

By the Committee on Budget

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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; amending s. 121.021, F.S.; redefining the terms
8 "system," "prior service," "compensation," "average
9 final compensation," "normal retirement date,"
10 "termination," "benefit," and "payee"; defining the
11 term "division"; 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 providing for refunds of employee refunds; prohibiting
31 a refund of retirement contributions if an approved
32 qualified domestic relations order is filed against
33 the member's retirement account; providing that a
34 member who obtains a refund of contributions waives
35 certain rights under the Florida Retirement System;
36 deleting a prohibition against a retiree's renewing
37 membership in the Senior Management Service Optional
38 Annuity Program; requiring employee and employer
39 contributions for members in the Senior Management
40 Service Optional Annuity Program after a certain date;
41 limiting the payment of benefits before a member's
42 termination of employment; amending s. 121.071, F.S.;
43 requiring employee and employer contributions to the
44 retirement system beginning on a certain date;
45 limiting the payment of benefits before a member's
46 termination of employment; requiring repayment plus
47 interest of an invalid refund; amending s. 121.081,
48 F.S.; providing requirements for contributions for
49 prior service performed on or after a certain date;
50 amending s. 121.091, F.S.; conforming a cross-
51 reference; providing for refunds of employee refunds;
52 limiting the payment of benefits before a member's
53 termination of employment; prohibiting a refund of
54 retirement contributions if an approved qualified
55 domestic relations order is filed against the member's
56 retirement account; providing that a member who
57 obtains a refund of contributions waives certain
58 rights under the Florida Retirement System;

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59 terminating participation in the Deferred Retirement
60 Option Program after a certain date; conforming
61 provisions to changes made by the act; amending s.
62 121.1001, F.S.; conforming provisions to changes made
63 by the act; amending s. 121.101, F.S.;. revising the
64 cost-of-living adjustment depending on the date of
65 retirement; amending s. 121.121, F.S., relating to the
66 purchase of creditable service following an authorized
67 leave of absence; requiring that service credit be
68 purchased at the employee and employer contribution
69 rates in effect during the leave of absence; reducing
70 the interest rate on benefits payable under the
71 Deferred Retirement Option Program for employees hired
72 after a certain date; amending s. 121.122, F.S.;

73 providing for renewed membership in the retirement
74 system for retirees who are reemployed after a certain
75 date; specifying requirements and limitations;
76 amending s. 121.125, F.S.; conforming provisions to
77 changes made by the act; assessing a penalty against
78 employers for contributions not paid after a member
79 becomes eligible for workers' compensation; amending
80 s. 121.35, F.S., relating to the optional retirement
81 program for the State University System; conforming
82 provisions to changes made by the act; requiring
83 employee and employer contributions for members
84 participating in the optional retirement program after
85 a certain date; deleting certain requirements
86 governing employer contributions to conform to changes
87 made by the act; prohibiting certain benefits before

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88 termination from employment; conforming cross-
89 references; amending s. 121.355, F.S.; conforming
90 provisions to changes made by the act; amending s.
91 121.4501, F.S.; changing the name of the Public
92 Employee Optional Retirement Program to the Florida
93 Retirement System Investment Plan; limiting the option
94 of enrolling in the State Retirement System's defined
95 benefit program or defined contribution program to
96 public employees employed before a certain date;
97 requiring public employees employed on or after a
98 certain date to enroll in the investment plan;
99 providing exceptions; requiring that plan members make
100 contributions to the plan based on the employee's
101 membership class; revising definitions; revising the
102 benefit commencement age for members of the special
103 risk class; providing for contribution adjustments as
104 a result of errors or corrections; deleting obsolete
105 provisions relating to the 2002 optional transfer of
106 public employees from the pension plan to the
107 investment plan; providing for past employees who
108 reenter the system; requiring an employer to receive a
109 credit for excess contributions and to reimburse an
110 employee for excess contributions, subject to certain
111 limitations; providing for a retiree to retain his or
112 her prior plan choice following a return to
113 employment; limiting certain refunds of contributions
114 which exceed the amount that would have accrued had
115 the member remained in the pension plan; providing
116 certain requirements and limitations with respect to

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117 contributions; clarifying that employee and employer
118 contributions are earmarked for specified purposes;
119 providing duties of the third-party administrator;
120 providing that a member is vested immediately with
121 respect to employee contributions paid by the
122 employee; providing for the forfeiture of nonvested
123 employer contributions and service credit based on
124 years of service; amending s. 121.4502, F.S.;

125 conforming provisions to changes made by the act;
126 amending s. 121.4503, F.S.; providing for the deposit
127 of employee contributions into the Florida Retirement
128 System Contributions Clearing Trust Fund; amending s.
129 121.571, F.S.; conforming provisions to changes made
130 by the act; providing requirements for submitting
131 employee contributions; amending s. 121.591, F.S.;

132 prohibiting the payment of certain benefits before
133 termination of employment; providing for the
134 forfeiture of nonvested accumulations upon payment of
135 certain vested benefits; providing that the
136 distribution payment method selected by the member or
137 beneficiary is irrevocable at the time of
138 distribution; prohibiting a distribution of employee
139 contributions if a qualified domestic relations order
140 is filed against the member's account; providing for
141 the distribution of an employee's contributions if the
142 employee dies before being vested; conforming
143 provisions to changes made by the act; amending ss.
144 121.5911 and 121.70, F.S.; conforming provisions to
145 changes made by the act; amending s. 121.71, F.S.;

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

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175 employee in error; revising the terms of an authorized
176 waiver of delinquency; requiring an employer to
177 receive a credit for excess contributions and to
178 reimburse an employee for excess contributions,
179 subject to certain limitations; amending s. 175.121,
180 F.S.; specifying other sources available to pay the
181 expenses of the Department of Revenue for
182 administering firefighters' pension plans; amending s.
183 175.341, F.S.; conforming provisions to changes made
184 by the act; amending s. 185.10, F.S.; specifying other
185 sources available to pay the expenses of the
186 department for administering police officers' pension
187 plans; amending s. 185.23, F.S.; conforming provisions
188 to changes made by the act; amending s. 250.22, F.S.;
189 providing that retirement pay for members of the
190 Florida National Guard is determined on the date of
191 retirement and may not be recomputed to reflect an
192 increase in basic pay; directing the Division of
193 Retirement to annually adjust retirement pay after a
194 certain date; amending s. 1012.875, F.S.; requiring
195 employee and employer contributions for members of the
196 State Community College System Optional Retirement
197 Program on a certain date; conforming cross-
198 references; providing that the act fulfills an
199 important state interest; providing a directive to the
200 Division of Statutory Revision; requiring the State
201 Board of Administration and the Department of
202 Management Services to request a private letter ruling
203 from the United States Internal Revenue Service

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204 regarding the act; providing employers the option of
 205 contributing to the retirement account of a reemployed
 206 retiree during a specified period; providing an
 207 effective date.

208

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

210

211 Section 1. Paragraph (g) of subsection (2) of section
 212 110.123, Florida Statutes, is amended to read:

213 110.123 State group insurance program.—

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

215 (g) "Retired state officer or employee" or "retiree" means
 216 a any state, or state university, officer or employee who
 217 retires under a state retirement system or a state optional
 218 annuity or retirement program or is placed on disability
 219 retirement, ~~and~~ who was insured under the state group insurance
 220 program at the time of retirement, and who begins receiving
 221 retirement benefits immediately after retirement from state or
 222 state university office or employment. The term also includes ~~In~~
 223 ~~addition to these requirements,~~ any state officer or ~~state~~
 224 employee who retires under the investment plan ~~Public Employee~~
 225 ~~Optional Retirement Program~~ established under part II of chapter
 226 121 ~~shall be considered a "retired state officer or employee" or~~
 227 ~~"retiree" as used in this section~~ if he or she:

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

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

232 Section 2. Section 112.0801, Florida Statutes, is amended

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233 to read:

234 112.0801 Group insurance; participation by retired
235 employees.-

236 ~~(1)~~ Any state agency, county, municipality, special
237 district, community college, or district school board that ~~which~~
238 provides life, health, accident, hospitalization, or annuity
239 insurance, or all of any kinds of such insurance, for its
240 officers and employees and their dependents upon a group
241 insurance plan or self-insurance plan shall allow all former
242 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as
243 well as those who retire on or after such date, and their
244 eligible dependents, the option of continuing to participate in
245 the ~~such~~ group insurance plan or self-insurance plan. Retirees
246 and their eligible dependents shall be offered the same health
247 and hospitalization insurance coverage as is offered to active
248 employees at a premium cost of no more than the premium cost
249 applicable to active employees. For ~~the~~ retired employees and
250 their eligible dependents, the cost of ~~any such~~ continued
251 participation ~~in any type of plan or any of the cost thereof~~ may
252 be paid by the employer or by the retired employees. To
253 determine health and hospitalization plan costs, the employer
254 shall commingle the claims experience of the retiree group with
255 the claims experience of the active employees; and, for other
256 types of coverage, the employer may commingle the claims
257 experience of the retiree group with the claims experience of
258 active employees. Retirees covered under Medicare may be
259 experience-rated separately from the retirees not covered by
260 Medicare and from active employees if, ~~provided that~~ the total
261 premium does not exceed that of the active group and coverage is

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262 basically the same as for the active group.

263 ~~(2) For purposes of this section, the term "retiree" has~~
 264 ~~the same meaning as in s. 110.123(2) means any officer or~~
 265 ~~employee who retires under a state retirement system or a state~~
 266 ~~optional annuity or retirement program or is placed on~~
 267 ~~disability retirement and who begins receiving retirement~~
 268 ~~benefits immediately after retirement from employment. In~~
 269 ~~addition to these requirements, any officer or employee who~~
 270 ~~retires under the Public Employee Optional Retirement Program~~
 271 ~~established under part II of chapter 121 shall be considered a~~
 272 ~~"retired officer or employee" or "retiree" as used in this~~
 273 ~~section if he or she:~~

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

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

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

281 112.363 Retiree health insurance subsidy.—

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

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

288 1. For a member participant of the investment plan Public
 289 ~~Employee Optional Retirement program~~ established under part II
 290 of chapter 121, the member participant meets the age or service

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291 requirements to qualify for normal retirement as set forth in s.
292 121.021(29) and meets the definition of retiree in s.
293 121.4501(2).

294 2. For a member of the pension plan ~~Florida Retirement~~
295 ~~System defined benefit program~~, or any employee who maintains
296 creditable service under ~~both~~ the pension plan and the
297 investment plan defined benefit program ~~and the Public Employee~~
298 ~~Optional Retirement program~~, the member begins drawing
299 retirement benefits from the pension plan ~~defined benefit~~
300 ~~program of the Florida Retirement System.~~

301 (c)~~1.~~ Effective July 1, 2001, any person retiring on or
302 after that ~~such~~ date as a member of the Florida Retirement
303 System, including a member ~~any participant~~ of the investment
304 plan defined contribution program administered pursuant to part
305 II of chapter 121, must have satisfied the vesting requirements
306 for his or her membership class under the pension plan ~~Florida~~
307 ~~Retirement System defined benefit program~~ as administered under
308 part I of chapter 121. However,

309 ~~2. Notwithstanding the provisions of subparagraph 1.,~~ a
310 person retiring due to disability must ~~either~~ qualify for a
311 regular or in-line-of-duty disability benefit as provided in s.
312 121.091(4) or qualify for a disability benefit under a
313 disability plan established under part II of chapter 121, as
314 appropriate.

315 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

316 (e)1. Beginning July 1, 2001, each eligible retiree of the
317 pension plan ~~defined benefit program~~ of the Florida Retirement
318 System, or, if the retiree is deceased, his or her beneficiary
319 who is receiving a monthly benefit from such retiree's account

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320 and who is a spouse, or a person who meets the definition of
321 joint annuitant in s. 121.021~~(28)~~, shall receive a monthly
322 retiree health insurance subsidy payment equal to the number of
323 years of creditable service, as defined in s. 121.021~~(17)~~,
324 completed at the time of retirement multiplied by \$5; however,
325 an ~~no~~ eligible retiree or beneficiary may not receive a subsidy
326 payment of more than \$150 or less than \$30. If there are
327 multiple beneficiaries, the total payment may ~~must~~ not be
328 greater than the payment to which the retiree was entitled. The
329 health insurance subsidy amount payable to any person receiving
330 the retiree health insurance subsidy payment on July 1, 2001,
331 may ~~shall~~ not be reduced solely by operation of this
332 subparagraph.

333 2. Beginning July 1, 2002, each eligible member participant
334 of the investment plan under part II of chapter 121 Public
335 ~~Employee Optional Retirement program of the Florida Retirement~~
336 ~~System~~ who has met the requirements of this section, or, if the
337 member participant is deceased, his or her spouse who is the
338 member's participant's designated beneficiary, shall receive a
339 monthly retiree health insurance subsidy payment equal to the
340 number of years of creditable service, as provided in this
341 subparagraph, completed at the time of retirement, multiplied by
342 \$5; however, an ~~no~~ eligible retiree or beneficiary may not
343 receive a subsidy payment of more than \$150 or less than \$30.
344 For purposes of determining a member's participant's creditable
345 service used to calculate the health insurance subsidy, the
346 member's a participant's years of service credit or fraction
347 thereof must ~~shall~~ be based on the member's participant's work
348 year as defined in s. 121.021~~(54)~~. Credit must ~~shall~~ be awarded

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349 for a full work year if ~~whenever~~ health insurance subsidy
350 contributions have been made ~~as required by law~~ for each month
351 in the member's ~~participant's~~ work year. In addition, all years
352 of creditable service retained under the Florida Retirement
353 System pension plan must ~~defined benefit program shall~~ be
354 included as creditable service for purposes of this section.
355 Notwithstanding any other provision in this section ~~to the~~
356 ~~contrary~~, the spouse at the time of death is ~~shall be~~ the
357 member's ~~participant's~~ beneficiary unless such member
358 ~~participant~~ has designated a different beneficiary subsequent to
359 the member's ~~participant's~~ most recent marriage.

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

362 112.65 Limitation of benefits.—

363 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit
364 or pension payable to a retiree who becomes a member of a any
365 retirement system or plan and who has not previously
366 participated in such plan, on or after January 1, 1980, may
367 ~~shall~~ not exceed 100 percent of his or her average final
368 compensation. However, ~~nothing contained in this section does~~
369 not shall apply to supplemental retirement benefits or to
370 pension increases attributable to cost-of-living increases or
371 adjustments. For the purposes of this section, benefits accruing
372 in individual member ~~participant~~ accounts established under the
373 investment plan ~~Public Employee Optional Retirement program~~
374 established in part II of chapter 121 are considered
375 supplemental benefits. As used in this section, the term
376 "average final compensation" means the average of the member's
377 earnings over a period of time which the governmental entity

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378 establishes ~~has established~~ by statute, charter, or ordinance.

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

381 121.011 Florida Retirement System.—

382 (3) PRESERVATION OF RIGHTS.—

383 (h) Effective July 1, 2011, the retirement system shall
384 require employee and employer contributions as provided in s.
385 121.071 and part III of this chapter.

386 Section 6. Subsection (3), paragraph (a) of subsection
387 (19), paragraphs (a) and (b) of subsection (22), subsections
388 (24), (29), and (39), paragraph (b) of subsection (45), and
389 subsections (55) and (59) of section 121.021, Florida Statutes,
390 are amended, and subsection (65) is added to that section, to
391 read:

392 121.021 Definitions.—The following words and phrases as
393 used in this chapter have the respective meanings set forth
394 unless a different meaning is plainly required by the context:

395 (3) "Florida Retirement System" or "system" means the
396 general retirement system established by this chapter, ~~to be~~
397 ~~known and cited as the "Florida Retirement System,"~~ including,
398 but not limited to, the defined benefit ~~retirement~~ program
399 administered under ~~the provisions of part I of this part,~~
400 referred to as the "Florida Retirement System Pension Plan" or
401 "pension plan," ~~chapter~~ and the defined contribution ~~retirement~~
402 ~~program known as the Public Employee Optional Retirement Program~~
403 ~~and~~ administered under ~~the provisions of part II of this~~
404 ~~chapter,~~ referred to as the "Florida Retirement System
405 Investment Plan" or "investment plan."

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

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407 (a) Service for which the member had credit under one of
408 the existing systems and received a refund of his or her
409 contributions upon termination of employment. Prior service
410 ~~shall~~ also includes ~~include that~~ service ~~between December 1,~~
411 ~~1970, and the date the system becomes noncontributory~~ for which
412 the member had credit under the Florida Retirement System and
413 received a refund of his or her contributions upon termination
414 of employment.

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

418 (a) Before July 1, 2011, compensation includes ~~shall~~
419 ~~include:~~

- 420 1. Overtime payments paid from a salary fund.
- 421 2. Accumulated annual leave payments.
- 422 3. Payments in addition to the employee's base rate of pay
423 if ~~all~~ the following apply:
 - 424 a. The payments are paid according to a formal written
425 policy that applies to all eligible employees equally;
 - 426 b. The policy provides that payments ~~shall~~ commence by ~~no~~
427 ~~later than~~ the 11th year of employment;
 - 428 c. The payments are paid for as long as the employee
429 continues his or her employment; and
 - 430 d. The payments are paid at least annually.
- 431 4. Amounts withheld for tax sheltered annuities or deferred
432 compensation programs, or any other type of salary reduction
433 plan authorized under the Internal Revenue Code.
- 434 5. Payments made in lieu of a permanent increase in the
435 base rate of pay, whether made annually or in 12 or 26 equal

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436 payments within a 12-month period, if when the member's base pay
437 is at the maximum of his or her pay range. If when a portion of
438 a member's annual increase raises his or her pay range and the
439 excess is paid as a lump sum payment, the such lump sum payment
440 is considered shall be compensation for retirement purposes.

441 (b) On or after July 1, 2011, compensation includes:

442 1. Payments in addition to the employee's base rate of pay
443 if the following apply:

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

446 b. The policy provides that payments shall commence by the
447 11th year of employment; and

448 c. The payments are paid at least annually.

449 2. Amounts withheld for tax-sheltered annuities, deferred
450 compensation programs, or any other type of salary reduction
451 plan authorized under the Internal Revenue Code.

452 3. Payments made in lieu of a permanent increase in the
453 base rate of pay, whether made annually or in 12 or 26 equal
454 payments within a 12-month period, if the member's base pay is
455 at the maximum of his or her pay range. If a portion of a
456 member's annual increase raises his or her pay range and the
457 excess is paid as a lump sum payment, such lump sum payment is
458 compensation for retirement purposes.

459 (c) ~~(b)~~ Under no circumstances shall Compensation for a
460 member participating in the pension plan defined benefit
461 ~~retirement program~~ or the investment plan Public Employee
462 ~~Optional Retirement Program~~ of the Florida Retirement System may
463 not include:

464 1. Fees paid professional persons for special or particular

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465 services or ~~include~~ salary payments made from a faculty practice
 466 plan authorized by the Board of Governors of the State
 467 University System for eligible clinical faculty at a college in
 468 a state university that has a faculty practice plan; or

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

472 (24) "Average final compensation" means the average of the
 473 5 highest fiscal years of compensation for creditable service
 474 prior to retirement, termination, or death. For in-line-of-duty
 475 disability benefits, if less than 5 years of creditable service
 476 have been completed, the term "~~average final compensation~~" means
 477 the average annual compensation of the total number of years of
 478 creditable service. Each year used to calculate the ~~in the~~
 479 ~~calculation of~~ average final compensation commences ~~shall~~
 480 ~~commence~~ on July 1.

481 (a) Before July 1, 2011:

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

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

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

487 2. ~~(b)~~ The average final compensation does ~~shall~~ not
 488 include:

489 a.1. ~~Compensation paid to professional persons for special~~
 490 or particular services;

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

493 c.3. ~~Payments for accumulated annual leave in excess of 500~~

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494 hours;

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

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

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

500 (b) On or after July 1, 2011:

501 1. The average final compensation includes all payments
502 defined as compensation under this section.

503 2. The average final compensation does not include:

504 a. Compensation paid to professional persons for special or
505 particular services;

506 b. Payments for accumulated sick leave made due to
507 retirement or termination;

508 c. Payments for accumulated annual leave;

509 d. Overtime payments paid from a salary fund;

510 e. Bonuses;

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

512 g. Fringe benefits, such as automobile allowances or
513 housing allowances.

514 (29) "Normal retirement date" means the date a member
515 attains normal retirement age and is vested, which is determined
516 as follows:

517 (a) If a Regular Class member, a Senior Management Service
518 Class member, or an Elected Officers' Class member:

519 1. The first day of the month the member completes 6 or
520 more years of creditable service and attains age 62; or

521 2. The first day of the month following the date the member
522 completes 30 years of creditable service, regardless of age.

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523 (b) If a Special Risk Class member:

524 1. Enrolled before July 1, 2011:

525 a.1. The first day of the month the member completes 6 or
526 more years of creditable service in the Special Risk Class and
527 attains age 55;

528 b.2. The first day of the month following the date the
529 member completes 25 years of creditable service in the Special
530 Risk Class, regardless of age; or

531 c.3. The first day of the month following the date the
532 member completes 25 years of creditable service and attains age
533 52, which service may include a maximum of 4 years of military
534 service credit as long as such credit is not claimed under any
535 other system and the remaining years are in the Special Risk
536 Class.

537 2. Enrolled on or after July 1, 2011:

538 a. The first day of the month the member completes 6 or
539 more years of creditable service in the Special Risk Class and
540 attains age 62; or

541 b. The first day of the month following the date the member
542 completes 30 years of creditable service, regardless of age.

543
544 "Normal retirement age" is attained on the "normal retirement
545 date."

546 (39) (a) "Termination" or "terminated" means ~~occurs~~, except
547 as provided in paragraph (b), that when a member ceases all
548 employment relationships with a participating ~~an~~ employer;;
549 however:

550 1. For retirements effective before July 1, 2010, if a
551 member is employed by any such employer within the next calendar

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552 month, termination shall be deemed not to have occurred. A leave
553 of absence constitutes a continuation of the employment
554 relationship, except that a leave of absence without pay due to
555 disability may constitute termination if such member makes
556 application for and is approved for disability retirement in
557 accordance with s. 121.091(4). The department or state board may
558 require other evidence of termination as it deems necessary.

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

568 (b) "Termination" or "terminated" means for a member
569 electing to participate in the Deferred Retirement Option
570 Program that ~~occurs when the member program participant~~ ceases
571 all employment relationships with a participating ~~an~~ employer in
572 accordance with s. 121.091(13); IT however:

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

579 2. For termination dates occurring on or after July 1,
580 2010, if the member participant ~~participant~~ becomes employed by any such

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581 employer within the next 6 calendar months, termination will be
582 deemed not to have occurred, except as provided in s.
583 121.091(13)(b)4.c. A leave of absence constitutes a continuation
584 of the employment relationship.

585 (c) Effective July 1, 2011, "termination" or "terminated"
586 means for a member receiving a refund of employee contributions
587 that the member ceases all employment relationships with a
588 participating employer for 3 calendar months. A leave of absence
589 for less than 3 calendar months constitutes a continuation of an
590 employment relationship.

591 (45)

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

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

600 2. Any member not employed in a regularly established
601 position on July 1, 2001, shall be deemed vested upon completion
602 of 6 years of creditable service if, ~~provided that~~ such member
603 is employed in a covered position for at least 1 work year after
604 July 1, 2001. However, a ~~no~~ member may not ~~shall~~ be required to
605 complete more years of creditable service than would have been
606 required for that member to vest under retirement laws in effect
607 before July 1, 2001.

608 (55) "Benefit" means any pension payment, lump-sum or
609 periodic, to a member, retiree, or beneficiary, based ~~partially~~

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610 ~~or entirely~~ on employer and employee contributions as
611 applicable.

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

614 (65) "Division" means the Division of Retirement in the
615 department.

616 Section 7. Paragraphs (b), (c), and (d) of subsection (2)
617 of section 121.051, Florida Statutes, are amended, present
618 paragraphs (e) and (f) of that subsection are redesignated as
619 subsections (f) and (g), respectively, a new subsection (e) is
620 added to that subsection, and subsection (3) of that section is
621 amended, to read:

622 121.051 Participation in the system.—

623 (2) OPTIONAL PARTICIPATION.—

624 (b)1. The governing body of any municipality, metropolitan
625 planning organization, or special district in the state may
626 elect to participate in the Florida Retirement System upon
627 proper application to the administrator and may cover all ~~or any~~
628 of its units as approved by the Secretary of Health and Human
629 Services and the administrator. The department shall adopt rules
630 establishing procedures ~~provisions~~ for the submission of
631 documents necessary for such application. Before ~~Prior to~~ being
632 approved for participation ~~in the Florida Retirement System~~, the
633 governing body of a ~~any such~~ municipality, metropolitan planning
634 organization, or special district that has a local retirement
635 system must ~~shall~~ submit to the administrator a certified
636 financial statement showing the condition of the local
637 retirement system ~~as of a date~~ within 3 months before ~~prior to~~
638 the proposed effective date of membership in the Florida

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639 Retirement System. The statement must be certified by a
640 recognized accounting firm that is independent of the local
641 retirement system. All required documents ~~necessary for~~
642 ~~extending Florida Retirement System coverage~~ must be received by
643 the department for consideration at least 15 days before ~~prior~~
644 ~~to~~ the proposed effective date of coverage. If the governing
645 body ~~municipality, metropolitan planning organization, or~~
646 ~~special district~~ does not comply with this requirement, the
647 department may require that the effective date of coverage be
648 changed.

649 2. A municipality ~~Any city,~~ metropolitan planning
650 organization, or special district that has an existing
651 retirement system covering the employees in the units that are
652 to be brought under the Florida Retirement System may
653 participate only after holding a referendum in which all
654 employees in the affected units have the right to participate.
655 Only those employees electing coverage under the Florida
656 Retirement System by affirmative vote in the said referendum are
657 ~~shall be~~ eligible for coverage under this chapter, and those not
658 participating or electing not to be covered by the Florida
659 Retirement System shall remain in their present systems and are
660 ~~shall not be~~ eligible for coverage under this chapter. After the
661 referendum is held, all future employees are ~~shall be~~ compulsory
662 members of the Florida Retirement System.

663 3. At the time of joining the Florida Retirement System,
664 the governing body of a municipality ~~any city,~~ metropolitan
665 planning organization, or special district complying with
666 subparagraph 1. may elect to provide, or not provide, benefits
667 based on past service of officers and employees as described in

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668 s. 121.081(1). However, if such employer elects to provide past
669 service benefits, such benefits must be provided for all
670 officers and employees of its covered group.

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

676 5. Subject to ~~the conditions set forth in~~ subparagraph 6.,
677 the governing body of a ~~any~~ hospital licensed under chapter 395
678 which is governed by the board of a special district as defined
679 in s. 189.403~~(1)~~ or by the board of trustees of a public health
680 trust created under s. 154.07, hereinafter referred to as
681 "hospital district," and which participates in the Florida
682 Retirement System, may elect to cease participation in the
683 system with regard to future employees in accordance with the
684 following procedure:

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

690 b. From 7 to 15 days before such hearing, notice of intent
691 to withdraw, specifying the time and place of the hearing, must
692 be provided in writing to employees of the hospital district
693 proposing partial withdrawal and must be published in a
694 newspaper of general circulation in the area affected, as
695 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~
696 ~~notice shall~~ be submitted to the department ~~of Management~~

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697 Services.

698 c. The governing body of a ~~any~~ hospital district seeking to
699 partially withdraw from the system must, before such hearing,
700 have an actuarial report prepared and certified by an enrolled
701 actuary, as defined in s. 112.625(3), illustrating the cost to
702 the hospital district of providing, through the retirement plan
703 that the hospital district is to adopt, benefits for new
704 employees comparable to those provided under the ~~Florida~~
705 ~~Retirement~~ system.

