plan ~~defined benefit~~  
4369 ~~program~~.—After making the transfers required pursuant to ss.  
4370 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds  
4371 in the Florida Retirement System Contributions Clearing Trust  
4372 Fund shall be transferred to the Florida Retirement System Trust  
4373 Fund to pay the costs of providing pension plan ~~defined benefit~~  
4374 ~~program~~ benefits and plan administrative costs under the pension

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4375 ~~plan defined benefit program.~~

4376 Section 33. Section 121.77, Florida Statutes, is amended to  
4377 read:

4378 121.77 Deductions from member ~~participant~~ accounts.—The  
4379 State Board of Administration may authorize the third-party  
4380 administrator to deduct reasonable fees and apply appropriate  
4381 charges to investment plan member ~~optional retirement program~~  
4382 ~~participant~~ accounts. In no event may ~~shall~~ administrative and  
4383 educational expenses exceed the portion of employer  
4384 contributions earmarked for such expenses under this part,  
4385 except for reasonable administrative charges assessed against  
4386 member ~~participant~~ accounts of persons for whom no employer  
4387 contributions are made during the calendar quarter. Investment  
4388 management fees shall be deducted from member ~~participant~~  
4389 accounts, pursuant to the terms of the contract between the  
4390 provider and the board.

4391 Section 34. Subsections (1) and (3) of section 121.78,  
4392 Florida Statutes, are amended to read:

4393 121.78 Payment and distribution of contributions.—

4394 (1) Contributions made pursuant to this part, including the  
4395 employee contributions, shall be paid by the employer to the  
4396 Division of Retirement by electronic funds transfer no later  
4397 than the 5th working day of the month immediately following the  
4398 month during which the payroll period ended. Accompanying  
4399 payroll data must be transmitted to the division concurrent with  
4400 the contributions.

4401 (3) (a) Employer and employee contributions and accompanying  
4402 payroll data received after the 5th working day of the month are  
4403 considered late. The employer shall be assessed by the Division

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4404 of Retirement a penalty of 1 percent of the contributions due  
4405 for each calendar month or part thereof that the contributions  
4406 or accompanying payroll data are late. Proceeds from the 1-  
4407 percent assessment against contributions made on behalf of  
4408 members of the pension plan ~~participants of the defined benefit~~  
4409 ~~program~~ shall be deposited in the Florida Retirement System  
4410 Trust Fund, and proceeds from the 1 percent ~~1 percent~~ assessment  
4411 against contributions made on behalf of members of the  
4412 investment plan ~~participants of the optional retirement program~~  
4413 shall be transferred to the third-party administrator for  
4414 deposit into member ~~participant~~ accounts, as provided in  
4415 paragraph (c) ~~(b)~~.

4416 (b) Retirement contributions paid for a prior period shall  
4417 be charged a delinquent fee of 1 percent for each calendar month  
4418 or part thereof that the contributions should have been paid.  
4419 This includes prior period contributions due to incorrect wages,  
4420 contributions from an earlier report or wages, and contributions  
4421 that should have been reported but were not. The delinquent  
4422 assessments may not be waived.

4423 (c) ~~(b)~~ If employee contributions or contributions made by  
4424 an employer on behalf of members of the investment plan  
4425 ~~participants of the optional retirement program~~ or accompanying  
4426 payroll data are not received within the calendar month they are  
4427 due, including, but not limited to, contribution adjustments as  
4428 a result of employer errors or corrections, and if that  
4429 delinquency results in market losses to members ~~participants,~~  
4430 the employer shall reimburse each member's ~~participant's~~ account  
4431 for market losses resulting from the late contributions. If a  
4432 member ~~participant~~ has terminated employment and taken a

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4433 distribution, the member participant is responsible for  
4434 returning any excess contributions erroneously provided by  
4435 employers, adjusted for any investment gain or loss incurred  
4436 during the period such excess contributions were in the member's  
4437 ~~participant's~~ account. The state board or its designated agent  
4438 shall communicate to terminated members participants any  
4439 obligation to repay such excess contribution amounts. However,  
4440 the state board, its designated agents, the Florida Public  
4441 ~~Employee Optional Retirement System Investment Plan Program~~  
4442 Trust Fund, the department, or the Florida Retirement System  
4443 Trust Fund may not incur any loss or gain as a result of an  
4444 employer's correction of such excess contributions. The third-  
4445 party administrator, hired by the state board pursuant to s.  
4446 121.4501(8), shall calculate the market losses for each affected  
4447 member participant. If contributions made on behalf of members  
4448 ~~of the investment plan participants of the optional retirement~~  
4449 ~~program~~ or accompanying payroll data are not received within the  
4450 calendar month due, the employer shall also pay the cost of the  
4451 third-party administrator's calculation and reconciliation  
4452 adjustments resulting from the late contributions. The third-  
4453 party administrator shall notify the employer of the results of  
4454 the calculations and the total amount due from the employer for  
4455 such losses and the costs of calculation and reconciliation. The  
4456 employer shall remit to the Division of Retirement the amount  
4457 due within 30 working days after the date of the penalty notice  
4458 sent by the division. The division shall transfer that amount to  
4459 the third-party administrator, which shall deposit proceeds from  
4460 the 1 percent ~~1-percent~~ assessment and from individual market  
4461 losses into member participant accounts, as appropriate. The

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4462 state board may adopt rules to administer the provisions  
4463 regarding late contributions, late submission of payroll data,  
4464 the process for reimbursing member ~~participant~~ accounts for  
4465 resultant market losses, and the penalties charged to the  
4466 employers.