706 d. Upon meeting all applicable requirements of this
707 subparagraph, and subject to ~~the conditions set forth in~~
708 subparagraph 6., partial withdrawal from the system and adoption
709 of the alternative retirement plan may be accomplished by
710 resolution ~~only~~ adopted by the hospital district board. The
711 hospital district board must provide written notice of such
712 withdrawal to the division by mailing a copy of the resolution
713 to the division, postmarked by ~~no later than~~ December 15, 1995.
714 The withdrawal shall take effect January 1, 1996.

715 6. Following the adoption of a resolution under sub-
716 subparagraph 5.d., all employees of the withdrawing hospital
717 district who were members of ~~participants in~~ the ~~Florida~~
718 ~~Retirement~~ system before ~~prior to~~ January 1, 1996, shall remain
719 as members of ~~participants in~~ the system for as long as they are
720 employees of the hospital district, and all rights, duties, and
721 obligations between the hospital district, the system, and the
722 employees ~~shall~~ remain in full force and effect. Any employee
723 who is hired or appointed on or after January 1, 1996, may not
724 participate in the ~~Florida Retirement~~ system, and the
725 withdrawing hospital district has ~~shall have~~ no obligation to

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726 the system with respect to such employees.

727 (c) Employees of public community colleges or charter
728 technical career centers sponsored by public community colleges,
729 designated in s. 1000.21(3), who are members of the Regular
730 Class of the Florida Retirement System and who comply with the
731 criteria set forth in this paragraph and s. 1012.875 may, in
732 lieu of participating in the Florida Retirement System, elect to
733 withdraw from the system altogether and participate in the State
734 Community College System Optional Retirement Program provided by
735 the employing agency under s. 1012.875.

736 1. Through June 30, 2001, the cost to the employer for a
737 benefit under the optional retirement program ~~such annuity~~
738 equals the normal cost portion of the employer retirement
739 contribution which would be required if the employee were a
740 member of the Regular Class pension plan ~~defined benefit~~
741 ~~program~~, plus the portion of the contribution rate required by
742 s. 112.363(8) which would otherwise be assigned to the Retiree
743 Health Insurance Subsidy Trust Fund. Effective July 1, 2001,
744 each employer shall contribute on behalf of each member of
745 ~~participant in~~ the optional program an amount equal to 10.43
746 percent of the employee's ~~participant's~~ gross monthly
747 compensation. The employer shall deduct an amount for the
748 administration of the program. The employer shall contribute an
749 additional amount to the Florida Retirement System Trust Fund
750 equal to the unfunded actuarial accrued liability portion of the
751 Regular Class contribution rate.

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

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

759 3. An employee who has elected to participate in the
760 optional retirement program shall have one opportunity, at the
761 employee's discretion, to transfer from the optional retirement
762 program to the ~~defined benefit program of the Florida Retirement~~
763 System's pension plan System or to the investment plan
764 established under part II of this chapter ~~Public Employee~~
765 ~~Optional Retirement Program~~, subject to the terms of the
766 applicable optional retirement program contracts.

767 a. If the employee chooses to move to the investment plan
768 ~~Public Employee Optional Retirement program~~, any contributions,
769 interest, and earnings creditable to the employee under the
770 ~~State Community College System~~ optional retirement program are
771 retained by the employee in the ~~State Community College System~~
772 optional retirement program, and the applicable provisions of s.
773 121.4501(4) govern the election.

774 b. If the employee chooses to move to the pension plan
775 ~~defined benefit program of the Florida Retirement System~~, the
776 employee shall receive service credit equal to his or her years
777 of service under the ~~State Community College System~~ optional
778 retirement program.

779 (I) The cost for such credit is the amount representing the
780 present value of the employee's accumulated benefit obligation
781 for the affected period of service. The cost shall be calculated
782 as if the benefit commencement occurs on the first date the
783 employee becomes eligible for unreduced benefits, using the

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784 discount rate and other relevant actuarial assumptions that were
785 used to value the pension ~~Florida Retirement System defined~~
786 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
787 The calculation must include any service already maintained
788 under the pension ~~defined benefit~~ plan in addition to the years
789 under the ~~State Community College System~~ optional retirement
790 program. The present value of any service already maintained
791 must be applied as a credit to total cost resulting from the
792 calculation. The division shall ensure that the transfer sum is
793 prepared using a formula and methodology certified by an
794 enrolled actuary.

795 (II) The employee must transfer from his or her ~~State~~
796 ~~Community College System~~ optional retirement program account and
797 from other employee moneys as necessary, a sum representing the
798 present value of the employee's accumulated benefit obligation
799 immediately following the time of such movement, determined
800 assuming that attained service equals the sum of service in the
801 pension plan ~~defined benefit program~~ and service in the ~~State~~
802 ~~Community College System~~ optional retirement program.

803 4. Participation in the optional retirement program is
804 limited to employees who satisfy the following eligibility
805 criteria:

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

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

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813 (I) Instructional; or
814 (II) Executive Management, Instructional Management, or
815 Institutional Management, and the, ~~if a~~ community college
816 determines that recruiting to fill a vacancy in the position is
817 to be conducted in the national or regional market, and the
818 duties and responsibilities of the position include the
819 formulation, interpretation, or implementation of policies, or
820 the performance of functions that are unique or specialized
821 within higher education and that frequently support the mission
822 of the community college.

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

826 5. Members of Participants ~~in~~ the program are subject to
827 the same reemployment limitations, renewed membership
828 provisions, and forfeiture provisions ~~as are~~ applicable to
829 regular members of the Florida Retirement System under ss.
830 121.091(9), 121.122, and 121.091(5), respectively. A member
831 ~~participant~~ who receives a program distribution funded by
832 employer contributions is ~~shall be~~ deemed to be retired from a
833 state-administered retirement system if the retiree ~~participant~~
834 is subsequently employed with an employer that participates in
835 the Florida Retirement System.

836 6. Eligible community college employees are compulsory
837 members of the Florida Retirement System until, pursuant to s.
838 1012.875, a written election to withdraw from the system and
839 participate in the ~~State Community College System~~ optional
840 retirement program is filed with the program administrator and
841 received by the division.

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842 a. A community college employee whose program eligibility
843 results from initial employment shall ~~must~~ be enrolled in the
844 ~~State Community College System~~ optional retirement program
845 retroactive to the first day of eligible employment. The
846 employer retirement contributions paid through the month of the
847 employee plan change shall be transferred to the community
848 college to the employee's optional program account, and,
849 effective the first day of the next month, the employer shall
850 pay the applicable contributions based upon subparagraph 1.

851 b. A community college employee whose program eligibility
852 is due to the subsequent designation of the employee's position
853 as one of those specified in subparagraph 4., or due to the
854 employee's appointment, promotion, transfer, or reclassification
855 to a position specified in subparagraph 4., must be enrolled in
856 the program on the first day of the first full calendar month
857 that such change in status becomes effective. The employer
858 retirement contributions paid from the effective date through
859 the month of the employee plan change must be transferred to the
860 community college to the employee's optional program account,
861 and, effective the first day of the next month, the employer
862 shall pay the applicable contributions based upon subparagraph
863 1.

864 7. Effective July 1, 2003, through December 31, 2008, any
865 member ~~participant~~ of the ~~State Community College System~~
866 optional retirement program who has service credit in the
867 pension ~~defined benefit~~ plan of the Florida Retirement System
868 for the period between his or her first eligibility to transfer
869 from the pension ~~defined benefit~~ plan to the optional retirement
870 program and the actual date of transfer may, during employment,

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871 transfer to the optional retirement program a sum representing
872 the present value of the accumulated benefit obligation under
873 the pension plan ~~defined benefit retirement program~~ for the
874 period of service credit. Upon transfer, all service credit
875 previously earned under the pension plan ~~defined benefit program~~
876 ~~of the Florida Retirement System~~ during this period is nullified
877 for purposes of entitlement to a future benefit under the
878 pension plan ~~defined benefit program of the Florida Retirement~~
879 ~~System~~.

880 (d) The governing body of a charter school or a charter
881 technical career center may elect to participate in the system
882 upon proper application to the administrator and shall cover its
883 units as approved by the Secretary of Health and Human Services
884 and the administrator. Once this election is made and approved,
885 it may not be revoked, and all present officers and employees
886 selecting coverage under this chapter and all future officers
887 and employees shall be compulsory members of the Florida
888 Retirement System.

889 (e) All eligible employees initially enrolled on or after
890 July 1, 2011, except those who are eligible to and elect to
891 enroll in an optional retirement program established under s.
892 121.055(6), s. 121.35, or s. 1012.875, or those who qualify for
893 special risk membership pursuant to s. 121.0515, are compulsory
894 members of the investment plan and membership in the pension
895 plan is not permitted except as provided in s. 121.591. Such
896 employees may not use the election opportunity specified in s.
897 121.4501(4) (e).

898 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
899 shall be provided for all officers and employees who become

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900 members under ~~the provisions of~~ subsection (1) or subsection
901 (2). Any modification of the present agreement with the Social
902 Security Administration, or referendum required under the Social
903 Security Act, for the purpose of providing social security
904 coverage for any member shall be requested by the state agency
905 in compliance with the applicable provisions of the Social
906 Security Act governing such coverage. However, retroactive
907 social security coverage for service ~~prior to December 1, 1970,~~
908 with the employer before December 1, 1970, may ~~shall~~ not be
909 provided for a any member who was not covered under the
910 agreement as of November 30, 1970. The employer-paid employee
911 contributions specified in s. 121.71(2) are subject to taxes
912 imposed under the Federal Insurance Contributions Act, 26 U.S.C.
913 ss. 3101-3128.

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

917 121.0515 Special risk membership.—

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

924 (b) Contributions for upgrading the additional special risk
925 credit are pursuant to this subsection shall be equal to the
926 difference in the employer and, if applicable, employee
927 contributions paid and the special risk percentage rate of gross
928 salary in effect at the time of purchase for the period being

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929 claimed, plus interest thereon at the rate of 4 percent a year
 930 compounded annually from the date of such service until July 1,
 931 1975, and 6.5 percent a year thereafter until the date of
 932 payment. ~~This~~ Past service may be purchased by the member or by
 933 the employer on behalf of the member.

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

935 (a) A special risk member who is moved or reassigned to a
 936 nonspecial risk law enforcement, firefighting, correctional, or
 937 emergency medical care administrative support position within
 938 ~~with~~ the same agency, or who is subsequently employed in such a
 939 position with any law enforcement, firefighting, correctional,
 940 or emergency medical care agency under the Florida Retirement
 941 System, shall participate in the Special Risk Administrative
 942 Support Class and ~~shall~~ earn credit for such service at the same
 943 percentage rate as that earned by a regular member.

944 Notwithstanding ~~the provisions of~~ subsection (4), service in
 945 ~~such~~ an administrative support position ~~shall~~, for purposes of
 946 s. 121.091, applies ~~apply~~ toward satisfaction of the special
 947 risk normal retirement date, as defined in s. 121.021(29)(b) if,
 948 ~~provided that~~, while in such position, the member remains
 949 certified as a law enforcement officer, firefighter,
 950 correctional officer, emergency medical technician, or
 951 paramedic; remains subject to reassignment at any time to a
 952 position qualifying for special risk membership; and completes
 953 an aggregate of 6 or more years of service as a designated
 954 special risk member before ~~prior to~~ retirement.

955 (9) CREDIT FOR UPGRADED SERVICE.—

956 (c) Any member of the Special Risk Class who has earned
 957 creditable service in another membership class of the Florida

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958 Retirement System in a position with the Department of Law
959 Enforcement or the Division of State Fire Marshal and became
960 covered by the Special Risk Class as described in paragraph
961 (2) (i), or with a local government law enforcement agency or
962 medical examiner's office and became covered by the Special Risk
963 Class as described in paragraph (2) (j), which service is within
964 the purview of the Special Risk Class, and is employed in such
965 position on or after July 1, 2008, may purchase additional
966 retirement credit to upgrade such service to Special Risk Class
967 service, to the extent of the percentages of the member's
968 average final compensation provided in s. 121.091(1) (a)2. The
969 cost for such credit must ~~shall~~ be an amount representing the
970 actuarial accrued liability for the difference in accrual value
971 during the affected period of service. The cost shall be
972 calculated using the discount rate and other relevant actuarial
973 assumptions that were used to value the Florida Retirement
974 System's pension ~~System defined benefit~~ plan liabilities in the
975 most recent actuarial valuation. The division shall ensure that
976 the transfer sum is prepared using a formula and methodology
977 certified by an enrolled actuary. The cost must be paid
978 immediately upon notification by the division. The local
979 government employer may purchase the upgraded service credit on
980 behalf of the member if the member has been employed by that
981 employer for at least 3 years.

982 Section 9. Paragraphs (a) and (d) of subsection (4) and
983 paragraph (b) of subsection (7) of section 121.052, Florida
984 Statutes, are amended, present paragraph (c) of subsection (7)
985 of that section is redesignated as paragraph (d), a new
986 paragraph (c) is added to that subsection, and subsection (8) of

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987 that section is amended, to read:

988 121.052 Membership class of elected officers.—

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

991 (a) An ~~Any~~ duly elected officer whose term of office was
992 shortened by legislative or judicial apportionment pursuant to
993 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,
994 after the term of office to which he or she was elected is
995 completed, pay into the Florida Retirement System Trust Fund the
996 amount of contributions that would have been made by the officer
997 or the officer's employer on his or her behalf, plus 4 percent
998 interest compounded annually from the date he or she left office
999 until July 1, 1975, and 6.5 percent interest compounded annually
1000 thereafter, and may receive service credit for the length of
1001 time the officer would have served if such term had not been
1002 shortened by apportionment.

1003 (d)1. Any justice or judge, or any retired justice or judge
1004 who retired before July 1, 1993, who has attained the age of 70
1005 years and who is prevented under s. 8, Art. V of the State
1006 Constitution from completing his or her term of office because
1007 of age may elect to purchase credit for all or a portion of the
1008 months he or she would have served during the remainder of the
1009 term of office; however, ~~but~~ he or she may claim those months
1010 only after the date the service would have occurred. The justice
1011 or judge must pay into the Florida Retirement System Trust Fund
1012 the amount of contributions that would have been made by the
1013 employer on his or her behalf for the period of time being
1014 claimed, plus 6.5 percent interest thereon compounded each June
1015 30 from the date he or she left office, in order to receive

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1016 service credit in this class for the period of time being
1017 claimed. After the date the service would have occurred, and
1018 upon payment of the required contributions, the retirement
1019 benefit of a retired justice or judge shall ~~will~~ be adjusted
1020 prospectively to include the ~~this~~ additional creditable service;
1021 however, such adjustment may be made only once.

1022 2. Any justice or judge who does not seek election to a
1023 subsequent term of office because he or she would be prevented
1024 under s. 8, Art. V of the State Constitution from completing
1025 such term of office upon attaining the age of 70 years may elect
1026 to purchase service credit for service as a temporary judge as
1027 assigned by the court if the temporary assignment ~~follows~~
1028 immediately follows the last full term of office served and the
1029 purchase is limited to the number of months of service needed to
1030 vest retirement benefits. To receive retirement credit for ~~such~~
1031 temporary service beyond termination, the justice or judge must
1032 pay into the Florida Retirement System Trust Fund the amount of
1033 contributions that would have been made by the justice or judge
1034 and the employer on his or her behalf had he or she continued in
1035 office for the period of time being claimed, plus 6.5 percent
1036 interest thereon compounded each June 30 from the date he or she
1037 left office.

1038 (7) CONTRIBUTIONS.—

1039 (b) The employer paying the salary of a member of the
1040 Elected Officers' Class shall contribute an amount as specified
1041 in this subsection or s. 121.71, as appropriate, which shall
1042 constitute the ~~entire~~ employer retirement contribution with
1043 respect to such member. The employer shall also withhold one-
1044 half of the entire contribution of the member required for

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1045 social security coverage. Effective July 1, 2011, members of the
1046 Elected Officers' Class shall pay retirement contributions as
1047 specified in s. 121.71.

1048 (c) If a member of the Elected Officers' Class ceases to
1049 fill an office covered by this class for 3 calendar months for
1050 any reason other than retirement and has not been employed in
1051 any capacity with any participating employer for 3 calendar
1052 months, the member is entitled to receive a refund of all
1053 contributions he or she made to the pension plan, subject to the
1054 restrictions otherwise provided in this chapter. Partial refunds
1055 are not permitted. The refund may not include any interest
1056 earnings on contributions to the pension plan. Employer
1057 contributions made on behalf of the member are not refundable. A
1058 member may not receive a refund of employee contributions if a
1059 pending or an approved qualified domestic relations order is
1060 filed against the member's retirement account. By obtaining a
1061 refund of contributions, a member waives all rights under the
1062 Florida Retirement System, including the health insurance
1063 subsidy under this subsection, to the service credit represented
1064 by the refunded contributions, except the right to purchase
1065 prior service credit in accordance with s. 121.081(2).

1066 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member
1067 of the Elected Officers' Class has ~~shall have~~ the same normal
1068 retirement date as defined in s. 121.021~~(29)~~ for a member of the
1069 regular class of the Florida Retirement System. A ~~Any~~ public
1070 service commissioner who was removed from the Elected State
1071 Officers' Class on July 1, 1979, after attaining at least 8
1072 years of creditable service in that class is ~~shall be~~ considered
1073 to have reached the normal retirement date upon attaining the

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1074 required age as provided ~~62 as required~~ in s. 121.021(29)(a).

1075 Section 10. Paragraph (a) of subsection (7) of section
1076 121.053, Florida Statutes, is amended to read:

1077 121.053 Participation in the Elected Officers' Class for
1078 retired members.—

1079 (7) A member who is elected or appointed to an elective
1080 office and who is participating in the Deferred Retirement
1081 Option Program is not subject to termination as defined in s.
1082 121.021, or reemployment limitations as provided in s.
1083 121.091(9), until the end of his or her current term of office
1084 or, if the officer is consecutively elected or reelected to an
1085 elective office eligible for coverage under the Florida
1086 Retirement System, until he or she no longer holds an elective
1087 office, as follows:

1088 (a) At the end of the 60-month DROP period:

1089 1. The officer's DROP account may not accrue additional
1090 monthly benefits, but does continue to earn interest as provided
1091 in s. 121.091(13). However, an officer whose DROP participation
1092 begins on or after July 1, 2010, may not continue to earn such
1093 interest.

1094 2. Except for unfunded actuarial liability and health
1095 insurance subsidy contributions required under ss. 121.71(5) and
1096 121.76, retirement contributions are not required of the
1097 employer of the elected officer and additional retirement credit
1098 may not be earned under the Florida Retirement System.

1099 Section 11. Paragraphs (b) and (j) of subsection (1),
1100 paragraph (b) of subsection (3), and paragraphs (c), (d), and
1101 (e) of subsection (6) of section 121.055, Florida Statutes, are
1102 amended, present paragraph (c) of subsection (3) of that section

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1103 is redesignated as paragraph (d), and a new paragraph (c) is
 1104 added to that subsection, to read:

1105 121.055 Senior Management Service Class.—There is hereby
 1106 established a separate class of membership within the Florida
 1107 Retirement System to be known as the "Senior Management Service
 1108 Class," which shall become effective February 1, 1987.

1109 (1)

1110 (b)1. Except as provided in subparagraph 2., effective
 1111 January 1, 1990, participation in the Senior Management Service
 1112 Class is ~~shall be~~ compulsory for the president of each community
 1113 college, the manager of each participating city or county, and
 1114 all appointed district school superintendents. Effective January
 1115 1, 1994, additional positions may be designated for inclusion in
 1116 the Senior Management Service Class if ~~of the Florida Retirement~~
 1117 ~~System, provided that:~~

1118 a. Positions to be included in the class are ~~shall be~~
 1119 designated by the local agency employer. Notice of intent to
 1120 designate positions for inclusion in the class must ~~shall~~ be
 1121 published once a week for 2 consecutive weeks in a newspaper of
 1122 general circulation published in the county or counties
 1123 affected, as provided under ~~in~~ chapter 50.

1124 b. Up to 10 nonelective full-time positions may be
 1125 designated for each local agency employer reporting to the
 1126 department ~~of Management Services~~; for local agencies with 100
 1127 or more regularly established positions, additional nonelective
 1128 full-time positions may be designated, up to ~~not to exceed~~ 1
 1129 percent of the regularly established positions within the
 1130 agency.

1131 c. Each position added to the class must be a managerial or

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1132 policymaking position filled by an employee who is not subject
1133 to continuing contract and serves at the pleasure of the local
1134 agency employer without civil service protection, and who:

1135 (I) Heads an organizational unit; or

1136 (II) Has responsibility to effect or recommend personnel,
1137 budget, expenditure, or policy decisions in his or her areas of
1138 responsibility.

1139 2. In lieu of participation in the Senior Management
1140 Service Class, members of the ~~Senior Management Service~~ class,
1141 pursuant to ~~the provisions of~~ subparagraph 1., may withdraw from
1142 the Florida Retirement System altogether. The decision to
1143 withdraw from the ~~Florida Retirement~~ system ~~is~~ shall be
1144 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
1145 position. Any service creditable under the Senior Management
1146 Service Class shall be retained after the member withdraws from
1147 the ~~Florida Retirement~~ system; however, additional service
1148 credit in the Senior Management Service Class ~~may~~ shall not be
1149 earned after such withdrawal. Such members are ~~shall~~ not be
1150 eligible to participate in the Senior Management Service
1151 Optional Annuity Program.

1152 3. Effective January 1, 2006, through June 30, 2006, an
1153 employee who has withdrawn from the Florida Retirement System
1154 under subparagraph 2. has one opportunity to elect to
1155 participate in ~~either the~~ pension plan or investment plan
1156 ~~defined benefit program or the Public Employee Optional~~
1157 ~~Retirement Program~~ of the Florida Retirement System.

1158 a. If the employee elects to participate in the investment
1159 plan ~~Public Employee Optional Retirement Program~~, membership is
1160 ~~shall be~~ prospective, and the applicable provisions of s.

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1161 121.4501(4) shall govern the election.

1162 b. If the employee elects to participate in the pension
1163 plan ~~defined benefit program of the Florida Retirement System,~~
1164 the employee shall, upon payment to the system trust fund of the
1165 amount calculated under sub-sub-subparagraph (I), receive
1166 service credit for prior service based upon the time during
1167 which the employee had withdrawn from the system.

1168 (I) The cost for such credit shall be an amount
1169 representing the actuarial accrued liability for the affected
1170 period of service. The cost shall be calculated using the
1171 discount rate and other relevant actuarial assumptions that were
1172 used to value pension ~~the Florida Retirement System defined~~
1173 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
1174 The calculation must ~~shall~~ include any service already
1175 maintained under the pension ~~defined benefit~~ plan in addition to
1176 the period of withdrawal. The actuarial accrued liability
1177 attributable to any service already maintained under the pension
1178 ~~defined benefit~~ plan shall be applied as a credit to the total
1179 cost resulting from the calculation. The division must ~~shall~~
1180 ensure that the transfer sum is prepared using a formula and
1181 methodology certified by an actuary.

1182 (II) The employee must transfer a sum representing the net
1183 cost owed for the actuarial accrued liability in sub-sub-
1184 subparagraph (I) immediately following the time of such
1185 movement, determined assuming that attained service equals the
1186 sum of service in the pension plan ~~defined benefit program~~ and
1187 the period of withdrawal.

1188 (j) Except as may otherwise be provided, a ~~any~~ member of
1189 the Senior Management Service Class may purchase additional

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1190 retirement credit in such class for creditable service within
1191 the purview of the Senior Management Service Class retroactive
1192 to February 1, 1987, and may upgrade retirement credit for such
1193 service, to the extent of 2 percent of the member's average
1194 monthly compensation as specified in paragraph (4) (d) for such
1195 service. Contributions for upgrading ~~the~~ additional Senior
1196 Management Service credit are pursuant to this paragraph shall
1197 be equal to the difference in the employer and, if applicable,
1198 employee contributions paid and the Senior Management Service
1199 Class contribution rate as a percentage of gross salary in
1200 effect for the period being claimed, plus interest thereon at
1201 the rate of 6.5 percent a year, compounded annually until the
1202 date of payment. ~~The~~ This service credit may be purchased by the
1203 employer on behalf of the member.

1204 (3)

1205 (b) The employer or member of the Senior Management Service
1206 Class, as applicable, ~~paying the salary of a member of the~~
1207 ~~Senior Management Service Class~~ shall contribute an amount as
1208 specified in this section or s. 121.71, as appropriate, which
1209 shall constitute the entire ~~employer~~ retirement contribution
1210 with respect to such member. The employer shall also withhold
1211 one-half of the entire contribution of the member required for
1212 social security coverage. Effective July 1, 2011, each member
1213 shall pay employee contributions as specified in s. 121.71.

1214 (c) Upon termination of employment from all participating
1215 employers for 3 calendar months as defined in s. 121.021(39) (c)
1216 for any reason other than retirement, a member may receive a
1217 refund of all contributions he or she has made to the pension
1218 plan, subject to the restrictions otherwise provided in this

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1219 chapter. Partial refunds are not permitted. The refund may not
1220 include any interest earnings on the contributions for a member
1221 of the pension plan. Employer contributions made on behalf of
1222 the member are not refundable. A member may not receive a refund
1223 of employee contributions if a pending or an approved qualified
1224 domestic relations order is filed against the member's
1225 retirement account. By obtaining a refund of contributions, a
1226 member waives all rights under the Florida Retirement System and
1227 the health insurance subsidy provided under s. 112.363 to the
1228 service credit represented by the refunded contributions, except
1229 the right to purchase prior service credit in accordance with s.
1230 121.081(2).

1231 (6)

1232 (c) *Participation.*—

1233 1. An eligible employee who is employed on or before
1234 February 1, 1987, may elect to participate in the optional
1235 annuity program in lieu of ~~participating~~ participation in the
1236 Senior Management Service Class. Such election must be made in
1237 writing and filed with the department and the personnel officer
1238 of the employer on or before May 1, 1987. An eligible employee
1239 who is employed on or before February 1, 1987, and who fails to
1240 make an election to participate in the optional annuity program
1241 by May 1, 1987, shall be deemed to have elected membership in
1242 the Senior Management Service Class.

1243 2. Except as provided in subparagraph 6., an employee who
1244 becomes eligible to participate in the optional annuity program
1245 by reason of initial employment commencing after February 1,
1246 1987, may, within 90 days after the date of commencing
1247 employment, elect to participate in the optional annuity

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1248 program. Such election must be made in writing and filed with
1249 the personnel officer of the employer. An eligible employee who
1250 does not within 90 days after commencing employment elect to
1251 participate in the optional annuity program shall be deemed to
1252 have elected membership in the Senior Management Service Class.

1253 3. A person who is appointed to a position in the Senior
1254 Management Service Class and who is a member of an existing
1255 retirement system or the Special Risk or Special Risk
1256 Administrative Support Classes of the Florida Retirement System
1257 may elect to remain in such system or class in lieu of
1258 participating ~~participation~~ in the Senior Management Service
1259 Class or optional annuity program. Such election must be made in
1260 writing and filed with the department and the personnel officer
1261 of the employer within 90 days after ~~of~~ such appointment. An ~~Any~~
1262 eligible employee who fails to make an election to participate
1263 in the existing system, the Special Risk Class of the Florida
1264 Retirement System, the Special Risk Administrative Support Class
1265 of the Florida Retirement System, or the optional annuity
1266 program shall be deemed to have elected membership in the Senior
1267 Management Service Class.

1268 4. Except as provided in subparagraph 5., an employee's
1269 election to participate in the optional annuity program is
1270 irrevocable if the employee continues to be employed in an
1271 eligible position and continues to meet the eligibility
1272 requirements set forth in this paragraph.

1273 5. Effective from July 1, 2002, through September 30, 2002,
1274 an ~~any~~ active employee in a regularly established position who
1275 has elected to participate in the Senior Management Service
1276 Optional Annuity Program has one opportunity to choose to move

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1277 from the Senior Management Service Optional Annuity Program to
1278 the Florida Retirement System's pension plan ~~System-defined~~
1279 ~~benefit program~~.

1280 a. The election must be made in writing and must be filed
1281 with the department and the personnel officer of the employer
1282 before October 1, 2002, or, in the case of an active employee
1283 who is on a leave of absence on July 1, 2002, within 90 days
1284 after the conclusion of the leave of absence. This election is
1285 irrevocable.

1286 b. The employee shall receive service credit under the
1287 pension plan ~~defined benefit program of the Florida Retirement~~
1288 ~~System~~ equal to his or her years of service under the Senior
1289 Management Service Optional Annuity Program. The cost for such
1290 credit is the amount representing the present value of that
1291 employee's accumulated benefit obligation for the affected
1292 period of service.

1293 c. The employee must transfer the total accumulated
1294 employer contributions and earnings on deposit in his or her
1295 Senior Management Service Optional Annuity Program account. If
1296 the transferred amount is not sufficient to pay the amount due,
1297 the employee must pay a sum representing the remainder of the
1298 amount due. The employee may not retain any employer
1299 contributions or earnings ~~thereon~~ from the Senior Management
1300 Service Optional Annuity Program account.

1301 ~~6. A retiree of a state-administered retirement system who~~
1302 ~~is initially reemployed on or after July 1, 2010, may not renew~~
1303 ~~membership in the Senior Management Service Optional Annuity~~
1304 ~~Program.~~

1305 (d) *Contributions.*-

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1306 1.a. Through June 30, 2001, each employer shall contribute
1307 on behalf of each member of participant in the Senior Management
1308 Service Optional Annuity Program an amount equal to the normal
1309 cost portion of the employer retirement contribution which would
1310 be required if the employee participant were a Senior Management
1311 Service Class member of the Florida Retirement System's pension
1312 plan System defined benefit program, plus the portion of the
1313 contribution rate required in s. 112.363(8) which that would
1314 otherwise be assigned to the Retiree Health Insurance Subsidy
1315 Trust Fund.

1316 b. Effective July 1, 2001, each employer shall contribute
1317 on behalf of each member of participant in the optional annuity
1318 program an amount equal to 12.49 percent of the employee's
1319 participant's gross monthly compensation.

1320 c. Effective July 1, 2011, each member of the optional
1321 annuity program shall contribute an amount equal to the employee
1322 contribution required in s. 121.71(3). The employer shall
1323 contribute on behalf of each such employee an amount equal to
1324 the difference between 12.49 percent of the employee's gross
1325 monthly compensation and the amount equal to the employee's
1326 required contribution based on the employee's gross monthly
1327 compensation.

1328 d. ~~The department shall deduct an amount approved by the~~
1329 ~~Legislature to provide for the administration of this program.~~
1330 ~~The Payment of the contributions, including contributions made~~
1331 ~~by the employee, to the optional program which is required by~~
1332 ~~this subparagraph for each participant shall be made by the~~
1333 employer to the department, which shall forward the
1334 contributions to the designated company or companies contracting

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1335 for payment of benefits for members of ~~the participant under~~ the
1336 optional annuity program. The department shall deduct an amount
1337 approved by the Legislature to provide for the administration of
1338 the program.

1339 2. Each employer shall contribute on behalf of each member
1340 of participant in the Senior Management Service Optional Annuity
1341 Program an amount equal to the unfunded actuarial accrued
1342 liability portion of the employer contribution which would be
1343 required for members of the Senior Management Service Class in
1344 the Florida Retirement System. This contribution shall be paid
1345 to the department for transfer to the Florida Retirement System
1346 Trust Fund.

1347 3. An Optional Annuity Program Trust Fund shall be
1348 established in the State Treasury and administered by the
1349 department to make payments to provider companies on behalf of
1350 the optional annuity program members ~~participants~~, and to
1351 transfer the unfunded liability portion of the state optional
1352 annuity program contributions to the Florida Retirement System
1353 Trust Fund.

1354 4. Contributions required for social security by each
1355 employer and each employee ~~participant~~, in the amount required
1356 for social security coverage as now or hereafter may be provided
1357 by the federal Social Security Act, shall be maintained for each
1358 member of ~~participant in~~ the Senior Management Service
1359 retirement program and are ~~shall be~~ in addition to the
1360 retirement contributions specified in this paragraph.

1361 5. Each member of ~~participant in~~ the Senior Management
1362 ~~Service~~ optional annuity program may contribute by way of salary
1363 reduction or deduction a percentage amount of the employee's

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1364 ~~participant's~~ gross compensation not to exceed the percentage
1365 amount contributed by the employer to the optional annuity
1366 program. Payment of the employee's ~~participant's~~ contributions
1367 shall be made by the employer to the department, which shall
1368 forward the contributions to the designated company or companies
1369 contracting for payment of benefits for members ~~the participant~~
1370 under the program.

1371 (e) *Benefits.*—

1372 1. Benefits under the Senior Management Service Optional
1373 Annuity Program are payable only to members of ~~participants in~~
1374 the program, or their beneficiaries as designated by the member
1375 ~~participant~~ in the contract with the provider company, and must
1376 be paid by the designated company in accordance with the terms
1377 of the annuity contract applicable to the member ~~participant~~. A
1378 member participant must be terminated from all employment
1379 relationships with Florida Retirement System employers as
1380 provided in s. 121.021(39) to begin receiving the employer-
1381 funded and employee-funded benefit. Benefits funded by employer
1382 and employee contributions are payable under the terms of the
1383 contract to the member participant, his or her beneficiary, or
1384 his or her estate, in addition to:

1385 a. A lump-sum payment to the beneficiary upon the death of
1386 the member participant;

1387 b. A cash-out of a de minimis account upon the request of a
1388 former member participant who has been terminated for a minimum
1389 of 6 calendar months from the employment that entitled him or
1390 her to optional annuity program participation. Such cash-out
1391 must be a complete liquidation of the account balance with that
1392 company and is subject to the Internal Revenue Code;

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1393 c. A mandatory distribution of a de minimis account of a
1394 former member participant who has been terminated for a minimum
1395 of 6 calendar months from the employment that entitled him or
1396 her to optional annuity program participation as authorized by
1397 the department; or

1398 d. A lump-sum direct rollover distribution whereby all
1399 accrued benefits, plus interest and investment earnings, are
1400 paid from the member's participant's account directly to the
1401 custodian of an eligible retirement plan, as defined in s.
1402 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
1403 member participant.

1404 2. Benefits are not payable for employee hardships,
1405 unforeseeable emergencies, loans, medical expenses, educational
1406 expenses, purchase of a principal residence, payments necessary
1407 to prevent eviction or foreclosure on an employee's principal
1408 residence, or any other reason before termination from all
1409 employment relationships with participating employers, as
1410 provided in s. 121.021(39).

1411 3.2. The benefits payable to any person under the ~~Senior~~
1412 ~~Management Service~~ optional annuity program, and any
1413 contribution accumulated under such program, are not subject to
1414 assignment, execution, or attachment or to any legal process
1415 whatsoever.

1416 4.3. Except as provided in subparagraph 5. 4., a member
1417 participant who terminates employment and receives a
1418 distribution, including a rollover or trustee-to-trustee
1419 transfer, funded by employer or employee contributions is shall
1420 be deemed to be retired from a state-administered retirement
1421 system if the retiree participant is subsequently employed with

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1422 an employer that participates in the Florida Retirement System.

1423 ~~5.4.~~ A member participant who receives optional annuity
1424 program benefits funded by employer or employee contributions as
1425 a mandatory distribution of a de minimis account authorized by
1426 the department is not considered a retiree.

1427
1428 As used in this paragraph, a "de minimis account" means an
1429 account with a provider company containing employer or employee
1430 contributions and accumulated earnings of not more than \$5,000
1431 made under this chapter.

1432 Section 12. Subsections (2) and (5) and paragraph (c) of
1433 subsection (6) of section 121.071, Florida Statutes, are
1434 amended, present paragraph (d) of subsection (6) of that section
1435 is redesignated as paragraph (e), and a new paragraph (d) is
1436 added to that subsection, to read:

1437 121.071 Contributions.—Contributions to the system shall be
1438 made as follows:

1439 (2) (a) Effective January 1, 1975, or October 1, 1975, as
1440 applicable, and through June 30, 2011, each employer shall make
1441 ~~accomplish~~ the contribution required by subsection (1) by a
1442 procedure in which no employee's gross salary is ~~shall be~~
1443 reduced. Effective July 1, 2011, each employee, and his or her
1444 employer, shall pay retirement contributions as specified in s.
1445 121.71.

1446 (b) Upon termination of employment from all participating
1447 employers for 3 calendar months as defined in s. 121.021(39) (c)
1448 for any reason other than retirement, a member may receive a
1449 ~~shall be entitled to a full~~ refund of all ~~the~~ contributions he
1450 or she has made to the pension ~~prior or subsequent to~~

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1451 ~~participation in the noncontributory plan, subject to the~~
1452 ~~restrictions otherwise provided in this chapter. Partial refunds~~
1453 ~~are not permitted. The refund may not include any interest~~
1454 ~~earnings on the contributions for a member of the pension plan.~~
1455 ~~Employer contributions made on behalf of the member are not~~
1456 ~~refundable. A member may not receive a refund of employee~~
1457 ~~contributions if a pending or an approved qualified domestic~~
1458 ~~relations order is filed against his or her retirement account.~~
1459 ~~By obtaining a refund of contributions, a member waives all~~
1460 ~~rights under the Florida Retirement System and the health~~
1461 ~~insurance subsidy to the service credit represented by the~~
1462 ~~refunded contributions, except the right to purchase prior~~
1463 ~~service credit in accordance with s. 121.081(2).~~

1464 (5) Contributions made in accordance with subsections (1),
1465 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
1466 into the system trust funds in accordance with rules adopted by
1467 the administrator pursuant to chapter 120, except as ~~may be~~
1468 otherwise specified herein. Effective July 1, 2002,
1469 contributions paid under subsections (1) and (4) and
1470 accompanying payroll data are due and payable by no later than
1471 the 5th working day of the month immediately following the month
1472 during which the payroll period ended.

1473 (6)

1474 (c) By obtaining a refund of contributions, a member waives
1475 all rights under the Florida Retirement System, including the
1476 health insurance subsidy under subsection (4), to the service
1477 credit represented by the refunded contributions, except the
1478 right to purchase ~~his or her~~ prior service credit in accordance
1479 with s. 121.081(2).

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1480 (d) If a member or former member of the pension plan
1481 receives an invalid refund from the Florida Retirement System
1482 Trust Fund, such person must repay the full amount of the
1483 refund, plus interest at 6.5 percent compounded annually on each
1484 June 30 from the date of refund until full repayment is made.
1485 The invalid refund must be repaid before the member retires or,
1486 if applicable, transfers to the investment plan.

1487 Section 13. Paragraphs (b) and (c) of subsection (1) and
1488 subsection (2) of section 121.081, Florida Statutes, are amended
1489 to read:

1490 121.081 Past service; prior service; contributions.—
1491 Conditions under which past service or prior service may be
1492 claimed and credited are:

1493 (1)

1494 (b) Past service earned after January 1, 1975, may be
1495 claimed by officers or employees of a municipality, metropolitan
1496 planning organization, charter school, charter technical career
1497 center, or special district who become a covered group under
1498 this system. The governing body of a covered group may elect to
1499 provide benefits for past service earned after January 1, 1975,
1500 in accordance with this chapter.~~and~~ The cost for such past
1501 service is established by applying the following formula: The
1502 employer shall contribute an amount equal to the employer or
1503 employee contribution rate in effect at the time the service was
1504 earned, as applicable, multiplied by the employee's gross salary
1505 for each year of past service claimed, plus 6.5 percent ~~6.5-~~
1506 ~~percent~~ interest thereon, compounded annually, for ~~figured on~~
1507 each year of past service, with interest compounded from date of
1508 annual salary earned until date of payment.

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1509 (c) If an ~~Should the~~ employer does not elect to provide
1510 past service for the member on the date of joining the system,
1511 ~~then~~ the member may claim and pay for the service as provided in
1512 ~~same, based on~~ paragraphs (a) and (b).

1513 (2) Prior service, as defined in s. 121.021~~(19)~~, may be
1514 claimed as creditable service under the Florida Retirement
1515 System after a member has been reemployed for 1 complete year of
1516 creditable service ~~within a period of 12 consecutive months,~~
1517 except as provided in paragraph (c). Service performed as a
1518 member participant of the optional retirement program for the
1519 State University System under s. 121.35 or the Senior Management
1520 Service Optional Annuity Program under s. 121.055 may be used to
1521 satisfy the reemployment requirement of 1 complete year of
1522 creditable service. The member may ~~shall not be permitted to~~
1523 make any contributions for prior service until after completion
1524 of the 1 year of creditable service. If a member does not wish
1525 to claim credit for all of his or her prior service, the service
1526 the member claims must be the most recent period of service. The
1527 required contributions for claiming the various types of prior
1528 service are:

1529 (a) For prior service performed before ~~prior to~~ the date
1530 the system becomes noncontributory for the member and for which
1531 the member had credit under one of the existing retirement
1532 systems and received a refund of contributions upon termination
1533 of employment, the member shall contribute 4 percent of all
1534 salary received during the period being claimed, plus 4 percent
1535 ~~4 percent~~ interest compounded annually from date of refund until
1536 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded
1537 annually thereafter, until full payment is made to the Florida

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1538 Retirement System Trust Fund, and shall receive credit in the
1539 Regular Class. A member who elected to transfer to the Florida
1540 Retirement System from an existing system may receive credit for
1541 prior service under the existing system if he or she was
1542 eligible under the existing system to claim the prior service at
1543 the time of the transfer. Contributions for such prior service
1544 shall be determined by the applicable provisions of the system
1545 under which the prior service is claimed and shall be paid by
1546 the member, with matching contributions paid by the employer at
1547 the time the service was performed. Effective July 1, 1978, the
1548 account of a person who terminated under s. 238.05(3) may not be
1549 charged interest for contributions that remained on deposit in
1550 the Annuity Savings Trust Fund established under chapter 238,
1551 upon retirement under this chapter or chapter 238.

1552 (b) For prior service performed before ~~prior to~~ the date
1553 the system becomes noncontributory for the member and for which
1554 the member had credit under the Florida Retirement System and
1555 received a refund of contributions upon termination of
1556 employment, the member shall contribute at the rate that was
1557 required of him or her during the period of service being
1558 claimed, on all salary received during such period, plus 4
1559 percent ~~4 percent~~ interest compounded annually from date of
1560 refund until July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest
1561 compounded annually thereafter, until the full payment is made
1562 to the Florida Retirement System Trust Fund, and ~~shall~~ receive
1563 credit in the membership class in which the member participated
1564 during the period claimed.

1565 (c) For prior service as defined in s. 121.021(19) (b) and
1566 (c) during which no contributions were made because the member

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1567 did not participate in a retirement system, the member shall
1568 contribute 14.38 percent of all salary received during such
1569 period or 14.38 percent of \$100 per month during such period,
1570 whichever is greater, plus 4 percent ~~4 percent~~ interest
1571 compounded annually from the first year of service claimed until
1572 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded
1573 annually thereafter, until full payment is made to the
1574 Retirement Trust Fund, and shall receive credit in the Regular
1575 Class.

1576 (d) In order to claim credit for prior service as defined
1577 in s. 121.021(19)(d) for which no retirement contributions were
1578 paid during the period of such service, the member shall
1579 contribute the total employee and employer contributions which
1580 were required to be made to the Highway Patrol Pension Trust
1581 Fund, as provided in chapter 321, during the period claimed,
1582 plus 4 percent ~~4 percent~~ interest compounded annually from the
1583 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~
1584 ~~percent~~ interest compounded annually thereafter, until full
1585 payment is made to the Retirement Trust Fund. However, any
1586 governmental entity that ~~which~~ employed such member may elect to
1587 pay up to 50 percent of the contributions and interest required
1588 to purchase the ~~this~~ prior service credit. The service shall be
1589 credited in accordance with the ~~provisions of the~~ Highway Patrol
1590 Pension Plan in effect during the period claimed unless the
1591 member terminated and withdrew his or her retirement
1592 contributions and was thereafter enrolled in the State and
1593 County Officers and Employees' Retirement System or the Florida
1594 Retirement System, in which case the service shall be credited
1595 as Regular Class service.

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1596 (e) For service performed under the Florida Retirement
1597 System after December 1, 1970, which ~~that~~ was never reported to
1598 the division or the department due to error, retirement credit
1599 may be claimed by a member of the Florida Retirement System. The
1600 department shall adopt rules establishing criteria for claiming
1601 such credit and detailing the documentation required to
1602 substantiate the error.

1603 (f) For prior service performed on or after July 1, 2011,
1604 for which the member had credit under the Florida Retirement
1605 System and received a refund of contributions 3 calendar months
1606 after termination of employment, the member shall contribute at
1607 the rate that was required during the period of service being
1608 claimed, plus 6.5 percent interest, compounded annually on each
1609 June 30 from date of refund until the full payment is made to
1610 the Florida Retirement System Trust Fund, and shall receive
1611 credit in the membership class in which the member participated
1612 during the period claimed.

1613 (g) ~~(f)~~ The employer may not ~~be required to~~ make
1614 contributions for prior service credit for any member, except
1615 that the employer shall pay the employer portion of
1616 contributions for any legislator who elects to withdraw from the
1617 Florida Retirement System and later rejoins the system and pays
1618 any employee contributions required in accordance with s.
1619 121.052(3)(d).

1620 Section 14. Paragraph (a) of subsection (3), paragraph (a)
1621 of subsection (4), paragraphs (a) and (c) of subsection (5),
1622 paragraph (d) of subsection (9), paragraph (a) of subsection
1623 (13), and paragraph (d) of subsection (14) of section 121.091,
1624 Florida Statutes, are amended, and subsection (l) is added to

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1625 subsection (13) of that section, to read:

1626 121.091 Benefits payable under the system.—Benefits may not
1627 be paid under this section unless the member has terminated
1628 employment as provided in s. 121.021(39) (a) or begun
1629 participation in the Deferred Retirement Option Program as
1630 provided in subsection (13), and a proper application has been
1631 filed in the manner prescribed by the department. The department
1632 may cancel an application for retirement benefits when the
1633 member or beneficiary fails to timely provide the information
1634 and documents required by this chapter and the department's
1635 rules. The department shall adopt rules establishing procedures
1636 for application for retirement benefits and for the cancellation
1637 of such application when the required information or documents
1638 are not received.

1639 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
1640 early retirement date, the member shall receive an immediate
1641 monthly benefit that shall begin to accrue on the first day of
1642 the month of the retirement date and be payable on the last day
1643 of that month and each month thereafter during his or her
1644 lifetime. Such benefit shall be calculated as follows:

1645 (a) The amount of each monthly payment shall be computed in
1646 the same manner as ~~for~~ a normal retirement benefit, in
1647 accordance with subsection (1), but shall be based on the
1648 member's average monthly compensation and creditable service as
1649 of the member's early retirement date. The benefit so computed
1650 shall be reduced by five-twelfths of 1 percent for each complete
1651 month by which the early retirement date precedes the normal
1652 retirement date ~~of age 62 for a member of the Regular Class,~~
1653 ~~Senior Management Service Class, or the Elected Officers' Class,~~

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1654 and age 55 for a member of the Special Risk Class, or age 52 if
1655 a Special Risk member has completed 25 years of creditable
1656 service in accordance with s. 121.021(29) ~~(b)3~~.

1657 (4) DISABILITY RETIREMENT BENEFIT.—

1658 (a) *Disability retirement; entitlement and effective date.*—

1659 1.a. A member who becomes totally and permanently disabled,
1660 as defined in paragraph (b), after completing 5 years of
1661 creditable service, or a member who becomes totally and
1662 permanently disabled in the line of duty regardless of service,
1663 is ~~shall be~~ entitled to a monthly disability benefit; except
1664 that any member with less than 5 years of creditable service on
1665 July 1, 1980, or any person who becomes a member of the Florida
1666 Retirement System on or after such date must have completed 10
1667 years of creditable service before ~~prior to~~ becoming totally and
1668 permanently disabled in order to receive disability retirement
1669 benefits for any disability which occurs other than in the line
1670 of duty. However, if a member employed on July 1, 1980, having
1671 ~~with~~ less than 5 years of creditable service as of that date,
1672 becomes totally and permanently disabled after completing 5
1673 years of creditable service and is found not to have attained
1674 fully insured status for benefits under the federal Social
1675 Security Act, such member is ~~shall be~~ entitled to a monthly
1676 disability benefit.

1677 b. Effective July 1, 2001, a member of the pension plan
1678 ~~defined benefit retirement program~~ who becomes totally and
1679 permanently disabled, as defined in paragraph (b), after
1680 completing 8 years of creditable service, or a member who
1681 becomes totally and permanently disabled in the line of duty
1682 regardless of service, is ~~shall be~~ entitled to a monthly

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1683 disability benefit.

1684 2. If the division has received from the employer the
1685 required documentation of the member's termination of
1686 employment, the effective retirement date for a member who
1687 applies and is approved for disability retirement shall be
1688 established by rule of the division.

1689 3. For a member who is receiving Workers' Compensation
1690 payments, the effective disability retirement date may not
1691 precede the date the member reaches Maximum Medical Improvement
1692 (MMI), unless the member terminates employment before ~~prior to~~
1693 reaching MMI.

1694 (5) TERMINATION BENEFITS.—A member whose employment is
1695 terminated before ~~prior to~~ retirement retains membership rights
1696 to previously earned member-noncontributory service credit, and
1697 to member-contributory service credit, if the member leaves the
1698 member contributions on deposit in his or her retirement
1699 account. If a terminated member receives a refund of member
1700 contributions, such member may reinstate membership rights to
1701 the previously earned service credit represented by the refund
1702 by completing 1 year of creditable service and repaying the
1703 refunded member contributions, plus interest.

1704 (a) A member whose employment is terminated for any reason
1705 other than death or retirement before ~~prior to~~ becoming vested
1706 is entitled to the return of his or her accumulated employee
1707 contributions as of the date of termination. Effective July 1,
1708 2011, upon termination of employment from all participating
1709 employers for 3 calendar months as defined in s. 121.021(39)(c)
1710 for any reason other than retirement, a member may receive a
1711 refund of all contributions he or she has made to the pension

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1712 plan, subject to the restrictions otherwise provided in this
1713 chapter. Partial refunds are not permitted. The refund may not
1714 include any interest earnings on the contributions for a member
1715 of the pension plan. Employer contributions made on behalf of
1716 the member are not refundable. A member may not receive a refund
1717 of employee contributions if a pending or an approved qualified
1718 domestic relations order is filed against his or her retirement
1719 account. By obtaining a refund of contributions, a member waives
1720 all rights under the Florida Retirement System and the health
1721 insurance subsidy to the service credit represented by the
1722 refunded contributions, except the right to purchase prior
1723 service credit in accordance with s. 121.081(2).

1724 (c) In lieu of the deferred monthly benefit provided in
1725 paragraph (b), the terminated member may elect to receive a
1726 lump-sum amount equal to his or her accumulated employee
1727 contributions as of the date of termination. Effective July 1,
1728 2011, upon termination of employment from all participating
1729 employers for 3 calendar months as defined in s. 121.021(39)(c)
1730 for any reason other than retirement, a member may receive a
1731 refund of all contributions he or she has made to the pension
1732 plan, subject to the restrictions otherwise provided in this
1733 chapter. Partial refunds are not permitted. The refund may not
1734 include any interest earnings on the contributions for a member
1735 of the pension plan. Employer contributions made on behalf of
1736 the member are not refundable. A member may not receive a refund
1737 of employee contributions if a pending or an approved qualified
1738 domestic relations order is filed against his or her retirement
1739 account. By obtaining a refund of contributions, a member waives
1740 all rights under the Florida Retirement System and the health

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1741 insurance subsidy to the service credit represented by the
 1742 refunded contributions, except the right to purchase prior
 1743 service credit in accordance with s. 121.081(2).

1744 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

1745 (d) ~~The provisions of~~ This subsection applies ~~apply~~ to
 1746 retirees, as defined in s. 121.4501(2), of the Florida Public
 1747 ~~Employee Optional Retirement System Investment Plan Program,~~
 1748 subject to the following conditions:

1749 1. The retiree ~~retirees~~ may not be reemployed with an
 1750 employer participating in the Florida Retirement System until
 1751 such person has been retired for 6 calendar months.

1752 2. A retiree employed in violation of this subsection and
 1753 an employer that employs or appoints such person are jointly and
 1754 severally liable for reimbursement of any benefits paid to the
 1755 retirement trust fund from which the benefits were paid,
 1756 ~~including the Retirement System Trust Fund and the Public~~
 1757 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~
 1758 The employer must have a written statement from the retiree that
 1759 he or she is not retired from a state-administered retirement
 1760 system.

1761 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
 1762 subject to this section, the Deferred Retirement Option Program,
 1763 hereinafter referred to as DROP, is a program under which an
 1764 eligible member of the Florida Retirement System may elect to
 1765 participate, deferring receipt of retirement benefits while
 1766 continuing employment with his or her Florida Retirement System
 1767 employer. The deferred monthly benefits shall accrue in the
 1768 Florida Retirement System on behalf of the participant, plus
 1769 interest compounded monthly, for the specified period of the

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1770 DROP participation, as provided in paragraph (c). Upon
1771 termination of employment, the participant shall receive the
1772 total DROP benefits and begin to receive the previously
1773 determined normal retirement benefits. Participation in the DROP
1774 does not guarantee employment for the specified period of DROP.
1775 Participation in DROP by an eligible member beyond the initial
1776 60-month period as authorized in this subsection shall be on an
1777 annual contractual basis for all participants.

1778 (a) *Eligibility of member to participate in DROP.*—All
1779 active Florida Retirement System members in a regularly
1780 established position, and all active members of the Teachers'
1781 Retirement System established in chapter 238 or the State and
1782 County Officers' and Employees' Retirement System established in
1783 chapter 122, which are consolidated within the Florida
1784 Retirement System under s. 121.011, are eligible to elect
1785 participation in DROP if:

1786 1. The member is not a renewed member under s. 121.122 or a
1787 member of the State Community College System Optional Retirement
1788 Program under s. 121.051, the Senior Management Service Optional
1789 Annuity Program under s. 121.055, or the optional retirement
1790 program for the State University System under s. 121.35.

1791 2. Except as provided in subparagraph 6., election to
1792 participate is made within 12 months immediately following the
1793 date on which the member first reaches normal retirement date,
1794 or, for a member who reaches normal retirement date based on
1795 service before he or she reaches age 62, or age 55 for Special
1796 Risk Class members, election to participate may be deferred to
1797 the 12 months immediately following the date the member attains
1798 age 57, or age 52 for Special Risk Class members. A member who

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1799 delays DROP participation during the 12-month period immediately
1800 following his or her maximum DROP deferral date, except as
1801 provided in subparagraph 6., loses a month of DROP participation
1802 for each month delayed. A member who fails to make an election
1803 within the 12-month limitation period forfeits all rights to
1804 participate in DROP. The member shall advise his or her employer
1805 and the division in writing of the date DROP begins. The
1806 beginning date may be subsequent to the 12-month election period
1807 but must be within the original 60-month participation period
1808 provided in subparagraph (b)1. When establishing eligibility ~~of~~
1809 ~~the member~~ to participate in DROP, the member may elect to
1810 include or exclude any optional service credit purchased by the
1811 member from the total service used to establish the normal
1812 retirement date. A member who has dual normal retirement dates
1813 is eligible to elect to participate in DROP after attaining
1814 normal retirement date in either class.