4467 (d) If employee contributions reported by an employer on  
4468 behalf of the employee are reduced as a result of employer  
4469 errors or corrections and the employee has terminated employment  
4470 and taken a refund or distribution, the employer shall be billed  
4471 and is responsible for recovering from the employee any excess  
4472 contributions erroneously provided by the employer.

4473 (e) ~~(e)~~ Delinquency fees specified in paragraph (a) may be  
4474 waived by the Division of Retirement, with regard to pension  
4475 plan ~~defined benefit program~~ contributions, and by the state  
4476 board, with regard to investment plan ~~optional retirement~~  
4477 ~~program~~ contributions, only if, in the opinion of the division  
4478 or the board, as appropriate, exceptional circumstances beyond  
4479 the employer's control prevented remittance by the prescribed  
4480 due date notwithstanding the employer's good faith efforts to  
4481 effect delivery. Such a waiver of delinquency may be granted an  
4482 employer only once each plan ~~state fiscal~~ year.

4483 (f) If the employer submits excess employer or employee  
4484 contributions, the employer shall receive a credit to be applied  
4485 against future contributions owed. The employer is responsible  
4486 for reimbursing the employee for any excess contributions  
4487 submitted if any return of such an erroneous excess pretax  
4488 contribution by the program is made within 1 year after making  
4489 erroneous contributions or such other period as allowed under  
4490 applicable Internal Revenue Service guidance.

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4491 (g)~~(d)~~ If contributions made by an employer on behalf of  
4492 members of the investment program ~~participants in the optional~~  
4493 ~~retirement program~~ are delayed in posting to member ~~participant~~  
4494 accounts due to acts of God beyond the control of the Division  
4495 of Retirement, the state board, or the third-party  
4496 administrator, as applicable, market losses resulting from the  
4497 late contributions are not payable to the members ~~participants~~.

4498 Section 35. Paragraph (a) of subsection (4) of section  
4499 1012.875, Florida Statutes, is amended to read:

4500 1012.875 State Community College System Optional Retirement  
4501 Program.—Each community college may implement an optional  
4502 retirement program, if such program is established therefor  
4503 pursuant to s. 1001.64(20), under which annuity or other  
4504 contracts providing retirement and death benefits may be  
4505 purchased by, and on behalf of, eligible employees who  
4506 participate in the program, in accordance with s. 403(b) of the  
4507 Internal Revenue Code. Except as otherwise provided herein, this  
4508 retirement program, which shall be known as the State Community  
4509 College System Optional Retirement Program, may be implemented  
4510 and administered only by an individual community college or by a  
4511 consortium of community colleges.

4512 (4) (a) Through June 30, 2011, each college must contribute  
4513 on behalf of each program member ~~participant~~ an amount equal to  
4514 10.43 percent of the employee's ~~participant's~~ gross monthly  
4515 compensation. Effective July 1, 2011, each member shall  
4516 contribute an amount equal to the employee contribution required  
4517 under s. 121.71(3). Effective July 1, 2011, each employer shall  
4518 contribute on behalf of each program member an amount equal to  
4519 the difference between 10.43 percent of the employee's gross

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4520 monthly compensation and the employee's required contribution  
4521 based on the employee's gross monthly compensation. The college  
4522 shall deduct an amount approved by the district board of  
4523 trustees of the college to provide for the administration of the  
4524 optional retirement program. Payment of this contribution must  
4525 be made ~~either~~ directly by the college or through the program  
4526 administrator to the designated company contracting for payment  
4527 of benefits to the program member participant.

4528 Section 36. The Legislature finds that a proper and  
4529 legitimate state purpose is served when employees and retirees  
4530 of the state and its political subdivisions, and the dependents,  
4531 survivors, and beneficiaries of such employees and retirees, are  
4532 extended the basic protections afforded by governmental  
4533 retirement systems. These persons must be provided benefits that  
4534 are fair and adequate and that are managed, administered, and  
4535 funded in an actuarially sound manner, as required by s. 14,  
4536 Article X of the State Constitution and part VII of chapter 112,  
4537 Florida Statutes. Therefore, the Legislature determines and  
4538 declares that this act fulfills an important state interest.

4539 Section 37. The Division of Statutory Revision is requested  
4540 to rename the title of part II of chapter 121, Florida Statutes,  
4541 as "Florida Retirement System Investment Plan."

4542 Section 38. (1) Effective upon this act becoming a law, the  
4543 State Board of Administration and the Department of Management  
4544 Services shall, as soon as practicable, request a determination  
4545 letter and private letter ruling from the United States Internal  
4546 Revenue Service. If the Internal Revenue Service refuses to act  
4547 upon a request for a private letter ruling, the legal opinion  
4548 from a qualified tax attorney or firm may be substituted for the



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4549 private letter ruling.

4550 (2) If the board or the department receives notification  
4551 from the United States Internal Revenue Service that this act or  
4552 any portion of this act will cause the Florida Retirement  
4553 System, or a portion thereof, to be disqualified for tax  
4554 purposes under the Internal Revenue Code, then that portion does  
4555 not apply. Upon such notice, the state board and the department  
4556 shall notify the presiding officers of the Legislature.

4557 Section 39. Each state university, as defined in s.  
4558 1000.21, Florida Statutes, may develop and implement cost-  
4559 effective strategies to deliver health care benefits to its  
4560 employees, including faculty and staff. Each such university may  
4561 develop health benefit programs, including, but not limited to,  
4562 group or self-insurance plans, as well as the necessary  
4563 administrative services required to implement and administer  
4564 such programs if the annual costs in the year of the  
4565 implementation do not exceed current state expenditures.

4566 Section 40. Except as otherwise expressly provided in this  
4567 act, this act shall take effect July 1, 2011.