1815 3. The employer of a member electing to participate in
1816 DROP, or employers if dually employed, shall acknowledge in
1817 writing to the division the date the member's participation in
1818 DROP begins and the date the member's employment and DROP
1819 participation terminates ~~will terminate~~.

1820 4. Simultaneous employment of a member ~~participant~~ by
1821 additional Florida Retirement System employers subsequent to the
1822 commencement of a member's participation in DROP is permissible
1823 if such employers acknowledge in writing a DROP termination date
1824 no later than the member's ~~participant's~~ existing termination
1825 date or the maximum participation period provided in
1826 subparagraph (b)1.

1827 5. A member ~~DROP participant~~ may change employers while

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1828 participating in DROP, subject to the following:

1829 a. A change of employment must take place without a break
1830 in service so that the member receives salary for each month of
1831 continuous DROP participation. If a member receives no salary
1832 during a month, DROP participation ceases ~~shall cease~~ unless the
1833 employer verifies a continuation of the employment relationship
1834 for such member ~~participant~~ pursuant to s. 121.021(39)(b).

1835 b. The member ~~Such participant~~ and new employer ~~shall~~
1836 notify the division of the identity of the new employer on forms
1837 required by the division.

1838 c. The new employer acknowledges ~~shall acknowledge~~, in
1839 writing, the member's ~~participant's~~ DROP termination date, which
1840 may be extended but not beyond the maximum participation period
1841 provided in subparagraph (b)1., acknowledges ~~shall acknowledge~~
1842 liability for any additional retirement contributions and
1843 interest required if the member ~~participant~~ fails to timely
1844 terminate employment, and is subject to the adjustment required
1845 in sub-subparagraph (c)5.d.

1846 6. Effective July 1, 2001, for instructional personnel as
1847 defined in s. 1012.01(2), election to participate in DROP may be
1848 made at any time following the date on which the member first
1849 reaches normal retirement date. The member shall advise his or
1850 her employer and the division in writing of the date on which
1851 DROP begins. When establishing eligibility of the member to
1852 participate in DROP for the 60-month participation period
1853 provided in subparagraph (b)1., the member may elect to include
1854 or exclude any optional service credit purchased by the member
1855 from the total service used to establish the normal retirement
1856 date. A member who has dual normal retirement dates is eligible

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1857 to elect to participate in either class.

1858 7. The effective date for DROP participation is before July
1859 1, 2011.

1860 (1) Closure of program to new participants.—Effective July
1861 1, 2011, DROP is closed to new participants. Only members whose
1862 DROP effective date is before July 1, 2011, may participate in
1863 DROP.

1864 (14) PAYMENT OF BENEFITS.—This subsection applies to the
1865 payment of benefits to a payee (retiree or beneficiary) under
1866 the Florida Retirement System:

1867 (d) A payee whose retirement benefits are reduced by the
1868 application of maximum benefit limits under s. 415(b) of the
1869 Internal Revenue Code, as specified in s. 121.30(5), shall have
1870 the portion of his or her calculated benefit in the Florida
1871 Retirement System's pension ~~System defined benefit~~ plan which
1872 exceeds such federal limitation paid through the Florida
1873 Retirement System Preservation of Benefits Plan, as provided in
1874 s. 121.1001.

1875 Section 15. Subsection (1) and paragraph (a) of subsection
1876 (2) of section 121.1001, Florida Statutes, are amended to read:

1877 121.1001 Florida Retirement System Preservation of Benefits
1878 Plan.—Effective July 1, 1999, the Florida Retirement System
1879 Preservation of Benefits Plan is established as a qualified
1880 governmental excess benefit arrangement pursuant to s. 415(m) of
1881 the Internal Revenue Code. The Preservation of Benefits Plan is
1882 created as a separate portion of the Florida Retirement System,
1883 for the purpose of providing benefits to a payee (retiree or
1884 beneficiary) of the Florida Retirement System whose benefits
1885 would otherwise be limited by s. 415(b) of the Internal Revenue

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1886 Code.

1887 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF
1888 BENEFITS PLAN.—A payee of the Florida Retirement System shall
1889 participate in the Preservation of Benefits Plan if ~~whenever~~ his
1890 or her earned benefit under the Florida Retirement System's
1891 pension ~~System defined benefit~~ plan exceeds the benefit maximum
1892 established under s. 415(b) of the Internal Revenue Code.
1893 Participation in the Preservation of Benefits Plan shall
1894 continue for as long as the payee's earned benefit under the
1895 pension ~~Florida Retirement System defined benefit~~ plan is
1896 reduced by the application of the maximum benefit limit under s.
1897 415(b) of the Internal Revenue Code.

1898 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS
1899 PLAN.—

1900 (a) On and after July 1, 1999, the division ~~of Retirement~~
1901 shall pay to each eligible payee of the Florida Retirement
1902 System who retires before, on, or after that ~~such~~ date, a
1903 supplemental retirement benefit equal to the difference between
1904 the amount of the payee's monthly retirement benefit which would
1905 have been payable under the Florida Retirement System's pension
1906 ~~System defined benefit~~ plan if not for a reduction due to the
1907 application of s. 415(b) of the Internal Revenue Code and the
1908 reduced monthly retirement benefit as paid to the payee. The
1909 Preservation of Benefits Plan benefit shall be computed and
1910 payable under the same terms and conditions and to the same
1911 person as would have applied under the pension ~~Florida~~
1912 ~~Retirement System defined benefit~~ plan were it not for the
1913 federal limitation.

1914 Section 16. Subsections (1) and (3) of section 121.101,

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1915 Florida Statutes, are amended, present subsections (4) through
1916 (7) of that section are redesignated as subsections (5) through
1917 (8), respectively, and a new subsection (4) is added to that
1918 section, to read:

1919 121.101 Cost-of-living adjustment of benefits.-

1920 (1) The purpose of this section is to provide cost-of-
1921 living adjustments to the monthly benefits payable to ~~all~~
1922 retired members of state-supported retirement systems.

1923 (3) Commencing July 1, 1987, the benefit of each retiree
1924 and annuitant retiring before July 1, 2011, shall be adjusted
1925 annually on ~~each~~ July 1 ~~thereafter~~, as follows:

1926 (a) For those retirees and annuitants who have never
1927 received a cost-of-living adjustment under this section, the
1928 amount of the monthly benefit payable for the 12-month period
1929 commencing on the adjustment date shall be the amount of the
1930 member's initial benefit plus an amount equal to a percentage of
1931 the member's initial benefit; this percentage is derived by
1932 dividing the number of months the member has received an initial
1933 benefit by 12, and multiplying the result by 3.

1934 (b) For those retirees and annuitants who have received a
1935 cost-of-living adjustment under this subsection ~~section~~, the
1936 adjusted monthly benefit shall be the amount of the monthly
1937 benefit being received on June 30 immediately preceding the
1938 adjustment date plus an amount equal to 3 percent of this
1939 benefit.

1940 (4) For members retiring on or after July 1, 2011, the
1941 benefit of each retiree and annuitant shall be adjusted annually
1942 on July 1 as follows:

1943 (a) For those retirees and annuitants who have never

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1944 received a cost-of-living adjustment under this subsection, the
1945 amount of the monthly benefit payable for the 12-month period
1946 commencing on the adjustment date shall be the amount of the
1947 member's initial benefit plus an amount equal to a percentage of
1948 the member's initial benefit. This percentage is derived by
1949 dividing the number of months the member has received an initial
1950 benefit by 12, and multiplying the result by the factor
1951 calculated pursuant to paragraph (c).

1952 (b) For those retirees and annuitants who have received a
1953 cost-of-living adjustment under this subsection, the adjusted
1954 monthly benefit shall be the amount of the monthly benefit being
1955 received on June 30 immediately preceding the adjustment date
1956 plus an amount determined by multiplying the benefit by the
1957 factor calculated pursuant to paragraph (c).

1958 (c) The department shall calculate a cost-of-living factor
1959 for each retiree and beneficiary retiring on or after July 1,
1960 2011. This factor shall equal the product of 3 percent
1961 multiplied by the quotient of the sum of the member's service
1962 credit earned for service before July 1, 2011, divided by the
1963 sum of the member's total service credit earned.

1964 Section 17. Subsection (1) of section 121.121, Florida
1965 Statutes, is amended to read:

1966 121.121 Authorized leaves of absence.—

1967 (1) A member may purchase creditable service for up to 2
1968 work years of authorized leaves of absence, including any leaves
1969 of absence covered under the Family Medical Leave Act, if:

1970 (a) The member has completed a minimum of 6 years of
1971 creditable service, excluding periods for which a leave of
1972 absence was authorized;

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1973 (b) The leave of absence is authorized in writing by the
1974 employer of the member and approved by the administrator;

1975 (c) The member returns to active employment performing
1976 service with a Florida Retirement System employer in a regularly
1977 established position immediately upon termination of the leave
1978 of absence and remains on the employer's payroll for 1 calendar
1979 month, except that a member who retires on disability while on a
1980 medical leave of absence may ~~shall~~ not be required to return to
1981 employment. A member whose work year is less than 12 months and
1982 whose leave of absence terminates between school years is
1983 eligible to receive credit for the leave of absence if ~~as long~~
1984 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at
1985 the beginning of the next school year and remains on the
1986 employer's payroll for 1 calendar month; and

1987 (d) The member makes the required contributions for service
1988 credit during the leave of absence, which shall be 8 percent
1989 until January 1, 1975, and 9 percent thereafter of his or her
1990 rate of monthly compensation in effect immediately before ~~prior~~
1991 ~~to~~ the commencement of such leave for each month of such period,
1992 plus 4 percent interest until July 1, 1975, and 6.5 percent
1993 interest thereafter on such contributions, compounded annually
1994 each June 30 from the due date of the contribution to date of
1995 payment. Effective July 1, 1980, any leave of absence purchased
1996 pursuant to this section is ~~shall be~~ at the contribution rates
1997 specified in s. 121.071 or s. 121.71 in effect at the time the
1998 leave is granted for the class of membership from which the
1999 leave of absence was granted; however, any member who purchased
2000 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a
2001 leave of absence from a position in a class other than the

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2002 regular membership class, may pay the appropriate additional
2003 contributions plus compound interest thereon and receive
2004 creditable service for such leave of absence in the membership
2005 class from which the member was granted the leave of absence.
2006 Effective July 1, 2011, any leave of absence purchased pursuant
2007 to this section shall be at the employee and employer
2008 contribution rates specified in s. 121.71 in effect during the
2009 leave for the class of membership from which the leave of
2010 absence was granted.

2011 Section 18. Subsection (2) of section 121.122, Florida
2012 Statutes, is amended, and subsection (3) is added to that
2013 section, to read:

2014 121.122 Renewed membership in system.—

2015 (2) A retiree of a state-administered retirement system who
2016 is initially reemployed on or after July 1, 2010, through June
2017 30, 2011, shall become a member of the Regular Class and be
2018 enrolled in the Florida Retirement System Investment Plan on
2019 July 1, 2011, and must resatisfy the vesting requirements and
2020 other provisions provided in this chapter ~~is not eligible for~~
2021 ~~renewed membership.~~

2022 (a) Creditable service, including credit towards the
2023 retiree health insurance subsidy provided in s. 112.363, does
2024 not accrue for a retiree's employment in a regularly established
2025 position with a covered employer during the period from July 1,
2026 2010, through June 30, 2011.

2027 (b) Employer contributions, interest, earnings, or any
2028 other funds may not be paid into a renewed member's investment
2029 plan account for any employment in a regularly established
2030 position with a covered employer during the period from July 1,

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2031 2010, through June 30, 2011.

2032 (c) To be eligible to receive a retirement benefit under
2033 the investment plan, the renewed member must meet the vesting
2034 requirements of the plan as provided in s. 121.4501(6).

2035 (d) The member is not entitled to disability benefits as
2036 provided in s. 121.091(4) or s. 121.591(2).

2037 (e) The member must meet the limitations on reemployment
2038 after retirement as provided in s. 121.091(9), as applicable.

2039 (f) Upon the renewed membership or reemployment of a
2040 retiree, the employer of such member and the retiree shall pay
2041 the applicable employer and employee contributions as required
2042 by ss. 112.363, 121.71, 121.74, and 121.76. Such contributions
2043 are payable only for employment in a regularly established
2044 position with a covered employer on or after July 1, 2011.

2045 (g) The member may not purchase any prior or past service
2046 in the investment plan, including employment in a regularly
2047 established position with a covered employer during the period
2048 from July 1, 2010, through June 30, 2011.

2049 (h) A renewed member who is not receiving the maximum
2050 health insurance subsidy provided in s. 112.363 is entitled to
2051 earn additional credit toward the subsidy. Such credit may be
2052 earned only for employment in a regularly established position
2053 with a covered employer on or after July 1, 2011. Any additional
2054 subsidy due because of additional credit may be received only at
2055 the time of paying the second career retirement benefit. The
2056 total health insurance subsidy received by a retiree receiving
2057 benefits from initial and renewed membership may not exceed the
2058 maximum allowed under s. 112.363.

2059 (3) Any retiree of a state-administered retirement system

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2060 who is initially reemployed on or after July 1, 2011, in a
2061 regularly established position with a covered employer,
2062 including an elective public office that does not qualify for
2063 the Elected Officers' Class, shall become a member of the
2064 Regular Class and be enrolled in the Florida Retirement System
2065 Investment Plan, and must resatisfy the vesting requirements and
2066 other provisions provided in this chapter.

2067 (a) To be eligible to receive a retirement benefit under
2068 the investment plan, the renewed member must meet the vesting
2069 requirements of the investment plan as provided in s.
2070 121.4501(6).

2071 (b) The member is not entitled to disability benefits as
2072 provided in s. 121.091(4) or s. 121.591(2).

2073 (c) The member must meet the limitations on reemployment
2074 after retirement provided in s. 121.091(9), as applicable.

2075 (d) Upon renewed membership or reemployment of a retiree,
2076 the employer of such member and the retiree must pay the
2077 applicable employer and employee contributions as required by
2078 ss. 112.363, 121.71, 121.74, and 121.76.

2079 (e) The member may not purchase any prior or past service
2080 in the investment plan.

2081 (f) A renewed member who is not receiving the maximum
2082 health insurance subsidy provided in s. 112.363 is entitled to
2083 earn additional credit toward the subsidy. Any additional
2084 subsidy due because of additional credit may be received only at
2085 the time of paying the second career retirement benefit. The
2086 total health insurance subsidy received by a retiree receiving
2087 benefits from initial and renewed membership may not exceed the
2088 maximum allowed under s. 112.363.

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2089 Section 19. Section 121.125, Florida Statutes, is amended
2090 to read:

2091 121.125 Credit for workers' compensation payment periods.—A
2092 member of the retirement system created by this chapter who has
2093 been eligible or becomes eligible for ~~to receive~~ workers'
2094 compensation payments for an injury or illness that occurred
2095 ~~occurring~~ during ~~his or her~~ employment while a member of a ~~any~~
2096 state retirement system shall, upon return to active employment
2097 with a covered employer for 1 calendar month or upon approval
2098 for disability retirement in accordance with s. 121.091(4),
2099 receive full retirement credit for the period before ~~prior to~~
2100 such return to active employment or disability retirement for
2101 which the workers' compensation payments were received. However,
2102 a ~~no~~ member may not receive retirement credit for ~~any~~ such
2103 period occurring after the earlier of the date of maximum
2104 medical improvement as defined in s. 440.02 or the date
2105 termination has occurred as defined in s. 121.021~~(39)~~. The
2106 employer of record at the time of the worker's compensation
2107 injury or illness shall make the required employee and employer
2108 retirement contributions based on the member's rate of monthly
2109 compensation immediately before ~~prior to~~ ~~his or her~~ receiving
2110 workers' compensation payments for retirement credit received by
2111 the member. The employer of record at the time of the workers'
2112 compensation injury or illness shall be assessed by the division
2113 a penalty of 1 percent of the contributions on all contributions
2114 not paid on the first payroll report after the member becomes
2115 eligible to receive credit. This delinquent assessment may not
2116 be waived.

2117 Section 20. Paragraphs (g) and (i) of subsection (3) and

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2118 subsections (4) and (5) of section 121.35, Florida Statutes, are
 2119 amended to read:

2120 121.35 Optional retirement program for the State University
 2121 System.—

2122 (3) ELECTION OF OPTIONAL PROGRAM.—

2123 (g) An eligible employee who is a member of the Florida
 2124 Retirement System at the time of electing ~~election~~ to
 2125 participate in the optional retirement program shall retain all
 2126 retirement service credit earned under the Florida Retirement
 2127 System, at the rate earned. ~~No~~ Additional service credit in the
 2128 ~~Florida Retirement~~ system may not shall be earned while the
 2129 employee participates in the optional program, and ~~nor shall~~ the
 2130 employee is not ~~be~~ eligible for disability retirement under the
 2131 ~~Florida Retirement~~ system. An eligible employee may transfer
 2132 from the Florida Retirement System to his or her accounts under
 2133 the State University System Optional Retirement Program a sum
 2134 representing the present value of the employee's accumulated
 2135 benefit obligation under the ~~defined benefit program of the~~
 2136 Florida Retirement System's pension plan ~~System~~ for any service
 2137 credit accrued from the employee's first eligible transfer date
 2138 to the optional retirement program through the actual date of
 2139 such transfer, if such service credit was earned ~~in the period~~
 2140 from July 1, 1984, through December 31, 1992. The present value
 2141 of the employee's accumulated benefit obligation shall be
 2142 calculated as described in s. 121.4501(3) ~~s. 121.4501(3)(c)2.~~
 2143 Upon ~~such~~ transfer, all ~~such~~ service credit ~~previously~~
 2144 under the pension plan ~~defined benefit program of the Florida~~
 2145 ~~Retirement System~~ during this period is ~~shall be~~ nullified for
 2146 purposes of entitlement to a future benefit under the pension

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2147 ~~plan defined benefit program of the Florida Retirement System.~~

2148 (i) Effective January 1, 2008, through December 31, 2008,
2149 except for an employee who is a mandatory member participant of
2150 the State University System Optional Retirement Program, an
2151 employee who has elected to participate in the State University
2152 System Optional Retirement Program shall have one opportunity,
2153 at the employee's discretion, ~~to choose~~ to transfer from this
2154 program to the pension plan or the investment plan defined
2155 ~~benefit program of the Florida Retirement System or to the~~
2156 ~~Public Employee Optional Retirement Program~~, subject to the
2157 terms of the applicable contracts of the State University System
2158 Optional Retirement Program.

2159 1. If the employee chooses to move to the investment plan
2160 ~~Public Employee Optional Retirement Program~~, any contributions,
2161 interest, and earnings creditable to the employee under the
2162 State University System Optional Retirement Program must shall
2163 be retained by the employee in the State University System
2164 Optional Retirement Program, and the applicable provisions of s.
2165 121.4501(4) shall govern the election.

2166 2. If the employee chooses to move to the pension plan
2167 ~~defined benefit program of the Florida Retirement System~~, the
2168 employee shall receive service credit equal to his or her years
2169 of service under the State University System Optional Retirement
2170 Program.

2171 a. The cost for such credit must be in shall be an amount
2172 representing the actuarial accrued liability for the affected
2173 period of service. The cost must shall be calculated using the
2174 discount rate and other relevant actuarial assumptions that were
2175 used to value the pension ~~Florida Retirement System defined~~

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2176 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
2177 The calculation must ~~shall~~ include any service already
2178 maintained under the pension ~~defined benefit~~ plan in addition to
2179 the years under the State University System Optional Retirement
2180 Program. The actuarial accrued liability of any service already
2181 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be
2182 applied as a credit to total cost resulting from the
2183 calculation. The division must ~~shall~~ ensure that the transfer
2184 sum is prepared using a formula and methodology certified by an
2185 enrolled actuary.

2186 b. The employee must transfer from his or her State
2187 University System Optional Retirement Program account, and from
2188 other employee moneys as necessary, a sum representing the
2189 actuarial accrued liability immediately following the time of
2190 such movement, determined assuming that attained service equals
2191 the sum of service in the pension plan ~~defined benefit program~~
2192 and service in the State University System Optional Retirement
2193 Program.

2194 (4) CONTRIBUTIONS.—

2195 (a)1. Through June 30, 2001, each employer shall contribute
2196 on behalf of each member of participant ~~in~~ the optional
2197 retirement program an amount equal to the normal cost portion of
2198 the employer retirement contribution which would be required if
2199 the employee participant were a regular member of the Florida
2200 Retirement System's pension plan ~~System defined benefit program~~,
2201 plus the portion of the contribution rate required in s.
2202 112.363(8) that would otherwise be assigned to the Retiree
2203 Health Insurance Subsidy Trust Fund.

2204 2. Effective July 1, 2001, through June 30, 2011, each

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2205 employer shall contribute on behalf of each member of
2206 ~~participant in~~ the optional retirement program an amount equal
2207 to 10.43 percent of the employee's ~~participant's~~ gross monthly
2208 compensation.

2209 3. Effective July 1, 2011, each member of the optional
2210 retirement program shall contribute an amount equal to the
2211 employee contribution required in s. 121.71(3). The employer
2212 shall contribute on behalf of each such member an amount equal
2213 to the difference between 10.43 percent of the employee's gross
2214 monthly compensation and the amount equal to the employee's
2215 required contribution based on the employee's gross monthly
2216 compensation.

2217 ~~4. The department shall deduct an amount approved by the~~
2218 ~~Legislature to provide for the administration of this program.~~
2219 The payment of the contributions, including contributions by the
2220 employee, to the optional program which is required by this
2221 ~~paragraph for each participant~~ shall be made by the employer to
2222 the department, which shall forward the contributions to the
2223 designated company or companies contracting for payment of
2224 benefits for member's of the participant under the program.
2225 However, such contributions paid on behalf of an employee
2226 described in paragraph (3) (c) may shall not be forwarded to a
2227 company and do shall not begin to accrue interest until the
2228 employee has executed a contract and notified the department.
2229 The department shall deduct an amount from the contributions to
2230 provide for the administration of this program.

2231 (b) Each employer shall contribute on behalf of each member
2232 of participant in the optional retirement program an amount
2233 equal to the unfunded actuarial accrued liability portion of the

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2234 employer contribution which would be required for members of the
2235 Florida Retirement System. This contribution shall be paid to
2236 the department for transfer to the Florida Retirement System
2237 Trust Fund.

2238 (c) An Optional Retirement Program Trust Fund shall be
2239 established in the State Treasury and administered by the
2240 department to make payments to the provider companies on behalf
2241 of ~~the~~ optional retirement program members ~~participants~~, and to
2242 transfer the unfunded liability portion of the state optional
2243 retirement program contributions to the Florida Retirement
2244 System Trust Fund.

2245 (d) Contributions required for social security by each
2246 employer and each employee ~~participant~~, in the amount required
2247 for social security coverage as now or hereafter may be provided
2248 by the federal Social Security Act, shall be maintained for each
2249 member of participant ~~in~~ the optional retirement program and are
2250 ~~shall be~~ in addition to the retirement contributions specified
2251 in this subsection.

2252 (e) Each member of ~~participant in~~ the optional retirement
2253 program who has executed a contract may contribute by way of
2254 salary reduction or deduction a percentage amount of the
2255 employee's ~~participant's~~ gross compensation not to exceed the
2256 percentage amount contributed by the employer to the optional
2257 program, but ~~in no case may~~ such contribution may not exceed
2258 federal limitations. Payment of the employee's ~~participant's~~
2259 contributions shall be made by the financial officer of the
2260 employer to the division which shall forward the contributions
2261 to the designated company or companies contracting for payment
2262 of benefits for members ~~the participant~~ under the program. A

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2263 member ~~participant~~ may not make, through salary reduction, any
2264 voluntary employee contributions to any other plan under s.
2265 403(b) of the Internal Revenue Code, with the exception of a
2266 custodial account under s. 403(b)(7) of the Internal Revenue
2267 Code, until he or she has made an employee contribution to his
2268 or her optional program equal to the employer contribution. An
2269 employee ~~A participant~~ is responsible for monitoring his or her
2270 individual tax-deferred income to ensure he or she does not
2271 exceed the maximum deferral amounts permitted under the Internal
2272 Revenue Code.

2273 (f) The Optional Retirement Trust Fund may accept for
2274 deposit into member ~~participant~~ contracts contributions in the
2275 form of rollovers or direct trustee-to-trustee transfers by or
2276 on behalf of members ~~participants~~ who are reasonably determined
2277 by the department to be eligible for rollover or transfer to the
2278 optional retirement program pursuant to the Internal Revenue
2279 Code, if such contributions are made in accordance with rules
2280 adopted by the department. Such contributions shall be accounted
2281 for in accordance with any applicable requirements of the
2282 Internal Revenue Code and department rules ~~of the department~~.

2283 (g) Effective July 1, 2008, for purposes of paragraph (a)
2284 and notwithstanding s. 121.021(22)(b)1., the term "employee's
2285 ~~participant's~~ gross monthly compensation" includes salary
2286 payments made to eligible clinical faculty from a state
2287 university using funds provided by a faculty practice plan
2288 authorized by the Board of Governors of the State University
2289 System if:

2290 1. There is no ~~not any~~ employer contribution from the state
2291 university to any other retirement program with respect to such

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2292 salary payments; and

2293 2. The employer contribution on behalf of a member of the
2294 ~~participant in~~ the optional retirement program with respect to
2295 such salary payments is made using funds provided by the faculty
2296 practice plan.

2297 (5) BENEFITS.—

2298 (a) Benefits are payable under the optional retirement
2299 program only to vested members participating ~~participants~~ in the
2300 program, or their beneficiaries as designated by the member
2301 ~~participant~~ in the contract with a provider company, and such
2302 benefits shall be paid only by the designated company in
2303 accordance with s. 403(b) of the Internal Revenue Code and the
2304 terms of the annuity contract or contracts applicable to the
2305 member participant. Benefits accrue in individual accounts that
2306 are member-directed ~~participant-directed~~, portable, and funded
2307 by employer contributions and the earnings thereon. The member
2308 ~~participant~~ must be terminated for 3 calendar months from all
2309 employment relationships with all Florida Retirement System
2310 employers, as provided in s. 121.021(39), to begin receiving the
2311 ~~employer-funded~~ benefit. Benefits funded by employer
2312 contributions are payable in accordance with the following terms
2313 and conditions:

2314 1. Benefits shall be paid only to a participating member
2315 ~~participant~~, to his or her beneficiaries, or to his or her
2316 estate, as designated by the member participant.

2317 2. Benefits shall be paid by the provider company or
2318 companies in accordance with the law, the provisions of the
2319 contract, and any applicable department rule or policy.

2320 3. In the event of a member's ~~participant's~~ death, moneys

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2321 accumulated by, or on behalf of, the member participant, less
2322 withholding taxes remitted to the Internal Revenue Service, if
2323 any, shall be distributed to the member's participant's
2324 designated beneficiary or beneficiaries, or to the member's
2325 participant's estate, as if the member participant retired on
2326 the date of death, as provided in paragraph (d) ~~(e)~~. No other
2327 death benefits are available to survivors of members
2328 ~~participants~~ under the optional retirement program except for
2329 such benefits, or coverage for such benefits, as are separately
2330 afforded by the employer, at the employer's discretion.

2331 (b) Benefits are not payable for employee hardships,
2332 unforeseeable emergencies, loans, medical expenses, educational
2333 expenses, purchase of a principal residence, payments necessary
2334 to prevent eviction or foreclosure on an employee's principal
2335 residence, or any other reason before termination from all
2336 employment relationships with participating employers, as
2337 provided in s. 121.021(39).

2338 (c) ~~(b)~~ Upon receipt by the provider company of a properly
2339 executed application for distribution of benefits, the total
2340 accumulated benefit are shall be payable to the participating
2341 member participant, as:

- 2342 1. A lump-sum distribution to the member participant;
- 2343 2. A lump-sum direct rollover distribution whereby all
2344 accrued benefits, plus interest and investment earnings, are
2345 paid from the participant's account directly to an eligible
2346 retirement plan, as defined in s. 402(c)(8)(B) of the Internal
2347 Revenue Code, on behalf of the member participant;
- 2348 3. Periodic distributions;
- 2349 4. A partial lump-sum payment whereby a portion of the

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2350 accrued benefit is paid to the member ~~participant~~ and the
2351 remaining amount is transferred to an eligible retirement plan,
2352 as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on
2353 behalf of the member ~~participant~~; or

2354 5. Such other distribution options as are provided ~~for~~ in
2355 the participant's optional retirement program contract.

2356 (d) ~~(e)~~ Survivor benefits are ~~shall be~~ payable as:

2357 1. A lump-sum distribution payable to the beneficiaries or
2358 to the deceased member's ~~participant's~~ estate;

2359 2. An eligible rollover distribution on behalf of the
2360 surviving spouse of a deceased member ~~participant~~, whereby all
2361 accrued benefits, plus interest and investment earnings, are
2362 paid from the deceased member's ~~participant's~~ account directly
2363 to an eligible retirement plan, as described in s. 402(c)(8)(B)
2364 of the Internal Revenue Code, on behalf of the surviving spouse;

2365 3. Such other distribution options as are provided ~~for~~ in
2366 the member's ~~participant's~~ optional retirement program contract;
2367 or

2368 4. A partial lump-sum payment whereby a portion of the
2369 accrued benefit is paid to the deceased member's ~~participant's~~
2370 surviving spouse or other designated beneficiaries, less
2371 withholding taxes remitted to the Internal Revenue Service, if
2372 any, and the remaining amount is transferred directly to an
2373 eligible retirement plan, as described in s. 402(c)(8)(B) of the
2374 Internal Revenue Code, on behalf of the surviving spouse. The
2375 proportions must be specified by the member ~~participant~~ or the
2376 surviving beneficiary.

2377
2378 This paragraph does not abrogate other applicable provisions of

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2379 state or federal law providing payment of death benefits.

2380 ~~(e)~~ (d) The benefits payable to any person under the
2381 optional retirement program, and any contribution accumulated
2382 under such program, are ~~shall~~ not ~~be~~ subject to assignment,
2383 execution, or attachment or to any legal process ~~whatsoever~~.

2384 ~~(f)~~ (e) A participating member ~~participant~~ who chooses to
2385 receive his or her benefits must be terminated for 3 calendar
2386 months to be eligible to receive benefits funded by employer
2387 contributions. The member ~~upon termination as defined in s.~~
2388 ~~121.021~~ must notify the provider company of the date he or she
2389 wishes benefits funded by required employer and employee
2390 contributions to begin and must be terminated as defined in s.
2391 121.021 after the initial benefit payment or distribution.
2392 Benefits may be deferred until the member ~~participant~~ chooses to
2393 make such application.

2394 ~~(g)~~ (f) Benefits funded by the participating member's
2395 voluntary ~~participant's~~ personal contributions may be paid out
2396 at any time and in any form within the limits provided in the
2397 contract between the member ~~participant~~ and the ~~his or her~~
2398 provider company. The member ~~participant~~ shall notify the
2399 provider company regarding the date and provisions under which
2400 he or she wants to receive the employee-funded portion of the
2401 plan.

2402 ~~(h)~~ (g) For purposes of this section, "retiree" means a
2403 former participating member ~~participant~~ of the optional
2404 retirement program who has terminated employment and has taken a
2405 distribution as provided in this subsection, except for a
2406 mandatory distribution of a de minimis account authorized by the
2407 department.

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2408 Section 21. Section 121.355, Florida Statutes, is amended
2409 to read:

2410 121.355 Community College Optional Retirement Program and
2411 State University System Optional Retirement Program member
2412 transfer.—Effective January 1, 2009, through December 31, 2009,
2413 an employee who is a former member of ~~participant in~~ the
2414 Community College Optional Retirement Program or the State
2415 University System Optional Retirement Program and present
2416 mandatory member of ~~participant in~~ the Florida Retirement
2417 System's pension ~~System defined benefit~~ plan may receive service
2418 credit equal to his or her years of service under the Community
2419 College Optional Retirement Program or the State University
2420 System Optional Retirement Program under the following
2421 conditions:

2422 (1) The cost for such credit must represent ~~shall be an~~
2423 ~~amount representing~~ the actuarial accrued liability for the
2424 affected period of service. The cost shall be calculated using
2425 the discount rate and other relevant actuarial assumptions that
2426 were used to value the Florida Retirement System's pension
2427 ~~System defined benefit~~ plan liabilities in the most recent
2428 actuarial valuation. The calculation must ~~shall~~ include any
2429 service already maintained under the pension ~~defined benefit~~
2430 plan in addition to the years under the Community College
2431 Optional Retirement Program or the State University System
2432 Optional Retirement Program. The actuarial accrued liability of
2433 any service already maintained under the pension ~~defined benefit~~
2434 plan shall be applied as a credit to total cost resulting from
2435 the calculation. The division shall ensure that the transfer sum
2436 is prepared using a formula and methodology certified by an

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2437 enrolled actuary.

2438 (2) The employee must transfer from his or her Community
2439 College Optional Retirement Program account or State University
2440 System Optional Retirement Program account, subject to the terms
2441 of the applicable optional retirement program contract, and from
2442 other employee moneys as necessary, a sum representing the
2443 actuarial accrued liability immediately following the time of
2444 such movement, determined assuming that attained service equals
2445 the sum of service in the pension plan ~~defined benefit program~~
2446 and service in the Community College Optional Retirement Program
2447 or State University System Optional Retirement Program.

2448 (3) The employee may not receive service credit for a
2449 period of mandatory participation in the State University
2450 Optional Retirement Program or for a period for which a
2451 distribution was received from the Community College Optional
2452 Retirement Program or State University System Optional
2453 Retirement Program.

2454 Section 22. Section 121.4501, Florida Statutes, is amended
2455 to read:

2456 121.4501 Florida Public Employee Optional Retirement System
2457 Investment Plan Program.-

2458 (1) The Trustees of the State Board of Administration shall
2459 establish a ~~an optional~~ defined contribution ~~retirement~~ program
2460 called the Florida Retirement System Investment Plan for members
2461 of the Florida Retirement System under which retirement benefits
2462 are ~~will be~~ provided for eligible employees initially employed
2463 before July 1, 2011, who elect to enroll ~~participate~~ in the
2464 plan. Enrollment is compulsory for all eligible employees
2465 employed on or after July 1, 2011, except for those who are

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2466 eligible to and elect to enroll in an optional retirement
 2467 program established under s. 121.055(6), s. 121.35, or s.
 2468 1012.875, or those who qualify for special risk membership
 2469 pursuant to s. 121.0515 program. The retirement benefits ~~to be~~
 2470 ~~provided for or on behalf of participants in such optional~~
 2471 ~~retirement program~~ shall be provided through employee-directed
 2472 investments, in accordance with s. 401(a) of the Internal
 2473 Revenue Code and ~~its~~ related regulations. ~~The~~ Employers and
 2474 employees shall make contributions ~~contribute~~, as provided in
 2475 this section and ~~7~~ ss. 121.571~~7~~ and 121.71~~7~~, to the Florida Public
 2476 ~~Employee Optional Retirement System Investment Plan Program~~
 2477 Trust Fund toward the funding of ~~such optional~~ benefits.

2478 (2) DEFINITIONS.—As used in this part, the term:

2479 (a) "Approved provider" or "provider" means a private
 2480 sector company that is selected and approved by the state board
 2481 to offer one or more investment products or services to the
 2482 investment plan ~~optional retirement program~~. The term includes a
 2483 bundled provider that offers plan members ~~participants~~ a range
 2484 of individually allocated or unallocated investment products and
 2485 may offer a range of administrative and customer services, which
 2486 may include accounting and administration of individual member
 2487 ~~participant~~ benefits and contributions; individual member
 2488 ~~participant~~ recordkeeping; asset purchase, control, and
 2489 safekeeping; direct execution of the member's ~~participant's~~
 2490 instructions as to asset and contribution allocation;
 2491 calculation of daily net asset values; direct access to member
 2492 ~~participant~~ account information; periodic reporting to members
 2493 ~~participants~~, at least quarterly, on account balances and
 2494 transactions; guidance, advice, and allocation services directly

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2495 relating to the provider's own investment options or products,
2496 but only if the bundled provider complies with the standard of
2497 care of s. 404(a)(1)(A-B) of the Employee Retirement Income
2498 Security Act of 1974 (ERISA) and if providing such guidance,
2499 advice, or allocation services does not constitute a prohibited
2500 transaction under s. 4975(c)(1) of the Internal Revenue Code or
2501 s. 406 of ERISA, notwithstanding that such prohibited
2502 transaction provisions do not apply to the ~~optional~~ retirement
2503 program; a broad array of distribution options; asset
2504 allocation; and retirement counseling and education. Private
2505 sector companies include investment management companies,
2506 insurance companies, depositories, and mutual fund companies.

2507 (b) "Average monthly compensation" means one-twelfth of
2508 average final compensation as defined in s. 121.021.

2509 (c) "Covered employment" means employment in a regularly
2510 established position as defined in s. 121.021.

2511 ~~(d) "Defined benefit program" means the defined benefit
2512 program of the Florida Retirement System administered under part
2513 I of this chapter.~~

2514 ~~(e) "Division" means the Division of Retirement within the
2515 department.~~

2516 (d)-(f) "Electronic means" means by telephone, if ~~the~~
2517 ~~required~~ information is received on a recorded line, or through
2518 Internet access, if ~~the required~~ information is captured online.

2519 ~~(g) "Eligible employee" means an officer or employee, as
2520 defined in s. 121.021, who:~~

2521 ~~1. Is a member of, or is eligible for membership in, the
2522 Florida Retirement System, including any renewed member of the
2523 Florida Retirement System initially enrolled before July 1,~~

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2524

~~2010; or~~

2525

~~2. Participates in, or is eligible to participate in, the~~

2526

~~Senior Management Service Optional Annuity Program as~~

2527

~~established under s. 121.055(6), the State Community College~~

2528

~~System Optional Retirement Program as established under s.~~

2529

~~121.051(2) (c), or the State University System Optional~~

2530

~~Retirement Program established under s. 121.35.~~

2531

2532

~~The term does not include any member participating in the~~

2533

~~Deferred Retirement Option Program established under s.~~

2534

~~121.091(13), a retiree of a state-administered retirement system~~

2535

~~initially reemployed on or after July 1, 2010, or a mandatory~~

2536

~~participant of the State University System Optional Retirement~~

2537

~~Program established under s. 121.35.~~

2538

(e) ~~(h)~~ "Employer" means an employer, as defined in s.

2539

121.021, of an eligible employee.

2540

(f) "Florida Retirement System Investment Plan" or

2541

"investment plan" means the defined contribution program of the

2542

Florida Retirement System established under this part.

2543

(g) "Florida Retirement System Pension Plan" or pension

2544

plan" means the defined benefit program of the Florida

2545

Retirement System administered under part I of this chapter.

2546

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

2547

~~means the Public Employee Optional Retirement Program~~

2548

~~established under this part.~~

2549

(h) ~~(j)~~ "Member" or "employee" ~~"participant"~~ means an

2550

eligible employee who is enrolled ~~enrolls~~ in the investment plan

2551

~~optional program~~ as provided in subsection (4), ~~or~~ a terminated

2552

Deferred Retirement Option Program member ~~participant~~ as

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2553 described in subsection (21), or a beneficiary or alternate
2554 payee of a member or employee.

2555 (i) "Member contributions" or "employee contributions" mean
2556 the sum of all amounts deducted from the salary of a member by
2557 his or her employer in accordance with s. 121.71(2) and credited
2558 to his or her individual account in the investment plan, plus
2559 any earnings on such amounts and any contributions specified in
2560 paragraph (5) (e).

2561 (j) ~~(k)~~ "Retiree" means a former member participant of the
2562 investment plan optional retirement program who has terminated
2563 employment and ~~has~~ taken a distribution of vested employer or
2564 employee contributions as provided in s. 121.591, except for a
2565 mandatory distribution of a de minimis account authorized by the
2566 state board.

2567 (k) ~~(l)~~ "Vested" or "vesting" means the guarantee that a
2568 member participant is eligible to receive a retirement benefit
2569 upon completion of the required years of service under the
2570 investment plan optional retirement program.

2571 (3) ~~ELIGIBILITY; RETIREMENT SERVICE CREDIT;~~ TRANSFER OF
2572 BENEFITS.—

2573 ~~(a) Participation in the Public Employee Optional~~
2574 ~~Retirement Program is limited to eligible employees.~~
2575 ~~Participation in the optional retirement program is in lieu of~~
2576 ~~participation in the defined benefit program of the Florida~~
2577 ~~Retirement System.~~

2578 (a) ~~(b)~~ An eligible employee who is employed in a regularly
2579 established position by a state employer on June 1, 2002; by a
2580 district school board employer on September 1, 2002; or by a
2581 local employer on December 1, 2002, and who is a member of the

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2582 ~~pension plan defined benefit retirement program of the Florida~~
2583 ~~Retirement System~~ at the time of his or her election to enroll
2584 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2585 ~~Retirement Program~~ shall retain all retirement service credit
2586 earned under the pension plan defined benefit retirement program
2587 ~~of the Florida Retirement System~~ as credited under the Florida
2588 Retirement System and is ~~shall be~~ entitled to a deferred benefit
2589 upon termination, ~~if eligible under the system~~. However,
2590 election to enroll ~~participate~~ in the investment plan ~~Public~~
2591 ~~Employee Optional Retirement Program~~ terminates the active
2592 membership of the employee in the pension plan defined benefit
2593 ~~program of the Florida Retirement System~~, and the service of a
2594 member of participant ~~in the investment plan is~~ ~~Public Employee~~
2595 ~~Optional Retirement Program~~ shall not be creditable under the
2596 pension plan defined benefit retirement program of the Florida
2597 ~~Retirement System~~ for purposes of benefit accrual but is
2598 creditable ~~shall be credited~~ for purposes of vesting.

2599 (b)(e)1. Notwithstanding paragraph (a), ~~an (b)~~, each
2600 eligible employee who elects to enroll ~~participate~~ in the
2601 investment plan ~~Public Employee Optional Retirement Program~~ and
2602 establishes one or more individual member ~~participant~~ accounts
2603 ~~under the optional program~~ may elect to transfer to the
2604 investment plan ~~optional program~~ a sum representing the present
2605 value of the employee's accumulated benefit obligation under the
2606 pension plan defined benefit retirement program of the Florida
2607 ~~Retirement System~~. Upon such transfer, all service credit
2608 ~~previously~~ earned under the pension plan is defined benefit
2609 ~~program of the Florida Retirement System~~ shall be nullified for
2610 purposes of entitlement to a future benefit under the pension

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2611 ~~plan defined benefit program of the Florida Retirement System. A~~
2612 ~~member may not transfer participant is precluded from~~
2613 ~~transferring the accumulated benefit obligation balance from the~~
2614 ~~pension plan after the time defined benefit program upon the~~
2615 ~~expiration of the period for enrolling afforded to enroll in the~~
2616 ~~investment plan has expired optional program.~~

2617 ~~1.2.~~ For purposes of this subsection, the present value of
2618 the member's accumulated benefit obligation is based upon the
2619 member's estimated creditable service and estimated average
2620 final compensation under the pension plan ~~defined benefit~~
2621 program, subject to recomputation under subparagraph 2. ~~3.~~ For
2622 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial
2623 estimates shall ~~will~~ be based upon creditable service and
2624 average final compensation as of midnight on June 30, 2002; for
2625 district school board employees ~~enrolling under subparagraph~~
2626 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable
2627 service and average final compensation as of midnight on
2628 September 30, 2002; and for local government employees ~~enrolling~~
2629 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be
2630 based upon creditable service and average final compensation as
2631 of midnight on December 31, 2002. The dates ~~respectively~~
2632 specified are above ~~shall be construed as~~ the "estimate date"
2633 for these employees. The actuarial present value of the
2634 employee's accumulated benefit obligation shall be based on the
2635 following:

2636 a. The discount rate and other relevant actuarial
2637 assumptions used to value the Florida Retirement System Trust
2638 Fund at the time the amount to be transferred is determined,
2639 consistent with the factors provided in sub-subparagraphs b. and

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- 2640 c.
- 2641 b. A benefit commencement age, based on the member's
- 2642 estimated creditable service as of the estimate date. The
- 2643 benefit commencement age is ~~shall be~~ the younger of the
- 2644 following, but may ~~shall~~ not be younger than the member's age as
- 2645 of the estimate date:
- 2646 (I) Age 62; or
- 2647 (II) The age the member would attain if the member
- 2648 completed 30 years of service with an employer, assuming the
- 2649 member worked continuously from the estimate date, and
- 2650 disregarding any vesting requirement that would otherwise apply
- 2651 under the pension plan ~~defined benefit program of the Florida~~
- 2652 ~~Retirement System.~~
- 2653 c. For members of the Special Risk Class, and for members
- 2654 of the Special Risk Administrative Support Class entitled to
- 2655 retain the special risk normal retirement date, the benefit
- 2656 commencement age is ~~shall be~~ the younger of the following, but
- 2657 may ~~shall~~ not be younger than the member's age as of the
- 2658 estimate date:
- 2659 (I) Age 55 or, for members enrolled on or after July 1,
- 2660 2011, age 62; or
- 2661 (II) The age the member would attain if the member
- 2662 completed 25 years of service with an employer, or, for members
- 2663 enrolled on or after July 1, 2011, 30 years of service with an
- 2664 employer, assuming the member worked continuously from the
- 2665 estimate date, and disregarding any vesting requirement that
- 2666 would otherwise apply under the pension plan ~~defined benefit~~
- 2667 ~~program of the Florida Retirement System.~~
- 2668 d. The calculation must ~~shall~~ disregard vesting

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2669 requirements and early retirement reduction factors that would
2670 otherwise apply under the pension plan ~~defined benefit~~
2671 ~~retirement program~~.

2672 2.3. For each member ~~participant~~ who elects to transfer
2673 moneys from the pension plan ~~defined benefit program~~ to his or
2674 her account in the investment plan ~~optional program~~, the
2675 division shall recompute the amount transferred under
2676 subparagraph 1. ~~within 2. not later than~~ 60 days after the
2677 actual transfer of funds based upon the member's ~~participant's~~
2678 actual creditable service and actual final average compensation
2679 as of the initial date of participation in the investment plan
2680 ~~optional program~~. If the recomputed amount differs from the
2681 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the
2682 division shall:

2683 a. Transfer, or cause to be transferred, from the Florida
2684 Retirement System Trust Fund to the member's ~~participant's~~
2685 account ~~in the optional program~~ the excess, if any, of the
2686 recomputed amount over the previously transferred amount
2687 together with interest from the initial date of transfer to the
2688 date of transfer under this subparagraph, based upon the
2689 effective annual interest equal to the assumed return on the
2690 actuarial investment which was used in the most recent actuarial
2691 valuation of the system, compounded annually.

2692 b. Transfer, or cause to be transferred, from the member's
2693 ~~participant's~~ account to the Florida Retirement System Trust
2694 Fund the excess, if any, of the previously transferred amount
2695 over the recomputed amount, together with interest from the
2696 initial date of transfer to the date of transfer under this
2697 subparagraph, based upon 6 percent effective annual interest,

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2698 compounded annually, pro rata based on the member's
2699 ~~participant's~~ allocation plan.

2700 3. If contribution adjustments are made as a result of
2701 employer errors or corrections, including plan corrections,
2702 following recomputation of the amount transferred under
2703 subparagraph 1., the member is entitled to the additional
2704 contributions or is responsible for returning any excess
2705 contributions resulting from the correction. However, the return
2706 of such erroneous excess pretax contribution by the plan must be
2707 made within the period allowed by the Internal Revenue Service.
2708 The present value of the member's accumulated benefit obligation
2709 may not be recalculated.

2710 4. As directed by the member ~~participant~~, the state board
2711 shall transfer or cause to be transferred the appropriate
2712 amounts to the designated accounts within. ~~The board shall~~
2713 ~~establish transfer procedures by rule, but the actual transfer~~
2714 ~~shall not be later than~~ 30 days after the effective date of the
2715 member's participation in the investment plan ~~optional program~~
2716 unless the major financial markets for securities available for
2717 a transfer are seriously disrupted by an unforeseen event that
2718 ~~which also~~ causes the suspension of trading on any national
2719 securities exchange in the country where the securities are ~~were~~
2720 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be
2721 extended by a resolution of the state board ~~trustees~~. Transfers
2722 are not commissionable or subject to other fees and may be in
2723 the form of securities or cash, as determined by the state
2724 board. Such securities are ~~shall be~~ valued as of the date of
2725 receipt in the member's ~~participant's~~ account.

2726 5. If the state board or the division receives notification

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2727 from the United States Internal Revenue Service that this
2728 paragraph or any portion of this paragraph will cause the
2729 retirement system, or a portion thereof, to be disqualified for
2730 tax purposes under the Internal Revenue Code, ~~then~~ the portion
2731 that will cause the disqualification does not apply. Upon such
2732 notice, the state board and the division shall notify the
2733 presiding officers of the Legislature.

2734 (4) PARTICIPATION; ENROLLMENT.—

2735 (a) ~~1.~~ Between June 1, 2001, and February 28, 2003, eligible
2736 employees were provided a 90-day period to elect membership in
2737 the investment plan. An employee who failed to elect the
2738 investment plan during the election period remained in the
2739 pension plan. An eligible employee who was employed in a
2740 regularly established position during the election period was
2741 also provided one opportunity to change plans, as provided under
2742 paragraph (e). With respect to an eligible employee who did not
2743 participate in the initial election period and an eligible
2744 employee who is initially employed in a regularly established
2745 position after the close of the initial election period but
2746 before June 30, 2011, the ~~on June 1, 2002, by a state employer:~~

2747 ~~a. Any such employee may elect to participate in the Public~~
2748 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2749 ~~her membership in the defined benefit program of the Florida~~
2750 ~~Retirement System. The election must be made in writing or by~~
2751 ~~electronic means and must be filed with the third-party~~
2752 ~~administrator by August 31, 2002, or, in the case of an active~~
2753 ~~employee who is on a leave of absence on April 1, 2002, by the~~
2754 ~~last business day of the 5th month following the month the leave~~
2755 ~~of absence concludes. This election is irrevocable, except as~~

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2756 ~~provided in paragraph (e). Upon making such election, the~~
2757 ~~employee shall be enrolled as a participant of the Public~~
2758 ~~Employee Optional Retirement Program, the employee's membership~~
2759 ~~in the Florida Retirement System shall be governed by the~~
2760 ~~provisions of this part, and the employee's membership in the~~
2761 ~~defined benefit program of the Florida Retirement System shall~~
2762 ~~terminate. The employee's enrollment in the Public Employee~~
2763 ~~Optional Retirement Program shall be effective the first day of~~
2764 ~~the month for which a full month's employer contribution is made~~
2765 ~~to the optional program.~~

2766 ~~b. Any such employee who fails to elect to participate in~~
2767 ~~the Public Employee Optional Retirement Program within the~~
2768 ~~prescribed time period is deemed to have elected to retain~~
2769 ~~membership in the defined benefit program of the Florida~~
2770 ~~Retirement System, and the employee's option to elect to~~
2771 ~~participate in the optional program is forfeited.~~

2772 ~~2. With respect to employees who become eligible to~~
2773 ~~participate in the Public Employee Optional Retirement Program~~
2774 ~~by reason of employment in a regularly established position with~~
2775 ~~a state employer commencing after April 1, 2002:~~

2776 ~~a. Any such employee shall, by default, be enrolled in the~~
2777 ~~pension plan defined benefit retirement program of the Florida~~
2778 ~~Retirement System at the commencement of employment, and may, by~~
2779 ~~the last business day of the 5th month following the employee's~~
2780 ~~month of hire, elect to enroll ~~participate~~ in the investment~~
2781 ~~plan Public Employee Optional Retirement Program. The employee's~~
2782 ~~election must be made in writing or by electronic means and must~~
2783 ~~be filed with the third-party administrator. The election to~~
2784 ~~enroll ~~participate~~ in the investment plan optional program is~~

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2785 irrevocable, except as provided in paragraph (e).

2786 ~~1.b.~~ If the employee files such election within the
2787 prescribed time period, enrollment in the investment plan is
2788 ~~optional program shall be~~ effective on the first day of
2789 employment. The employer and employee ~~retirement~~ contributions
2790 paid through the month of the employee plan change shall be
2791 transferred to the investment plan ~~optional program~~, and,
2792 effective the first day of the next month, the employer and
2793 employee must ~~shall~~ pay the applicable contributions based on
2794 the employee membership class in the plan ~~optional program~~.

2795 ~~2.c.~~ An ~~Any such~~ employee who fails to elect to enroll
2796 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2797 ~~Retirement Program~~ within the prescribed time period is deemed
2798 to have elected to retain membership in the pension plan ~~defined~~
2799 ~~benefit program of the Florida Retirement System~~, and the
2800 employee's option to elect to enroll ~~participate~~ in the
2801 investment plan ~~optional program~~ is forfeited.

2802 3. With respect to employees who become eligible to enroll
2803 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2804 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.
2805 121.35(3)(i), the any such employee may elect to enroll
2806 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2807 ~~Retirement Program~~ in lieu of retaining his or her participation
2808 in the State Community College System Optional Retirement
2809 Program or the State University System Optional Retirement
2810 Program. The election must be made in writing or by electronic
2811 means and must be filed with the third-party administrator. This
2812 election is irrevocable, except as provided in paragraph (e).
2813 Upon making such election, the employee shall be enrolled in as

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2814 ~~a participant of the investment plan Public Employee Optional~~
2815 ~~Retirement Program,~~ the employee's membership in the Florida
2816 Retirement System shall be governed by the provisions of this
2817 part, and the employee's participation in the State Community
2818 College System Optional Retirement Program or the State
2819 University System Optional Retirement Program shall terminate.
2820 The employee's enrollment in the investment plan is Public
2821 ~~Employee Optional Retirement Program shall be effective on the~~
2822 first day of the month for which a full month's of employee
2823 contributions are ~~employer contribution is~~ made to the
2824 investment plan optional program.

2825 ~~4. For purposes of this paragraph, "state employer" means~~
2826 ~~any agency, board, branch, commission, community college,~~
2827 ~~department, institution, institution of higher education, or~~
2828 ~~water management district of the state, which participates in~~
2829 ~~the Florida Retirement System for the benefit of certain~~
2830 ~~employees.~~

2831 ~~(b)1. With respect to an eligible employee who is employed~~
2832 ~~in a regularly established position on September 1, 2002, by a~~
2833 ~~district school board employer:~~

2834 ~~a. Any such employee may elect to participate in the Public~~
2835 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2836 ~~her membership in the defined benefit program of the Florida~~
2837 ~~Retirement System. The election must be made in writing or by~~
2838 ~~electronic means and must be filed with the third-party~~
2839 ~~administrator by November 30, or, in the case of an active~~
2840 ~~employee who is on a leave of absence on July 1, 2002, by the~~
2841 ~~last business day of the 5th month following the month the leave~~
2842 ~~of absence concludes. This election is irrevocable, except as~~

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2843 ~~provided in paragraph (e). Upon making such election, the~~
2844 ~~employee shall be enrolled as a participant of the Public~~
2845 ~~Employee Optional Retirement Program, the employee's membership~~
2846 ~~in the Florida Retirement System shall be governed by the~~
2847 ~~provisions of this part, and the employee's membership in the~~
2848 ~~defined benefit program of the Florida Retirement System shall~~
2849 ~~terminate. The employee's enrollment in the Public Employee~~
2850 ~~Optional Retirement Program shall be effective the first day of~~
2851 ~~the month for which a full month's employer contribution is made~~
2852 ~~to the optional program.~~

2853 ~~b. Any such employee who fails to elect to participate in~~
2854 ~~the Public Employee Optional Retirement Program within the~~
2855 ~~prescribed time period is deemed to have elected to retain~~
2856 ~~membership in the defined benefit program of the Florida~~
2857 ~~Retirement System, and the employee's option to elect to~~
2858 ~~participate in the optional program is forfeited.~~

2859 ~~2. With respect to employees who become eligible to~~
2860 ~~participate in the Public Employee Optional Retirement Program~~
2861 ~~by reason of employment in a regularly established position with~~
2862 ~~a district school board employer commencing after July 1, 2002:~~

2863 ~~a. Any such employee shall, by default, be enrolled in the~~
2864 ~~defined benefit retirement program of the Florida Retirement~~
2865 ~~System at the commencement of employment, and may, by the last~~
2866 ~~business day of the 5th month following the employee's month of~~
2867 ~~hire, elect to participate in the Public Employee Optional~~
2868 ~~Retirement Program. The employee's election must be made in~~
2869 ~~writing or by electronic means and must be filed with the third-~~
2870 ~~party administrator. The election to participate in the optional~~
2871 ~~program is irrevocable, except as provided in paragraph (e).~~

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2872 ~~b. If the employee files such election within the~~
2873 ~~prescribed time period, enrollment in the optional program shall~~
2874 ~~be effective on the first day of employment. The employer~~
2875 ~~retirement contributions paid through the month of the employee~~
2876 ~~plan change shall be transferred to the optional program, and,~~
2877 ~~effective the first day of the next month, the employer shall~~
2878 ~~pay the applicable contributions based on the employee~~
2879 ~~membership class in the optional program.~~

2880 ~~e. Any such employee who fails to elect to participate in~~
2881 ~~the Public Employee Optional Retirement Program within the~~
2882 ~~prescribed time period is deemed to have elected to retain~~
2883 ~~membership in the defined benefit program of the Florida~~
2884 ~~Retirement System, and the employee's option to elect to~~
2885 ~~participate in the optional program is forfeited.~~

2886 ~~3. For purposes of this paragraph, "district school board~~
2887 ~~employer" means any district school board that participates in~~
2888 ~~the Florida Retirement System for the benefit of certain~~
2889 ~~employees, or a charter school or charter technical career~~
2890 ~~center that participates in the Florida Retirement System as~~
2891 ~~provided in s. 121.051(2) (d).~~

2892 ~~(c)1. With respect to an eligible employee who is employed~~
2893 ~~in a regularly established position on December 1, 2002, by a~~
2894 ~~local employer:~~

2895 ~~a. Any such employee may elect to participate in the Public~~
2896 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2897 ~~her membership in the defined benefit program of the Florida~~
2898 ~~Retirement System. The election must be made in writing or by~~
2899 ~~electronic means and must be filed with the third-party~~
2900 ~~administrator by February 28, 2003, or, in the case of an active~~

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2901 ~~employee who is on a leave of absence on October 1, 2002, by the~~
2902 ~~last business day of the 5th month following the month the leave~~
2903 ~~of absence concludes. This election is irrevocable, except as~~
2904 ~~provided in paragraph (c). Upon making such election, the~~
2905 ~~employee shall be enrolled as a participant of the Public~~
2906 ~~Employee Optional Retirement Program, the employee's membership~~
2907 ~~in the Florida Retirement System shall be governed by the~~
2908 ~~provisions of this part, and the employee's membership in the~~
2909 ~~defined benefit program of the Florida Retirement System shall~~
2910 ~~terminate. The employee's enrollment in the Public Employee~~
2911 ~~Optional Retirement Program shall be effective the first day of~~
2912 ~~the month for which a full month's employer contribution is made~~
2913 ~~to the optional program.~~

2914 ~~b. Any such employee who fails to elect to participate in~~
2915 ~~the Public Employee Optional Retirement Program within the~~
2916 ~~prescribed time period is deemed to have elected to retain~~
2917 ~~membership in the defined benefit program of the Florida~~
2918 ~~Retirement System, and the employee's option to elect to~~
2919 ~~participate in the optional program is forfeited.~~

2920 ~~2. With respect to employees who become eligible to~~
2921 ~~participate in the Public Employee Optional Retirement Program~~
2922 ~~by reason of employment in a regularly established position with~~
2923 ~~a local employer commencing after October 1, 2002:~~

2924 ~~a. Any such employee shall, by default, be enrolled in the~~
2925 ~~defined benefit retirement program of the Florida Retirement~~
2926 ~~System at the commencement of employment, and may, by the last~~
2927 ~~business day of the 5th month following the employee's month of~~
2928 ~~hire, elect to participate in the Public Employee Optional~~
2929 ~~Retirement Program. The employee's election must be made in~~

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2930 ~~writing or by electronic means and must be filed with the third-~~
2931 ~~party administrator. The election to participate in the optional~~
2932 ~~program is irrevocable, except as provided in paragraph (c).~~

2933 ~~b. If the employee files such election within the~~
2934 ~~prescribed time period, enrollment in the optional program shall~~
2935 ~~be effective on the first day of employment. The employer~~
2936 ~~retirement contributions paid through the month of the employee~~
2937 ~~plan change shall be transferred to the optional program, and,~~
2938 ~~effective the first day of the next month, the employer shall~~
2939 ~~pay the applicable contributions based on the employee~~
2940 ~~membership class in the optional program.~~

2941 ~~e. Any such employee who fails to elect to participate in~~
2942 ~~the Public Employee Optional Retirement Program within the~~
2943 ~~prescribed time period is deemed to have elected to retain~~
2944 ~~membership in the defined benefit program of the Florida~~
2945 ~~Retirement System, and the employee's option to elect to~~
2946 ~~participate in the optional program is forfeited.~~

2947 ~~3. For purposes of this paragraph, "local employer" means~~
2948 ~~any employer not included in paragraph (a) or paragraph (b).~~

2949 ~~(b)-(d)~~ Contributions available for self-direction by a
2950 member participant who has not selected one or more specific
2951 investment products shall be allocated as prescribed by the
2952 state board. The third-party administrator shall notify the
2953 member ~~any such participant~~ at least quarterly that the member
2954 ~~participant~~ should take an affirmative action to make an asset
2955 allocation among the investment plan ~~optional program~~ products.

2956 (c) On or after July 1, 2011, a member of the pension plan
2957 who obtains a refund of employee contributions retains his or
2958 her prior plan choice upon return to employment in a regularly

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2959 established position with a participating employer.

2960 (d) A member of the investment plan who takes a
2961 distribution of any contributions from his investment plan
2962 account is considered a retiree. Upon reemployment in a
2963 regularly established position with a participating employer,
2964 the member returns as a new hire and, if applicable, may
2965 participate in the Florida Retirement System.

2966 (e) After the period during which an eligible employee had
2967 the choice to elect the pension plan ~~defined benefit program~~ or
2968 the investment plan ~~optional retirement program~~, or the month
2969 following the receipt of the eligible employee's plan election,
2970 if sooner, the employee shall have one opportunity, at the
2971 employee's discretion, to choose to move from the pension plan
2972 ~~defined benefit program~~ to the investment plan ~~optional~~
2973 ~~retirement program~~ or from the investment plan ~~optional~~
2974 ~~retirement program~~ to the pension plan ~~defined benefit program~~.
2975 Eligible employees may elect to move between Florida Retirement
2976 System programs only if they are earning service credit in an
2977 employer-employee relationship consistent with s.

2978 121.021(17)(b), excluding leaves of absence without pay.

2979 Effective July 1, 2005, such elections are effective on the
2980 first day of the month following the receipt of the election by
2981 the third-party administrator and are not subject to the
2982 requirements regarding an employer-employee relationship or
2983 receipt of contributions for the eligible employee in the
2984 effective month, except when the election is received by the
2985 third-party administrator. This paragraph is contingent upon
2986 receiving approval from the Internal Revenue Service to include
2987 ~~for including~~ the choice described herein within the programs

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2988 offered by the Florida Retirement System.

2989 1. If the employee chooses to move to the investment plan
2990 ~~optional retirement program~~, the applicable provisions of
2991 subsection (3) ~~this section shall~~ govern the transfer.

2992 2. If the employee chooses to move to the pension plan
2993 ~~defined benefit program~~, the employee must transfer from his or
2994 her investment plan ~~optional retirement program~~ account, and
2995 from other employee moneys as necessary, a sum representing the
2996 present value of that employee's accumulated benefit obligation
2997 immediately following the time of such movement, determined
2998 assuming that attained service equals the sum of service in the
2999 pension plan ~~defined benefit program~~ and service in the
3000 investment plan ~~optional retirement program~~. Benefit
3001 commencement occurs on the first date the employee is eligible
3002 for unreduced benefits, using the discount rate and other
3003 relevant actuarial assumptions that were used to value the
3004 pension ~~defined benefit~~ plan liabilities in the most recent
3005 actuarial valuation. For any employee who, at the time of the
3006 second election, already maintains an accrued benefit amount in
3007 the pension plan ~~defined benefit program~~, the then-present value
3008 of the accrued benefit shall be deemed part of the required
3009 transfer amount. The division shall ensure that the transfer sum
3010 is prepared using a formula and methodology certified by an
3011 enrolled actuary. A refund of any employee contributions or
3012 additional member payments made which exceed the employee
3013 contributions that would have accrued had the member remained in
3014 the pension plan and not transferred to the investment plan is
3015 not permitted.

3016 3. Notwithstanding subparagraph 2., an employee who chooses

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3017 to move to the pension plan ~~defined benefit program~~ and who
3018 ~~became eligible to participate in the optional retirement~~
3019 ~~program by reason of employment in a regularly established~~
3020 ~~position with a state employer after June 1, 2002; a district~~
3021 ~~school board employer after September 1, 2002; or a local~~
3022 ~~employer after December 1, 2002,~~ must transfer from his or her
3023 investment plan ~~optional retirement program~~ account, and from
3024 other employee moneys as necessary, a sum representing the
3025 employee's actuarial accrued liability. A refund of any employee
3026 contributions or additional participant payments made which
3027 exceed the employee contributions that would have accrued had
3028 the member remained in the pension plan and not transferred to
3029 the investment plan is not permitted.

3030 4. An employee's ability to transfer from the pension plan
3031 ~~defined benefit program~~ to the investment plan ~~optional~~
3032 ~~retirement program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~,
3033 and the ability of a current employee to have an option to later
3034 transfer back into the pension plan ~~defined benefit program~~
3035 under subparagraph 2., shall be deemed a significant system
3036 amendment. Pursuant to s. 121.031(4), any resulting unfunded
3037 liability arising from actual original transfers from the
3038 pension plan ~~defined benefit program~~ to the investment plan
3039 ~~optional program~~ must be amortized within 30 plan years as a
3040 separate unfunded actuarial base independent of the reserve
3041 stabilization mechanism defined in s. 121.031(3)(f). For the
3042 first 25 years, a direct amortization payment may not be
3043 calculated for this base. During this 25-year period, the
3044 separate base shall be used to offset the impact of employees
3045 exercising their second program election under this paragraph.

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3046 It is the intent of the Legislature that the actuarial funded
3047 status of the pension plan ~~defined benefit program~~ not be
3048 affected by such second program elections in any significant
3049 manner, after due recognition of the separate unfunded actuarial
3050 base. Following the initial 25-year period, any remaining
3051 balance of the original separate base shall be amortized over
3052 the remaining 5 years of the required 30-year amortization
3053 period.

3054 5. If the employee chooses to transfer from the investment
3055 plan ~~optional retirement program~~ to the pension plan ~~defined~~
3056 ~~benefit program~~ and retains an excess account balance in the
3057 investment plan ~~optional program~~ after satisfying the buy-in
3058 requirements under this paragraph, the excess may not be
3059 distributed until the member retires from the pension plan
3060 ~~defined benefit program~~. The excess account balance may be
3061 rolled over to the pension plan ~~defined benefit program~~ and used
3062 to purchase service credit or upgrade creditable service in that
3063 program.

3064 (f) On or after July 1, 2011, a member of the pension plan
3065 who obtains a refund of employee contributions retains his or
3066 her prior plan choice upon return to employment in a regularly
3067 established position with a participating employer.

3068 (g) A member of the investment plan who takes a
3069 distribution of any contributions from his or her investment
3070 plan account is considered a retiree. Upon reemployment in a
3071 regularly established position with a participating employer,
3072 the member returns as a new hire and, if applicable, may
3073 participate in the Florida Retirement System.

3074 (h) All eligible employees initially enrolled on or after

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3075 July 1, 2011, except those who are eligible and elect to enroll
3076 in an optional retirement program established under s.
3077 121.055(6), s. 121.35, or s. 1012.875, or those who qualify for
3078 special risk membership pursuant to s. 121.0515, are compulsory
3079 members of the investment plan and membership in the pension
3080 plan is not permitted except as provided in s. 121.591. Such
3081 employees may not use the election opportunity specified in
3082 paragraph (e).

3083 (5) CONTRIBUTIONS.—

3084 (a) The Each employer and employee shall make the required
3085 contributions to the investment plan based on a percentage of
3086 the employee's gross monthly compensation ~~contribute on behalf~~
3087 ~~of each participant in the Public Employee optional retirement~~
3088 ~~Program~~, as provided in part III of this chapter.

3089 (b) Employee contributions shall be paid on a pretax basis,
3090 as provided in s. 121.71(2).

3091 (c) The state board, acting as plan fiduciary, shall ensure
3092 that all plan assets are held in a trust, pursuant to s. 401 of
3093 the Internal Revenue Code. The fiduciary shall ensure that said
3094 contributions are allocated as follows:

3095 1. The employer and employee portion earmarked for member
3096 ~~participant~~ accounts shall be used to purchase interests in the
3097 appropriate investment vehicles ~~for the accounts of each~~
3098 ~~participant~~ as specified by the member participant, or in
3099 accordance with paragraph (4)(b) ~~(4)(d)~~.

3100 2. The employer portion earmarked for administrative and
3101 educational expenses shall be transferred to the state board.

3102 3. The employer portion earmarked for disability benefits
3103 shall be transferred to the department.

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3104 (d)~~(b)~~ The third-party administrator is ~~Employers are~~
 3105 responsible for monitoring and notifying employers of the
 3106 ~~participants regarding~~ maximum contribution levels allowed for
 3107 members permitted under the Internal Revenue Code. If a member
 3108 ~~participant~~ contributes to any other tax-deferred plan, the
 3109 member ~~he or she~~ is responsible for ensuring that total
 3110 contributions made to the investment plan ~~optional program~~ and
 3111 to any other such plan do not exceed federally permitted
 3112 maximums.

3113 (e)~~(e)~~ The investment plan ~~Public Employee Optional~~
 3114 ~~Retirement Program~~ may accept for deposit into member
 3115 ~~participant~~ accounts contributions in the form of rollovers or
 3116 direct trustee-to-trustee transfers by or on behalf of members
 3117 ~~participants~~, reasonably determined by the state board to be
 3118 eligible for rollover or transfer to the investment plan
 3119 ~~optional retirement program~~ pursuant to the Internal Revenue
 3120 Code, if such contributions are made in accordance with rules ~~as~~
 3121 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be
 3122 accounted for in accordance with ~~any~~ applicable Internal Revenue
 3123 Code requirements and rules of the state board.

3124 (6) VESTING REQUIREMENTS.—

3125 (a) A member is fully and immediately vested in all
 3126 employee contributions paid to the investment plan as provided
 3127 in s. 121.72(2), plus interest and earnings thereon and less
 3128 investment fees and administrative charges.

3129 (b)~~(a)~~1. With respect to employer contributions paid on
 3130 behalf of a member of the participant ~~to the investment plan~~
 3131 ~~optional retirement program~~, plus interest and earnings thereon
 3132 and less investment fees and administrative charges, a member

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3133 who voluntarily elected to enroll in the investment plan before
 3134 July 1, 2011, or an eligible employee initially enrolled in the
 3135 Florida Retirement System before July 1, 2011, who has the
 3136 option to voluntarily elect to enroll in the investment plan,
 3137 ~~participant~~ is vested after completing 1 work year with an
 3138 employer, including any service while the employee participant
 3139 was a member of the pension plan ~~defined benefit program~~ or an
 3140 optional retirement program authorized under s. 121.051(2)(c),
 3141 ~~or~~ s. 121.055(6), or s. 121.35.

3142 2. With respect to employer contributions paid on behalf of
 3143 the member of the investment plan, plus interest and earnings
 3144 thereon and less investment fees and administrative charges, an
 3145 employee initially enrolled in the Florida Retirement System on
 3146 or after July 1, 2011, is vested according to the following
 3147 schedule:

- 3148 a. Upon completion of 1 year of service.....20%
- 3149 b. Upon completion of 2 years of service.....40%
- 3150 c. Upon completion of 3 years of service.....60%
- 3151 d. Upon completion of 4 years of service.....80%
- 3152 e. Upon completion of 5 or more years of service.....100%

3153
 3154 Years of service includes any service completed while the
 3155 employee was a member of the pension plan or an optional
 3156 retirement program authorized under s. 121.051(2)(c), s.
 3157 121.055(6), or s. 121.35.

3158 ~~3.2.~~ If the member participant terminates employment before
 3159 satisfying the vesting requirements, the nonvested accumulation
 3160 must be transferred from the member's participant's accounts to
 3161 the state board for deposit and investment by the state board in

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3162 the suspense account created within the Florida Public Employee
3163 ~~Optional Retirement System Investment Plan Program~~ Trust Fund.

3164 If the terminated member participant is reemployed as an
3165 eligible employee within 5 years, the state board shall transfer
3166 to the member's participant's account any amount previously
3167 transferred from the member's participant's accounts to the
3168 suspense account, plus actual earnings on such amount while in
3169 the suspense account.

3170 (c) ~~(b)~~ 1. With respect to amounts contributed by an employer
3171 and transferred from the pension plan defined benefit program to
3172 the investment plan program, plus interest and earnings, and
3173 less investment fees and administrative charges, a member
3174 ~~participant~~ shall be vested in the amount transferred upon
3175 meeting the service requirements for the member's participant's
3176 membership class as set forth in s. 121.021(29). The third-party
3177 administrator shall account for such amounts for each member
3178 ~~participant~~. The division shall notify the member participant
3179 and the third-party administrator when the member participant
3180 has satisfied the vesting period for Florida Retirement System
3181 purposes.

3182 2. If the member participant terminates employment before
3183 satisfying the vesting requirements, the nonvested employer
3184 accumulation must be transferred from the member's participant's
3185 accounts to the state board for deposit and investment by the
3186 state board in the suspense account created within the Florida
3187 ~~Public Employee Optional Retirement System Investment Plan~~
3188 ~~Program~~ Trust Fund. If the terminated member participant is
3189 reemployed as an eligible employee within 5 years, the state
3190 board shall transfer to the member's participant's account any

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3191 amount previously transferred from the member's participant's
3192 accounts to the suspense account, plus the actual earnings on
3193 such amount while in the suspense account.

3194 (d)-(e) Any nonvested accumulations transferred from a
3195 member's participant's account to the state board's suspense
3196 account, including any accompanying service credit, shall be
3197 forfeited by the member participant if the member participant is
3198 not reemployed as an eligible employee within 5 years after
3199 termination.

3200 (e) If the member elects to receive any of his or her
3201 vested employer or employee contributions upon termination of
3202 employment as defined in s. 121.021, except for a mandatory
3203 distribution of a de minimis account authorized by the state
3204 board or a minimum required distribution provided by s.
3205 401(a) (9) of the Internal Revenue Code, the employee shall
3206 forfeit all nonvested employer contributions and accompanying
3207 service credit paid on behalf of the employee to the investment
3208 plan.

3209 (7) BENEFITS.—Under the investment plan the normal
3210 retirement date is the date on which a member attains age 62 or
3211 completes 5 years of service, whichever occurs later. Plan
3212 benefits must Public Employee Optional Retirement program:

3213 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)
3214 of the Internal Revenue Code.

3215 (b) ~~Benefits shall~~ Accrue in individual accounts that are
3216 member-directed participant-directed, portable, and funded by
3217 employer and employee contributions and earnings thereon.

3218 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~
3219 ~~provisions of~~ s. 121.591.

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3220 (8) ADMINISTRATION OF PLAN PROGRAM.—

3221 ~~(a)~~ The investment plan ~~optional retirement program~~ shall

3222 be administered by the state board and affected employers. The

3223 state board may require oaths, by affidavit or otherwise, and

3224 acknowledgments from persons in connection with the

3225 administration of its statutory duties and responsibilities for

3226 the plan ~~this program~~. An oath, by affidavit or otherwise, may

3227 not be required of an employee ~~participant~~ at the time of

3228 enrollment. For members enrolled before July 1, 2011,

3229 acknowledgment of an employee's election to enroll ~~participate~~

3230 in the plan ~~may program~~ shall be no greater than necessary to

3231 confirm the employee's election. The state board shall adopt

3232 rules to carry out its statutory duties with respect to

3233 administering the investment plan ~~optional retirement program~~,

3234 including ~~establishing~~ the roles and responsibilities of

3235 affected state, local government, and education-related

3236 employers, the state board, the department, and third-party

3237 contractors. The department shall adopt rules necessary to

3238 administer the investment plan ~~optional program~~ in coordination

3239 with the pension plan ~~defined benefit program~~ and the disability

3240 benefits available under the investment plan ~~optional program~~.

3241 ~~(a)-(b)~~ 1. The state board shall select and contract with a

3242 ~~one~~ third-party administrator to provide administrative services

3243 if those services cannot be competitively and contractually

3244 provided by the division ~~of Retirement within the Department of~~

3245 ~~Management Services~~. With the approval of the state board, the

3246 third-party administrator may subcontract ~~with other~~

3247 ~~organizations or individuals~~ to provide components of the

3248 administrative services. As a cost of administration, the state

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3249 board may compensate ~~any~~ such contractor for its services, in
3250 accordance with the terms of the contract, as is deemed
3251 necessary or proper by the board. The third-party administrator
3252 may not be an approved provider or be affiliated with an
3253 approved provider.

3254 2. These administrative services may include, but are not
3255 limited to, enrollment of eligible employees, collection of
3256 employer and employee contributions, disbursement of ~~such~~
3257 contributions to approved providers in accordance with the
3258 allocation directions of members ~~participants~~; services relating
3259 to consolidated billing; individual and collective recordkeeping
3260 and accounting; asset purchase, control, and safekeeping; and
3261 direct disbursement of funds to and from the third-party
3262 administrator, the division, the state board, employers, plan
3263 members ~~participants~~, approved providers, and beneficiaries.
3264 This section does not prevent or prohibit a bundled provider
3265 from providing any administrative or customer service, including
3266 accounting and administration of individual member ~~participant~~
3267 benefits and contributions; individual member ~~participant~~
3268 recordkeeping; asset purchase, control, and safekeeping; direct
3269 execution of the member's ~~participant's~~ instructions as to asset
3270 and contribution allocation; calculation of daily net asset
3271 values; direct access to member ~~participant~~ account information;
3272 or periodic reporting to members ~~participants~~, at least
3273 quarterly, on account balances and transactions, if these
3274 services are authorized by the state board as part of the
3275 contract.

3276 **(b)1.3.** The state board shall select and contract with one
3277 or more organizations to provide educational services. With

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3278 approval of the state board, the organizations may subcontract
3279 ~~with other organizations or individuals~~ to provide components of
3280 the educational services. As a cost of administration, the state
3281 board may compensate any such contractor for its services in
3282 accordance with the terms of the contract, as is deemed
3283 necessary or proper by the board. The education organization may
3284 not be an approved provider or be affiliated with an approved
3285 provider.

3286 2.4. Educational services shall be designed by the state
3287 board and department to assist employers, eligible employees,
3288 members participants, and beneficiaries in order to maintain
3289 compliance with United States Department of Labor regulations
3290 under s. 404(c) of the Employee Retirement Income Security Act
3291 of 1974, ~~and~~ to assist employees in understanding their ~~choice~~
3292 ~~of defined benefit or defined contribution~~ retirement program,
3293 and, if applicable, the choice between the pension plan and the
3294 investment plan alternatives. Educational services include, but
3295 are not limited to, disseminating educational materials;
3296 providing retirement planning education; explaining the pension
3297 ~~differences between the defined benefit retirement plan and the~~
3298 investment defined contribution retirement plan; and offering
3299 financial planning guidance on matters such as investment
3300 diversification, investment risks, investment costs, and asset
3301 allocation. An approved provider may also provide educational
3302 information, including retirement planning and investment
3303 allocation information concerning its products and services.

3304 (c)1. In evaluating and selecting a third-party
3305 administrator, the state board shall establish criteria for
3306 evaluating ~~under which it shall consider~~ the relative

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3307 capabilities and qualifications of each proposed administrator.
3308 In developing such criteria, the state board shall consider:

3309 a. The administrator's demonstrated experience in providing
3310 administrative services to public or private sector retirement
3311 systems.

3312 b. The administrator's demonstrated experience in providing
3313 daily valued recordkeeping for investment ~~to defined~~
3314 ~~contribution~~ plans.

3315 c. The administrator's ability and willingness to
3316 coordinate its activities with ~~the Florida Retirement System~~
3317 employers, the state board, and the division, and to supply to
3318 such employers, the board, and the division the information and
3319 data they require, including, but not limited to, monthly
3320 management reports, quarterly member ~~participant~~ reports, and ad
3321 hoc reports requested by the department or state board.

3322 d. The cost-effectiveness and levels of the administrative
3323 services provided.

3324 e. The administrator's ability to interact with the members
3325 ~~participants~~, the employers, the state board, the division, and
3326 the providers; the means by which members ~~participants~~ may
3327 access account information, direct investment of contributions,
3328 make changes to their accounts, transfer moneys between
3329 available investment vehicles, and transfer moneys between
3330 investment products; and any fees that apply to such activities.

3331 f. Any other factor deemed necessary by the ~~Trustees of the~~
3332 state board ~~of Administration~~.

3333 2. In evaluating and selecting an educational provider, the
3334 state board shall establish criteria under which it shall
3335 consider the relative capabilities and qualifications of each

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3336 proposed educational provider. In developing such criteria, the
3337 board shall consider:

3338 a. Demonstrated experience in providing educational
3339 services to public or private sector retirement systems.

3340 b. Ability and willingness to coordinate its activities
3341 with the ~~Florida Retirement System~~ employers, the state board,
3342 and the division, and to supply to such employers, the board,
3343 and the division the information and data they require,
3344 including, but not limited to, reports on educational contacts.

3345 c. The cost-effectiveness and levels of the educational
3346 services provided.

3347 d. Ability to provide educational services via different
3348 media, including, but not limited to, the Internet, personal
3349 contact, seminars, brochures, and newsletters.

3350 e. Any other factor deemed necessary by the ~~Trustees of the~~
3351 state board ~~of Administration~~.

3352 3. The establishment of the criteria shall be solely within
3353 the discretion of the state board.

3354 (d) The state board shall develop the form and content of
3355 any contracts to be offered under the investment plan Public
3356 ~~Employee Optional Retirement Program~~. In developing the ~~its~~
3357 contracts, the state board shall ~~must~~ consider:

3358 1. The nature and extent of the rights and benefits to be
3359 afforded in relation to the ~~required~~ contributions required
3360 under the plan ~~program~~.

3361 2. The suitability of the rights and benefits provided ~~to~~
3362 ~~be afforded~~ and the interests of employers in the recruitment
3363 and retention of eligible employees.

3364 (e)1. The state board may contract ~~with any consultant~~ for

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3365 professional services, including legal, consulting, accounting,
3366 and actuarial services, deemed necessary to implement and
3367 administer the investment plan ~~optional program by the Trustees~~
3368 ~~of the state board of Administration~~. The state board may enter
3369 into a contract with one or more vendors to provide low-cost
3370 investment advice to members ~~participants~~, supplemental to
3371 education provided by the third-party administrator. All fees
3372 under ~~any~~ such contract shall be paid by those members
3373 ~~participants~~ who choose to use the services of the vendor.

3374 2. The department may contract ~~with consultants~~ for
3375 professional services, including legal, consulting, accounting,
3376 and actuarial services, deemed necessary to implement and
3377 administer the investment plan ~~optional program~~ in coordination
3378 with the pension plan ~~defined benefit program of the Florida~~
3379 ~~Retirement System~~. The department, in coordination with the
3380 state board, may enter into a contract with the third-party
3381 administrator in order to coordinate services common to the
3382 various programs within the Florida Retirement System.

3383 (f) The third-party administrator may ~~shall~~ not receive
3384 direct or indirect compensation from an approved provider,
3385 except as specifically provided for in the contract with the
3386 state board.

3387 (g) The state board shall receive and resolve member
3388 ~~participant~~ complaints against the investment plan ~~program~~, the
3389 third-party administrator, or any plan ~~program~~ vendor or
3390 provider; shall resolve any conflict between the third-party
3391 administrator and an approved provider if such conflict
3392 threatens the implementation or administration of the plan
3393 ~~program~~ or the quality of services to employees; and may resolve

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3394 any other conflicts. The third-party administrator shall retain
3395 all member ~~participant~~ records for at least 5 years for use in
3396 resolving any member ~~participant~~ conflicts. The state board, the
3397 third-party administrator, or a provider is not required to
3398 produce documentation or an audio recording to justify action
3399 taken with regard to a member ~~participant~~ if the action occurred
3400 5 or more years before the complaint is submitted to the state
3401 board. It is presumed that all action taken 5 or more years
3402 before the complaint is submitted was taken at the request of
3403 the member ~~participant~~ and with the member's ~~participant's~~ full
3404 knowledge and consent. To overcome this presumption, the member
3405 ~~participant~~ must present documentary evidence or an audio
3406 recording demonstrating otherwise.

3407 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3408 (a) The state board shall develop policy and procedures for
3409 selecting, evaluating, and monitoring the performance of
3410 approved providers and investment products ~~to which employees~~
3411 ~~may direct retirement contributions~~ under the investment plan
3412 ~~program~~. In accordance with such policy and procedures, the
3413 state board shall designate and contract for a number of
3414 investment products as determined by the state board. The state
3415 board shall also select one or more bundled providers, each of
3416 which ~~whom~~ may offer multiple investment options and related
3417 services, if ~~when~~ such ~~an~~ approach is determined by the state
3418 board to provide ~~afford~~ value to the members ~~participants~~
3419 otherwise not available through individual investment products.
3420 Each approved bundled provider may offer investment options that
3421 provide members ~~participants~~ with the opportunity to invest in
3422 each of the following asset classes, to be composed of

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3423 individual options that represent ~~either~~ a single asset class or
3424 a combination thereof: money markets, United States fixed
3425 income, United States equities, and foreign stock. The state
3426 board shall review and manage all educational materials,
3427 contract terms, fee schedules, and other aspects of ~~the~~ approved
3428 provider relationships to ensure that no provider is unduly
3429 favored or penalized by virtue of its status within the
3430 investment plan.

3431 (b) The state board shall consider investment options or
3432 products it considers appropriate to give members ~~participants~~
3433 the opportunity to accumulate retirement benefits, subject to
3434 the following:

3435 1. The investment plan ~~Public Employee Optional Retirement~~
3436 ~~Program~~ must offer a diversified mix of low-cost investment
3437 products that span the risk-return spectrum and may include a
3438 guaranteed account as well as investment products, such as
3439 individually allocated guaranteed and variable annuities, which
3440 meet the requirements of this subsection and combine the ability
3441 to accumulate investment returns with the option of receiving
3442 lifetime income consistent with the long-term retirement
3443 security of a pension plan and similar to the lifetime-income
3444 benefit provided by the Florida Retirement System.

3445 2. Investment options or products offered by ~~the group of~~
3446 approved providers may include mutual funds, group annuity
3447 contracts, individual retirement annuities, interests in trusts,
3448 collective trusts, separate accounts, and other such financial
3449 instruments, and ~~may include~~ products that give members
3450 ~~participants~~ the option of committing their contributions for an
3451 extended time period in an effort to obtain returns higher than

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3452 those that could be obtained from investment products offering
3453 full liquidity.

3454 3. The state board ~~may shall~~ not contract with a any
3455 provider that imposes a front-end, back-end, contingent, or
3456 deferred sales charge, or any other fee that limits or restricts
3457 the ability of members ~~participants~~ to select any investment
3458 product available in the investment plan ~~optional program~~. This
3459 prohibition does not apply to fees or charges that are imposed
3460 on withdrawals from products that give members ~~participants~~ the
3461 option of committing ~~their~~ contributions for an extended time
3462 period in an effort to obtain returns higher than those that
3463 could be obtained from investment products offering full
3464 liquidity, provided that the product ~~in question~~, net of all
3465 fees and charges, produces material benefits relative to other
3466 comparable products in the plan ~~program~~ offering full liquidity.

3467 4. Fees or charges for insurance features, such as
3468 mortality and expense-risk charges, must be reasonable relative
3469 to the benefits provided.

3470 (c) In evaluating and selecting approved providers and
3471 products, the state board shall establish criteria for
3472 evaluating ~~under which it shall consider~~ the relative
3473 capabilities and qualifications of each proposed provider
3474 company and product. In developing such criteria, the state
3475 board shall consider the following to the extent such factors
3476 may be applied in connection with investment products, services,
3477 or providers:

3478 1. Experience in the United States providing retirement
3479 products and related financial services under investment ~~defined~~
3480 ~~contribution retirement~~ plans.

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3481 2. Financial strength and stability as ~~which shall be~~
3482 evidenced by the highest ratings assigned by nationally
3483 recognized rating services when comparing proposed providers
3484 that are so rated.

3485 3. Intrastate and interstate portability of the product
3486 offered, including early withdrawal options.

3487 4. Compliance with the Internal Revenue Code.

3488 5. The cost-effectiveness of the product provided and the
3489 levels of service supporting the product relative to its
3490 benefits and its characteristics, including, ~~without limitation,~~
3491 the level of risk borne by the provider.

3492 6. The provider company's ability and willingness to
3493 coordinate its activities with Florida Retirement System
3494 employers, the department, and the state board, and to supply ~~to~~
3495 the ~~such~~ employers, the department, and the state board with the
3496 information and data they require.

3497 7. The methods available to members ~~participants~~ to
3498 interact with the provider company; the means by which members
3499 ~~participants~~ may access account information, direct investment
3500 of contributions, make changes to their accounts, transfer
3501 moneys between available investment vehicles, and transfer
3502 moneys between provider companies; and any fees that apply to
3503 such activities.

3504 8. The provider company's policies with respect to the
3505 transfer of individual account balances, contributions, and
3506 earnings thereon, both internally among investment products
3507 offered by the provider company and externally between approved
3508 providers, as well as any fees, charges, reductions, or
3509 penalties that may be applied.

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3510 9. An evaluation of specific investment products, taking
3511 into account each product's experience in meeting its investment
3512 return objectives net of all related fees, expenses, and
3513 charges, including, but not limited to, investment management
3514 fees, loads, distribution and marketing fees, custody fees,
3515 recordkeeping fees, education fees, annuity expenses, and
3516 consulting fees.

3517 10. Organizational factors, including, but not limited to,
3518 financial solvency, organizational depth, and experience in
3519 providing institutional and retail investment services.

3520 (d) ~~By March 1, 2010,~~ The state board shall identify and
3521 offer at least one terror-free investment product that allocates
3522 its funds among securities not subject to divestiture as
3523 provided in s. 215.473 if the investment product is deemed by
3524 the state board to be consistent with prudent investor
3525 standards. No person may bring a civil, criminal, or
3526 administrative action against an approved provider; the state
3527 board; or any employee, officer, director, or trustee of such
3528 provider based upon the divestiture of any security or the
3529 offering of a terror-free investment product as specified in
3530 this paragraph.

3531 (e) As a condition of offering an ~~any~~ investment option or
3532 product in the investment plan ~~optional retirement program~~, the
3533 approved provider must agree to make the investment product or
3534 service available under the most beneficial terms offered to any
3535 other customer, subject to approval by the ~~Trustees of the state~~
3536 board ~~of Administration~~.

3537 (f) The state board shall regularly review the performance
3538 of each approved provider and product and related organizational

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3539 factors to ensure continued compliance with established
3540 selection criteria and with board policy and procedures.
3541 Providers and products may be terminated subject to contract
3542 provisions. The state board shall adopt procedures to transfer
3543 account balances from terminated products or providers to other
3544 products or providers in the investment plan ~~optional program~~.

3545 (g)1. An approved provider shall comply with all applicable
3546 federal and state securities and insurance laws and regulations
3547 ~~applicable to the provider~~, as well as with the applicable rules
3548 and guidelines of the National Association of Securities Dealers
3549 which govern the ethical marketing of investment products. In
3550 furtherance of this mandate, an approved provider must agree in
3551 its contract with the state board to establish and maintain a
3552 compliance education and monitoring system to supervise the
3553 activities of all personnel who directly communicate with
3554 individual members ~~participants~~ and recommend investment
3555 products, which system is consistent with rules of the National
3556 Association of Securities Dealers.

3557 2. Approved provider personnel who directly communicate
3558 with individual members ~~participants~~ and who recommend
3559 investment products shall make an independent and unbiased
3560 determination as to whether an investment product is suitable
3561 for a particular member ~~participant~~.

3562 3. The state board shall develop procedures to receive and
3563 resolve member ~~participant~~ complaints against a provider or
3564 approved provider personnel, and, if ~~when~~ appropriate, refer
3565 such complaints to the appropriate agency.

3566 4. Approved providers may not sell or in any way distribute
3567 any customer list or member ~~participant~~ identification

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3568 information generated through their offering of products or
 3569 services through the investment plan ~~optional retirement~~
 3570 ~~program~~.

3571 (10) EDUCATION COMPONENT.—

3572 (a) The state board, in coordination with the department,
 3573 shall provide ~~for~~ an education component for eligible employees
 3574 ~~system members~~ in a manner consistent with ~~the provisions of~~
 3575 this section. The education component must be available to
 3576 eligible employees at least 90 days before ~~prior to~~ the
 3577 beginning date of the election period for the employees of the
 3578 respective types of employers.

3579 (b) The education component must provide eligible employees
 3580 ~~system members~~ with impartial and balanced information about
 3581 plan choices. The education component must involve multimedia
 3582 formats. Plan Program comparisons must, to the greatest extent
 3583 possible, be based upon the retirement income that different
 3584 retirement programs may provide to the member participant. The
 3585 state board shall monitor the performance of the contract for
 3586 the education component to ensure that the program is conducted
 3587 in accordance with the contract, applicable law, and the rules
 3588 of the board.

3589 (c) The state board, in coordination with the department,
 3590 shall provide for an initial and ongoing transfer education
 3591 component to provide system members with information necessary
 3592 to make informed plan choice decisions. The transfer education
 3593 component must include, but is not limited to, information on:

3594 1. The amount of money available to a member to transfer to
 3595 the investment plan ~~defined contribution program~~.

3596 2. The features of and differences between the pension plan

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3597 ~~defined benefit program~~ and the investment plan ~~defined~~
3598 ~~contribution program~~, both generally and specifically, as those
3599 differences may affect the member.

3600 3. The expected benefit available if the member were to
3601 retire under each of the retirement programs, based on
3602 appropriate alternative sets of assumptions.

3603 4. The rate of return from investments in the investment
3604 plan ~~defined contribution program~~ and the period of time over
3605 which such rate of return must be achieved to equal or exceed
3606 the expected monthly benefit payable to the member under the
3607 pension plan ~~defined benefit program~~.

3608 5. The historical rates of return for the investment
3609 alternatives available in the investment plan ~~defined~~
3610 ~~contribution programs~~.

3611 6. The benefits and historical rates of return on
3612 investments available in a typical deferred compensation plan or
3613 a typical plan under s. 403(b) of the Internal Revenue Code for
3614 which the employee may be eligible.

3615 7. The program choices available to employees of the State
3616 University System and the comparative benefits of each available
3617 program, if applicable.

3618 8. Payout options available in each of the retirement
3619 programs.

3620 (d) An ongoing education and communication component must
3621 provide eligible employees ~~system members~~ with information
3622 necessary to make informed decisions about choices within their
3623 retirement program of membership and in preparation for
3624 retirement. The component must include, but is not limited to,
3625 information concerning:

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- 3626 1. Rights and conditions of membership.
- 3627 2. Benefit features within the program, options, and
3628 effects of certain decisions.
- 3629 3. Coordination of contributions and benefits with a
3630 deferred compensation plan under s. 457 or a plan under s.
3631 403(b) of the Internal Revenue Code.
- 3632 4. Significant program changes.
- 3633 5. Contribution rates and program funding status.
- 3634 6. Planning for retirement.
- 3635 (e) Descriptive materials must be prepared under the
3636 assumption that the employee is an unsophisticated investor, and
3637 all materials used in the education component must be approved
3638 by the state board before ~~prior to~~ dissemination.
- 3639 (f) The state board and the department shall also establish
3640 a communication component to provide program information to
3641 participating employers and the employers' personnel and payroll
3642 officers and to explain their respective responsibilities in
3643 conjunction with the retirement programs.
- 3644 (g) Funding for education of new employees may reflect
3645 administrative costs to the investment plan ~~optional program~~ and
3646 the pension plan ~~defined benefit program~~.
- 3647 (h) Pursuant to paragraph (8)(a), all Florida Retirement
3648 System employers have an obligation to regularly communicate the
3649 existence of the two Florida Retirement System plans and the
3650 plan choice in the natural course of administering their
3651 personnel functions, using the educational materials supplied by
3652 the state board and the department ~~of Management Services~~.
- 3653 (11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.—The state
3654 board shall ensure that each member participant is provided a

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3655 quarterly statement that accounts for employer and employee ~~the~~
3656 contributions made on behalf of the member ~~such participant~~; the
3657 interest and investment earnings thereon; and any fees,
3658 penalties, or other deductions that apply ~~thereto~~. At a minimum,
3659 such statements must:

3660 (a) Indicate the member's ~~participant's~~ investment options.

3661 (b) State the market value of the account at the close of
3662 the current quarter and previous quarter.

3663 (c) Show account gains and losses ~~for the period~~ and
3664 changes in account accumulation unit values for the quarter
3665 ~~period~~.

3666 (d) Itemize account contributions for the quarter.

3667 (e) Indicate any account changes due to adjustment of
3668 contribution levels, reallocation of contributions, balance
3669 transfers, or withdrawals.

3670 (f) Set forth any fees, charges, penalties, and deductions
3671 that apply to the account.

3672 (g) Indicate the amount of the account in which the member
3673 ~~participant~~ is fully vested and the amount of the account in
3674 which the member ~~participant~~ is not vested.

3675 (h) Indicate each investment product's performance relative
3676 to an appropriate market benchmark.

3677
3678 The third-party administrator shall provide quarterly and annual
3679 summary reports to the state board and any other reports
3680 requested by the department or the board. In any solicitation or
3681 offer of coverage under the investment plan ~~an optional~~
3682 ~~retirement program~~, a provider company shall be governed by the
3683 contract readability provisions of s. 627.4145, notwithstanding

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3684 s. 627.4145(6)(c). In addition, all descriptive materials must
3685 be prepared under the assumption that the member participant is
3686 an unsophisticated investor. Provider companies must maintain an
3687 internal system of quality assurance, have proven functional
3688 systems that are date-calculation compliant, and be subject to a
3689 due-diligence inquiry that proves their capacity and fitness to
3690 undertake service responsibilities.

3691 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The
3692 Investment Advisory Council, created pursuant to s. 215.444,
3693 shall assist the state board in implementing and administering
3694 the investment plan ~~Public Employee Optional Retirement Program~~.
3695 ~~The Investment Advisory council, created pursuant to s. 215.444,~~
3696 shall review the state board's initial recommendations regarding
3697 the criteria to be used in selecting and evaluating approved
3698 providers and investment products. The council may provide
3699 comments on the recommendations to the board within 45 days
3700 after receiving the initial recommendations. The state board
3701 shall make the final determination as to whether any investment
3702 provider or product, any contractor, or any and all contract
3703 provisions are ~~shall be~~ approved for the investment plan
3704 ~~program~~.

3705 (13) FEDERAL REQUIREMENTS.—

3706 (a) ~~Provisions of~~ This section shall be construed, and the
3707 investment plan ~~Public Employee Optional Retirement Program~~
3708 shall be administered, so as to comply with the Internal Revenue
3709 Code, 26 U.S.C., and specifically with plan qualification
3710 requirements imposed on governmental plans under s. 401(a) of
3711 the Internal Revenue Code. The state board may ~~shall have the~~
3712 ~~power and authority to~~ adopt rules reasonably necessary to

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3713 establish or maintain the qualified status of the investment
3714 plan ~~Optional Retirement Program~~ under the Internal Revenue Code
3715 and to implement and administer the plan ~~Optional Retirement~~
3716 ~~Program~~ in compliance with the Internal Revenue Code and this
3717 part; ~~provided however, that~~ the board may ~~shall~~ not have the
3718 ~~authority to~~ adopt any rule which makes a substantive change to
3719 the investment plan ~~Optional Retirement Program~~ as designed by
3720 this part.

3721 (b) Any section or provision of this chapter which is
3722 susceptible to more than one construction shall ~~must~~ be
3723 interpreted in favor of the construction most likely to satisfy
3724 requirements imposed by s. 401(a) of the Internal Revenue Code.

3725 (c) Employer and employee contributions payable under this
3726 section for any limitation year may not exceed the maximum
3727 amount allowable for qualified defined contribution ~~pension~~
3728 plans under applicable provisions of the Internal Revenue Code.
3729 If an employee who is enrolled ~~who has elected to participate~~ in
3730 the investment plan enrolls ~~Public Employee Optional Retirement~~
3731 ~~Program~~ ~~participates~~ in any other plan that is maintained by the
3732 participating employer, benefits that accrue under the
3733 investment plan ~~are Public Employee Optional Retirement Program~~
3734 ~~shall be~~ considered primary for any aggregate limitation
3735 applicable under s. 415 of the Internal Revenue Code.

3736 (14) INVESTMENT POLICY STATEMENT.—

3737 (a) Investment products and approved providers selected for
3738 the investment plan ~~Public Employee Optional Retirement Program~~
3739 must ~~shall~~ conform with the Florida Public Employee Optional
3740 Retirement System Program Investment Plan Policy Statement,
3741 herein referred to as the "statement," as developed and approved

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3742 by the ~~Trustees of the~~ state board of Administration. The
3743 statement must include, among other items, the investment
3744 objectives of the investment plan ~~Public Employee Optional~~
3745 ~~Retirement Program~~, manager selection and monitoring guidelines,
3746 and performance measurement criteria. As required from time to
3747 time, the executive director of the state board may present
3748 recommended changes in the statement to the board for approval.

3749 (b) Before ~~Prior to~~ presenting the statement, or any
3750 recommended changes ~~thereto~~, to the state board, the executive
3751 director of the board shall present such statement or changes to
3752 the Investment Advisory Council for review. The council shall
3753 present the results of its review to the board prior to the
3754 board's final approval of the statement or changes in the
3755 statement.

3756 (15) STATEMENT OF FIDUCIARY STANDARDS AND
3757 RESPONSIBILITIES.—

3758 (a) Investment of investment plan ~~optional defined~~
3759 ~~contribution retirement plan~~ assets shall be made for the sole
3760 interest and exclusive purpose of providing benefits to plan
3761 members ~~participants~~ and beneficiaries and defraying reasonable
3762 expenses of administering the plan. The program's assets shall
3763 ~~are to~~ be invested, on behalf of the members ~~program~~
3764 ~~participants~~, with the care, skill, and diligence that a prudent
3765 person acting in a like manner would undertake. The performance
3766 of the investment duties set forth in this paragraph shall
3767 comply with the fiduciary standards set forth in the Employee
3768 Retirement Income Security Act of 1974 at 29 U.S.C. s.
3769 1104(a)(1)(A)-(C). In case of conflict with other provisions of
3770 law authorizing investments, the investment and fiduciary

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standards set forth in this subsection shall prevail.

(b) If a member participant or beneficiary of the investment plan Public Employee Optional Retirement program exercises control over the assets in his or her account, as determined by reference to regulations of the United States Department of Labor under s. 404(c) of the Employee Retirement Income Security Act of 1974 and all applicable laws governing the operation of the program, a ~~ne~~ program fiduciary is not shall be liable for any loss to a member's participant's or beneficiary's account which results from the member's such participant's or beneficiary's exercise of control.

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

1. The requirement to deliver a prospectus shall be ~~deemed~~

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3800 ~~to be~~ satisfied by delivery of a fund profile or summary profile
3801 that contains the information that would be included in a
3802 summary prospectus as described by Rule 498 under the Securities
3803 Act of 1933, 17 C.F.R. s. 230.498. ~~If~~ When the transaction fees,
3804 expense information, or other information provided by a mutual
3805 fund in the prospectus does not reflect terms negotiated by the
3806 state board ~~of Administration~~ or its designated agents, the
3807 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery
3808 of a separate document described by Rule 498 substituting
3809 accurate information; and

3810 2. Delivery shall be ~~deemed to have been~~ effected if
3811 delivery is through electronic means and the following standards
3812 are satisfied:

3813 a. Electronically-delivered documents are prepared and
3814 provided consistent with style, format, and content requirements
3815 applicable to printed documents;

3816 b. Each member participant is provided timely and adequate
3817 notice of the documents that are to be delivered and their
3818 significance thereof, and of the member's participant's right to
3819 obtain a paper copy of such documents free of charge;

3820 c. ~~(I) Members Participants~~ have adequate access to the
3821 electronic documents, at locations such as their worksites or
3822 public facilities, and have the ability to convert the documents
3823 to paper free of charge by the state board ~~of Administration~~,
3824 and the board or its designated agents take appropriate and
3825 reasonable measures to ensure that the system for furnishing
3826 electronic documents results in actual receipt. ~~or~~

3827 ~~(II) Members Participants~~ have provided consent to receive
3828 information in electronic format, which consent may be revoked;

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3829 and

3830 d. The state board ~~of Administration~~, or its designated
3831 agent, actually provides paper copies of the documents free of
3832 charge, upon request.

3833 (16) DISABILITY BENEFITS.—For any member ~~participant~~ of the
3834 investment plan ~~optional retirement program~~ who becomes totally
3835 and permanently disabled, benefits must ~~shall~~ be paid in
3836 accordance with ~~the provisions of~~ s. 121.591.

3837 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
3838 shall be provided for all officers and employees who become
3839 members ~~participants~~ of the investment plan ~~optional program~~.
3840 Any modification of the present agreement with the Social
3841 Security Administration, or referendum required under the Social
3842 Security Act, for the purpose of providing social security
3843 coverage for any member shall be requested by the state agency
3844 in compliance with the applicable provisions of the Social
3845 Security Act governing such coverage. However, retroactive
3846 social security coverage for service before ~~prior to~~ December 1,
3847 1970, with the employer may ~~shall~~ not be provided for any member
3848 who was not covered under the agreement as of November 30, 1970.

3849 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
3850 employees who are members ~~participants~~ of the investment plan
3851 are ~~optional program~~ shall be eligible to receive the retiree
3852 health insurance subsidy, subject to ~~the provisions of~~ s.
3853 112.363.

3854 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying
3855 information of a member of ~~participant in~~ the investment plan
3856 ~~Public Employee Optional Retirement Program~~ contained in Florida
3857 Retirement System records held by the state board ~~of~~

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3858 ~~Administration~~ or the department ~~of Management Services~~ is
3859 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
3860 Constitution.

3861 (20) DESIGNATION OF BENEFICIARIES.—

3862 (a) Each member ~~participant~~ may, by electronic means or on
3863 a form provided for that purpose, signed and filed with the
3864 third-party administrator, designate a choice of one or more
3865 persons, named sequentially or jointly, as his or her
3866 beneficiary for receiving ~~who shall receive~~ the benefits, if
3867 any, which may be payable pursuant to this chapter in the event
3868 of the member's ~~participant's~~ death. If no beneficiary is named
3869 in this manner, or if no beneficiary designated by the member
3870 ~~participant~~ survives the member ~~participant~~, the beneficiary
3871 shall be the spouse of the deceased, if living. If the member's
3872 ~~participant's~~ spouse is not alive at the time of the
3873 beneficiary's ~~his or her~~ death, the beneficiary shall be the
3874 member's living children ~~of the participant~~. If no children
3875 survive, the beneficiary shall be the member's ~~participant's~~
3876 father or mother, if living; otherwise, the beneficiary shall be
3877 the member's ~~participant's~~ estate. The beneficiary most recently
3878 designated by a member ~~participant on a form or letter filed~~
3879 ~~with the third party administrator~~ shall be the beneficiary
3880 entitled to any benefits payable at the time of the member's
3881 ~~participant's~~ death. However ~~Notwithstanding any other provision~~
3882 ~~in this subsection to the contrary,~~ if a member ~~for a~~
3883 ~~participant who~~ dies before ~~prior to~~ his or her effective date
3884 of retirement, the spouse at the time of death shall be the
3885 member's ~~participant's~~ beneficiary unless the member ~~such~~
3886 ~~participant~~ designates a different beneficiary ~~as provided in~~

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3887 ~~this subsection~~ subsequent to the member's ~~participant's~~ most
3888 recent marriage.

3889 (b) If a member ~~participant~~ designates a primary
3890 beneficiary other than the member's ~~participant's~~ spouse, the
3891 member's ~~participant's~~ spouse must sign the beneficiary
3892 designation form to acknowledge the designation. This
3893 requirement does not apply to the designation of one or more
3894 contingent beneficiaries to receive benefits remaining upon the
3895 death of the primary beneficiary or beneficiaries.

3896 (c) Notwithstanding the member's ~~participant's~~ designation
3897 of benefits to be paid through a trust to a beneficiary that is
3898 a natural person, ~~and notwithstanding~~ the provisions of the
3899 trust, benefits must ~~shall~~ be paid directly to the beneficiary
3900 if the person is no longer a minor or an incapacitated person as
3901 defined in s. 744.102.

3902 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
3903 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law
3904 ~~to the contrary~~, members participating ~~participants~~ in the
3905 Deferred Retirement Option Program offered under part I may,
3906 after conclusion of their participation in the program, elect to
3907 roll over or authorize a direct trustee-to-trustee transfer to
3908 an account under the investment plan ~~Public Employee Optional~~
3909 ~~Retirement Program~~ of their Deferred Retirement Option Program
3910 proceeds distributed as provided under s. 121.091(13)(c)5. The
3911 transaction must constitute an "eligible rollover distribution"
3912 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

3913 (a) The investment plan ~~Public Employee Optional Retirement~~
3914 ~~Program~~ may accept such amounts for deposit into member
3915 ~~participant~~ accounts as provided in paragraph (5)(e) ~~(5)(e)~~.

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3916 (b) The affected member ~~participant~~ shall direct the
 3917 investment of his or her investment account; however, unless he
 3918 or she becomes a renewed member of the Florida Retirement System
 3919 under s. 121.122 and elects to enroll ~~participate~~ in the
 3920 investment plan ~~Public Employee Optional Retirement program,~~
 3921 employer and employee contributions may not be made to the
 3922 member's ~~participant's~~ account as provided under paragraph
 3923 (5) (a).

3924 (c) The state board or the department is not responsible
 3925 for locating those persons who may be eligible to enroll
 3926 ~~participate~~ in the investment plan ~~Public Employee Optional~~
 3927 ~~Retirement Program~~ under this subsection.

3928 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any
 3929 member of the investment program includes ~~Public Employee~~
 3930 ~~Optional Retirement Program shall include~~ military service in
 3931 the Armed Forces of the United States as provided in ~~the~~
 3932 ~~conditions outlined in~~ s. 121.111(1).

3933 Section 23. Section 121.4502, Florida Statutes, is amended
 3934 to read:

3935 121.4502 Florida ~~Public Employee Optional Retirement System~~
 3936 Investment Plan ~~Program~~ Trust Fund.—

3937 (1) The Florida ~~Public Employee Optional Retirement System~~
 3938 Investment Plan ~~Program~~ Trust Fund is created to hold the assets
 3939 of the Florida ~~Public Employee Optional Retirement System~~
 3940 Investment Plan ~~Program~~ in trust for the exclusive benefit of
 3941 plan members ~~such program's participants~~ and beneficiaries, and
 3942 for the payment of reasonable administrative expenses of the
 3943 plan ~~program~~, in accordance with s. 401 of the Internal Revenue
 3944 Code, and shall be administered by the State Board of

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3945 Administration as trustee. Funds shall be credited to the trust
3946 fund as provided in this part ~~and, to be~~ used for the purposes
3947 of this part. The trust fund is exempt from the service charges
3948 imposed by s. 215.20.

3949 (2) The Florida Public Employee Optional Retirement System
3950 Investment Plan Program Trust Fund is a ~~retirement~~ trust fund of
3951 the Florida Retirement System that accounts for retirement plan
3952 assets held by the state in a trustee capacity as a fiduciary
3953 for individual members participants in the Florida Public
3954 ~~Employee Optional Retirement System Investment Plan Program~~ and,
3955 pursuant to s. 19(f), Art. III of the State Constitution, is not
3956 subject to termination.

3957 (3) A forfeiture account shall be created within the
3958 Florida Retirement System Investment Plan Public Employee
3959 ~~Optional Retirement Program~~ Trust Fund to hold the assets
3960 derived from the forfeiture of benefits by participating members
3961 ~~participants~~. Pursuant to a private letter ruling from the
3962 Internal Revenue Service, the forfeiture account may be used
3963 only for paying expenses of the Florida Retirement System
3964 Investment Plan Public Employee Optional Retirement Program and
3965 reducing future employer contributions to the program.
3966 Consistent with Rulings 80-155 and 74-340 of the Internal
3967 Revenue Service, unallocated reserves within the forfeiture
3968 account must be used as quickly and as prudently as possible
3969 considering the state board's fiduciary duty. Expected
3970 withdrawals from the account must endeavor to reduce the account
3971 to zero each fiscal year.

3972 Section 24. Subsections (1) and (3) of section 121.4503,
3973 Florida Statutes, are amended to read:

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3974 121.4503 Florida Retirement System Contributions Clearing
3975 Trust Fund.—

3976 (1) The Florida Retirement System Contributions Clearing
3977 Trust Fund is created as a clearing fund for disbursing employer
3978 and employee contributions to the component plans of the Florida
3979 Retirement System and shall be administered by the department ~~of~~
3980 ~~Management Services~~. Funds shall be credited to the trust fund
3981 as provided in this chapter and ~~shall be~~ held in trust for the
3982 contributing employers and employees until ~~such time as~~ the
3983 assets are transferred by the department to the Florida
3984 Retirement System Trust Fund, the Florida ~~Public Employee~~
3985 ~~Optional Retirement~~ System Investment Plan ~~Program~~ Trust Fund,
3986 or other trust funds as authorized by law, to be used for the
3987 purposes of this chapter. The trust fund is exempt from the
3988 service charges imposed by s. 215.20.

3989 (3) The department ~~of Management Services~~ may adopt rules
3990 governing the receipt and disbursement of amounts received by
3991 the Florida Retirement System Contributions Clearing Trust Fund
3992 from employers and employees contributing to the component plans
3993 of the Florida Retirement System.

3994 Section 25. Section 121.571, Florida Statutes, is amended
3995 to read:

3996 121.571 Contributions.—Contributions to the Florida ~~Public~~
3997 ~~Employee Optional Retirement~~ System Investment Plan ~~Program~~
3998 shall be made as follows:

3999 (1) CONTRIBUTORY ~~NONCONTRIBUTORY~~ PLAN.—Each employer and
4000 employee shall submit ~~accomplish the~~ contributions as required
4001 under ~~by~~ s. 121.71 ~~by a procedure in which no employee's gross~~
4002 ~~salary shall be reduced.~~

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4003 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
4004 retirement and disability benefits provided under this part must
4005 ~~shall~~ be based on the uniform contribution rates established by
4006 s. 121.71 and on the membership class or subclass of the
4007 employee participant. Such contributions must ~~shall~~ be allocated
4008 as provided in ss. 121.72 and 121.73.

4009 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
4010 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
4011 s. 121.71 are ~~this section shall be~~ in addition to employer and
4012 member contributions ~~required~~ for social security and the
4013 Retiree Health Insurance Subsidy Trust Fund as required under
4014 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as
4015 appropriate.

4016 Section 26. Section 121.591, Florida Statutes, is amended
4017 to read:

4018 121.591 Payment of benefits payable under the Public
4019 ~~Employee Optional Retirement Program of the Florida Retirement~~
4020 ~~System.~~—Benefits may not be paid under the Florida Retirement
4021 System Investment Plan ~~this section~~ unless the member has
4022 terminated employment as provided in s. 121.021(39)(a) or is
4023 deceased and a proper application has been filed as in the
4024 ~~manner~~ prescribed by the state board or the department. Before
4025 termination of employment, benefits are not payable under the
4026 investment plan for employee hardships, unforeseeable
4027 emergencies, loans, medical expenses, educational expenses,
4028 purchase of a principal residence, payments necessary to prevent
4029 eviction or foreclosure on an employee's principal residence, or
4030 any other reason prior to termination from all employment
4031 relationships with participating employers. The state board or

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4032 department, as appropriate, may cancel an application for
4033 retirement benefits if ~~when~~ the member or beneficiary fails to
4034 timely provide the information and documents required by this
4035 chapter and the rules of the state board and department. In
4036 accordance with their respective responsibilities ~~as provided~~
4037 ~~herein~~, the state board ~~of Administration~~ and the department ~~of~~
4038 ~~Management Services~~ shall adopt rules establishing procedures
4039 for application for retirement benefits and for the cancellation
4040 of such application if ~~when~~ the required information or
4041 documents are not received. The state board ~~of Administration~~
4042 and the department ~~of Management Services~~, as appropriate, are
4043 authorized to cash out a de minimis account of not more than
4044 \$5,000 of a member participant who has been terminated from
4045 Florida Retirement System covered employment for a minimum of 6
4046 calendar months. ~~A de minimis account is an account containing~~
4047 ~~employer contributions and accumulated earnings of not more than~~
4048 ~~\$5,000 made under the provisions of this chapter.~~ Such cash-out
4049 must ~~either~~ be a complete lump-sum liquidation of the account
4050 balance, subject to the provisions of the Internal Revenue Code,
4051 or a lump-sum direct rollover distribution paid directly to the
4052 custodian of an eligible retirement plan, as defined by the
4053 Internal Revenue Code, on behalf of the member participant. Any
4054 nonvested accumulations, including amounts transferred to the
4055 suspense account of the Florida Retirement System Investment
4056 Plan Trust Fund, are forfeited upon payment of any vested
4057 benefit to a member or beneficiary, except for de minimis
4058 distributions or minimum required distributions as provided
4059 under this section. If any financial instrument issued for the
4060 payment of retirement benefits under this section is not

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4061 presented for payment within 180 days after the last day of the
4062 month in which it was originally issued, the third-party
4063 administrator or other duly authorized agent of the state board
4064 ~~of Administration~~ shall cancel the instrument and credit the
4065 amount of the instrument to the suspense account of the Florida
4066 ~~Public Employee Optional Retirement~~ System Investment Plan
4067 ~~Program~~ Trust Fund authorized under s. 121.4501(6). Any ~~such~~
4068 amounts transferred to the suspense account are payable upon a
4069 proper application, not to include earnings thereon, as provided
4070 in this section, within 10 years after the last day of the month
4071 in which the instrument was originally issued, after which time
4072 such amounts and any earnings attributable to employer
4073 contributions are ~~thereon shall be~~ forfeited. Any ~~such~~ forfeited
4074 amounts are assets of the ~~Public Employee Optional Retirement~~
4075 ~~Program~~ trust fund and are not subject to the provisions of
4076 chapter 717.

4077 (1) NORMAL BENEFITS.—Under the Florida Public Employee
4078 ~~Optional Retirement~~ System Investment Plan ~~Program~~:

4079 (a) Benefits in the form of vested accumulations as
4080 described in s. 121.4501(6) are payable under this subsection in
4081 accordance with the following terms and conditions:

4082 1. ~~To the extent vested,~~ Benefits are payable only to a
4083 member, alternate payee of a qualified domestic relations order,
4084 or a beneficiary participant.

4085 2. Benefits shall be paid by the third-party administrator
4086 or designated approved providers in accordance with the law, the
4087 contracts, and any applicable board rule or policy.

4088 3. ~~To receive benefits,~~ The member participant must be
4089 terminated from all employment with all Florida Retirement

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4090 System employers, as provided in s. 121.021(39).

4091 4. Benefit payments may not be made until the member
4092 ~~participant~~ has been terminated for 3 calendar months, except
4093 that the state board may authorize by rule for the distribution
4094 of up to 10 percent of the member's ~~participant's~~ account after
4095 being terminated for 1 calendar month if the member ~~participant~~
4096 has reached the normal retirement date as defined in s. 121.021
4097 ~~of the defined benefit plan.~~

4098 5. If a member or former member of the Florida Retirement
4099 System receives an invalid distribution ~~from the Public Employee~~
4100 ~~Optional Retirement Program Trust Fund~~, such person must repay
4101 the full amount ~~invalid distribution to the trust fund~~ within 90
4102 days after receipt of final notification by the state board or
4103 the third-party administrator that the distribution was invalid,
4104 or, in lieu of repayment, must terminate employment from all
4105 participating employers. If such person fails to repay the full
4106 invalid distribution within 90 days after receipt of final
4107 notification, the person may be deemed retired from the
4108 investment plan ~~optional retirement program~~ by the state board,
4109 ~~as provided pursuant to s. 121.4501(2)(k),~~ and is subject to s.
4110 121.122. If such person is deemed retired ~~by the state board~~,
4111 any joint and several liability set out in s. 121.091(9)(d)2. is
4112 ~~becomes~~ null and void, and the state board, the department, or
4113 the employing agency is not liable for gains on payroll
4114 contributions that have not been deposited to the person's
4115 account in the investment plan ~~retirement program~~, pending
4116 resolution of the invalid distribution. The member or former
4117 member who has been deemed retired or who has been determined by
4118 the state board to have taken an invalid distribution may appeal

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4119 the agency decision through the complaint process as provided
4120 under s. 121.4501(9)(g)3. As used in this subparagraph, the term
4121 "invalid distribution" means any distribution from an account in
4122 the investment plan ~~optional retirement program~~ which is taken
4123 in violation of this section, s. 121.091(9), or s. 121.4501.

4124 (b) If a member ~~participant~~ elects to receive his or her
4125 benefits upon termination of employment as defined in s.
4126 121.021, the member ~~participant~~ must submit a written
4127 application or an application by electronic means to the third-
4128 party administrator indicating his or her preferred distribution
4129 date and selecting an authorized method of distribution as
4130 provided in paragraph (c). The member ~~participant~~ may defer
4131 receipt of benefits until he or she chooses to make such
4132 application, subject to federal requirements.

4133 (c) Upon receipt by the third-party administrator of a
4134 properly executed application for distribution of benefits, the
4135 total accumulated benefit is ~~shall be~~ payable to the member pro
4136 rata across all Florida Retirement System benefit sources
4137 ~~participant~~, as:

4138 1. A lump-sum or partial distribution to the member
4139 ~~participant~~;

4140 2. A lump-sum direct rollover distribution whereby all
4141 accrued benefits, plus interest and investment earnings, are
4142 paid from the member's ~~participant's~~ account directly to the
4143 custodian of an eligible retirement plan, as defined in s.
4144 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
4145 member ~~participant~~; or

4146 3. Periodic distributions, as authorized by the state
4147 board.

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4148 (d) The distribution payment method selected by the plan
 4149 member or beneficiary, and the retirement of the member or
 4150 beneficiary, is final and irrevocable at the time a benefit
 4151 distribution payment is cashed, deposited, or transferred to
 4152 another financial institution. Any additional service that
 4153 remains unclaimed at retirement may not be claimed or purchased,
 4154 and the type of retirement may not be changed, except that if a
 4155 member recovers from a disability, the member may subsequently
 4156 request normal service benefits under subsection (2).

4157 (e) A member may not receive a distribution of employee
 4158 contributions if a pending or approved qualified domestic
 4159 relations order is filed against the member's investment plan
 4160 account.

4161 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
 4162 this subsection are payable in lieu of the benefits that ~~which~~
 4163 would otherwise be payable under the provisions of subsection
 4164 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer
 4165 contributions ~~made under s. 121.571~~, transferred employee
 4166 contributions and participant funds accumulated pursuant to
 4167 paragraph (a), and interest and earnings thereon. ~~Pursuant~~
 4168 ~~thereto:~~

4169 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly
 4170 disability benefits under this subsection:

4171 1. All moneys accumulated in a member's account ~~the~~
 4172 ~~participant's Public Employee Optional Retirement Program~~
 4173 ~~accounts~~, including vested and nonvested accumulations as
 4174 described in s. 121.4501(6), must ~~shall~~ be transferred from such
 4175 individual accounts to the division ~~of Retirement~~ for deposit in
 4176 the disability account of the Florida Retirement System Trust

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4177 Fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for
 4178 separately. Earnings must ~~shall~~ be credited on an annual basis
 4179 for amounts held in the disability accounts ~~of the Florida~~
 4180 ~~Retirement System Trust Fund~~ based on actual earnings of the
 4181 ~~Florida Retirement System~~ trust fund.

4182 2. If the member ~~participant~~ has retained retirement credit
 4183 ~~he or she had~~ earned under the pension plan ~~defined benefit~~
 4184 ~~program of the Florida Retirement System~~ as provided in s.
 4185 121.4501(3) ~~s. 121.4501(3)(b)~~, a sum representing the actuarial
 4186 present value of such credit within the Florida Retirement
 4187 System Trust Fund shall be reassigned by the division ~~of~~
 4188 ~~Retirement~~ from the pension plan ~~defined benefit program~~ to the
 4189 disability program as implemented under this subsection and
 4190 shall be deposited in the disability account of the ~~Florida~~
 4191 ~~Retirement System~~ trust fund. Such moneys must ~~shall~~ be
 4192 ~~separately~~ accounted for separately.

4193 (b) *Disability retirement; entitlement.*—

4194 1. A member ~~participant~~ of the investment plan ~~Public~~
 4195 ~~Employee Optional Retirement program~~ who becomes totally and
 4196 permanently disabled, as defined in paragraph (d) ~~s.~~
 4197 121.091(4)(b), after completing 8 years of creditable service,
 4198 or a member ~~participant~~ who becomes totally and permanently
 4199 disabled in the line of duty regardless of ~~his or her~~ length of
 4200 service, is ~~shall~~ be entitled to a monthly disability benefit ~~as~~
 4201 ~~provided herein~~.

4202 2. In order for service to apply toward the 8 years of
 4203 creditable service required ~~to vest~~ for regular disability
 4204 benefits, or toward the creditable service used in calculating a
 4205 service-based benefit as provided ~~for~~ under paragraph (g), the

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4206 service must be creditable service as described below:

4207 a. The member's ~~participant's~~ period of service under the
4208 investment plan shall ~~Public Employee Optional Retirement~~
4209 ~~program will~~ be considered creditable service, except as
4210 provided in subparagraph d.

4211 b. If the member ~~participant~~ has elected to retain credit
4212 for ~~his or her~~ service under the pension plan ~~defined benefit~~
4213 ~~program of the Florida Retirement System~~ as provided under s.
4214 121.4501(3) ~~s. 121.4501(3)(b)~~, all such service shall ~~will~~ be
4215 considered creditable service.

4216 c. If the member elects ~~participant has elected~~ to transfer
4217 to his or her member ~~participant~~ accounts a sum representing the
4218 present value of his or her retirement credit under the pension
4219 plan ~~defined benefit program~~ as provided under s. 121.4501(3) ~~s.~~
4220 121.4501(3)(c), the period of service under the pension plan
4221 ~~defined benefit program~~ represented in the present value amounts
4222 transferred shall ~~will~~ be considered creditable service ~~for~~
4223 ~~purposes of vesting for disability benefits~~, except as provided
4224 in subparagraph d.

4225 d. If a member ~~Whenever a participant~~ has terminated
4226 employment and has taken distribution of his or her funds as
4227 provided in subsection (1), all creditable service represented
4228 by such distributed funds is forfeited for purposes of this
4229 subsection.

4230 (c) *Disability retirement effective date.*—The effective
4231 retirement date for a member ~~participant~~ who applies and is
4232 approved for disability retirement shall be established as
4233 provided under s. 121.091(4)(a)2. and 3.

4234 (d) *Total and permanent disability.*—A member is ~~participant~~

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4235 ~~shall be~~ considered totally and permanently disabled if, in the
4236 opinion of the division, he or she is prevented, by reason of a
4237 medically determinable physical or mental impairment, from
4238 rendering useful and efficient service as an officer or
4239 employee.

4240 (e) *Proof of disability.* ~~The division,~~ Before approving
4241 payment of any disability retirement benefit, the division shall
4242 require proof that the member participant is totally and
4243 permanently disabled ~~in the same manner~~ as provided ~~for members~~
4244 ~~of the defined benefit program of the Florida Retirement System~~
4245 under s. 121.091(4)(c).

4246 (f) *Disability retirement benefit.* ~~Upon the disability~~
4247 retirement of a member participant under this subsection, the
4248 member participant shall receive a monthly benefit that begins
4249 accruing ~~shall begin to accrue~~ on the first day of the month of
4250 disability retirement, as approved by the division, and is ~~shall~~
4251 ~~be~~ payable on the last day of that month and each month
4252 thereafter during his or her lifetime and continued disability.
4253 All disability benefits must ~~payable to such member shall~~ be
4254 paid out of the disability account of the Florida Retirement
4255 System Trust Fund established under this subsection.

4256 (g) *Computation of disability retirement benefit.* ~~The~~
4257 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~
4258 ~~same manner~~ as provided ~~for members of the defined benefit~~
4259 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
4260 ~~For such purpose,~~ Creditable service under both the pension plan
4261 ~~defined benefit program~~ and the investment plan ~~Public Employee~~
4262 ~~Optional Retirement Program of the Florida Retirement System~~
4263 shall be applicable as provided under paragraph (b).

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4264 (h) *Reapplication.*—A member participant whose initial
4265 application for disability retirement is ~~has been~~ denied may
4266 reapply for disability benefits in the same manner, and under
4267 the same conditions, as provided for members of the pension plan
4268 ~~defined benefit program of the Florida Retirement System~~ under
4269 s. 121.091(4)(g).

4270 (i) *Membership.*—Upon approval of a member's ~~an~~ application
4271 for disability benefits ~~under this subsection~~, the applicant
4272 shall be transferred to the pension plan ~~defined benefit program~~
4273 ~~of the Florida Retirement System~~, effective upon his or her
4274 disability retirement effective date.

4275 (j) *Option to cancel.*—A member ~~Any participant~~ whose
4276 application for disability benefits is approved may cancel the
4277 ~~his or her~~ application if ~~for disability benefits, provided that~~
4278 the cancellation request is received by the division before a
4279 disability retirement warrant has been deposited, cashed, or
4280 received by direct deposit. Upon ~~such~~ cancellation:

4281 1. The member's participant's transfer to the pension plan
4282 ~~defined benefit program~~ under paragraph (i) shall be nullified;

4283 2. The member participant shall be retroactively reinstated
4284 in the investment plan ~~Public Employee Optional Retirement~~
4285 ~~program~~ without hiatus;

4286 3. All funds transferred to the Florida Retirement System
4287 Trust Fund under paragraph (a) must ~~shall~~ be returned to the
4288 member participant accounts from which the ~~such~~ funds were
4289 drawn; and

4290 4. The member participant may elect to receive the benefit
4291 payable under ~~the provisions of~~ subsection (1) in lieu of
4292 disability benefits ~~as provided under this subsection~~.

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4293 (k) *Recovery from disability.*—

4294 1. The division may require periodic reexaminations at the
4295 expense of the disability program account of the Florida
4296 Retirement System Trust Fund. Except as ~~otherwise~~ provided in
4297 subparagraph 2., ~~the requirements, procedures, and restrictions~~
4298 ~~relating to the conduct and review of such reexaminations,~~
4299 ~~discontinuation or termination of benefits, reentry into~~
4300 ~~employment, disability retirement after reentry into covered~~
4301 ~~employment, and all other matters relating to recovery from~~
4302 disability shall be ~~the same as provided~~ are set forth under s.
4303 121.091(4)(h).

4304 2. Upon recovery from disability, the ~~any~~ recipient of
4305 disability retirement benefits under this subsection shall be
4306 transferred back to the investment plan ~~a compulsory member of~~
4307 ~~the Public Employee Optional Retirement Program of the Florida~~
4308 ~~Retirement System~~. The net difference between the recipient's
4309 original account balance transferred to the Florida Retirement
4310 System Trust Fund, including earnings, ~~under paragraph (a)~~ and
4311 total disability benefits paid to such recipient, if any, shall
4312 be determined as provided in sub-subparagraph a.

4313 a. An amount equal to the total benefits paid shall be
4314 subtracted from that portion of the transferred account balance
4315 consisting of vested accumulations as described under s.
4316 121.4501(6), if any, and an amount equal to the remainder of
4317 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
4318 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
4319 ~~described under s. 121.4501(6)~~.

4320 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
4321 be retained within the disability account of the Florida

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4322 Retirement System Trust Fund. Any remaining account balance
4323 shall be transferred to the third-party administrator for
4324 disposition as provided under sub-subparagraph c. or sub-
4325 subparagraph d., as appropriate.

4326 c. If the recipient returns to covered employment,
4327 transferred amounts must ~~shall~~ be deposited in individual
4328 accounts under the investment plan ~~Public Employee Optional~~
4329 ~~Retirement program~~, as directed by the member ~~participant~~.
4330 Vested and nonvested amounts shall be separately accounted for
4331 as provided in s. 121.4501(6).

4332 d. If the recipient fails to return to covered employment
4333 upon recovery from disability:

4334 (I) Any remaining vested amount must ~~shall~~ be deposited in
4335 individual accounts under the investment plan ~~Public Employee~~
4336 ~~Optional Retirement program~~, as directed by the member
4337 ~~participant~~, and is ~~shall~~ be payable as provided in subsection
4338 (1).

4339 (II) Any remaining nonvested amount must ~~shall~~ be held in a
4340 suspense account and is ~~shall~~ be forfeitable after 5 years as
4341 provided in s. 121.4501(6).

4342 3. If present value was reassigned from the pension plan
4343 ~~defined benefit program~~ to the disability program ~~of the Florida~~
4344 ~~Retirement System~~ as provided under subparagraph (a)2., the full
4345 present value amount must ~~shall~~ be returned to the pension plan
4346 ~~defined benefit account~~ within the Florida Retirement System
4347 Trust Fund and the recipient's ~~affected individual's~~ associated
4348 retirement credit under the pension plan ~~must~~ ~~defined benefit~~
4349 ~~program~~ ~~shall~~ be reinstated in full. Any benefit based upon such
4350 credit must ~~shall~~ be calculated as provided in s.

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4351 121.091(4)(h)1.

4352 (l) *Nonadmissible causes of disability.*—A member is
4353 ~~participant shall not be~~ entitled to ~~receive~~ a disability
4354 retirement benefit if the disability results from any injury or
4355 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

4356 (m) *Disability retirement of justice or judge by order of*
4357 *Supreme Court.*—

4358 1. If a member ~~participant~~ is a justice of the Supreme
4359 Court, judge of a district court of appeal, circuit judge, or
4360 judge of a county court who has served for 6 years or more as an
4361 elected constitutional judicial officer, including service as a
4362 judicial officer in any court abolished pursuant to Art. V of
4363 the State Constitution, and who is retired for disability ~~by~~
4364 ~~order of the Supreme Court upon recommendation of the Judicial~~
4365 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
4366 Art. V of the State Constitution, the member's ~~participant's~~
4367 Option 1 monthly disability benefit amount as provided in s.
4368 121.091(6)(a)1. shall be two-thirds of his or her monthly
4369 compensation as of the member's ~~participant's~~ disability
4370 retirement date. The member ~~Such a participant~~ may alternatively
4371 elect to receive an actuarially adjusted disability retirement
4372 benefit under any other option as provided in s. 121.091(6)(a),
4373 or ~~to~~ receive the normal benefit payable under ~~the Public~~
4374 ~~Employee Optional Retirement Program as set forth in subsection~~
4375 (1).

4376 2. If any justice or judge who is a member ~~participant~~ of
4377 the investment plan ~~Public Employee Optional Retirement program~~
4378 ~~of the Florida Retirement System~~ is retired for disability ~~by~~
4379 ~~order of the Supreme Court upon recommendation of the Judicial~~

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4380 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
4381 Art. V of the State Constitution, and elects to receive a
4382 monthly disability benefit under ~~the provisions of~~ this
4383 paragraph:

4384 a. Any present value amount that was transferred to his or
4385 her plan ~~program~~ account and all employer and employee
4386 contributions made to such account on his or her behalf, plus
4387 interest and earnings thereon, must ~~shall~~ be transferred to and
4388 deposited in the disability account of the Florida Retirement
4389 System Trust Fund; and

4390 b. The monthly disability benefits payable under this
4391 paragraph for any affected justice or judge retired from the
4392 Florida Retirement System pursuant to Art. V of the State
4393 Constitution shall be paid from the disability account of the
4394 Florida Retirement System Trust Fund.

4395 (n) *Death of retiree or beneficiary.*—Upon the death of a
4396 disabled retiree or beneficiary of the retiree ~~thereof~~ who is
4397 receiving monthly disability benefits under this subsection, the
4398 monthly benefits shall be paid through the last day of the month
4399 of death and shall terminate, or be adjusted, if applicable, as
4400 of that date in accordance with the optional form of benefit
4401 selected at the time of retirement. The department ~~of Management~~
4402 ~~Services~~ may adopt rules necessary to administer this paragraph.

4403 (3) DEATH BENEFITS.—Under the Florida ~~Public Employee~~
4404 ~~Optional Retirement System Investment Plan Program~~:

4405 (a) Survivor benefits are ~~shall be~~ payable in accordance
4406 with the following terms and conditions:

4407 1. ~~To the extent vested,~~ Benefits are ~~shall be~~ payable only
4408 to a member's ~~participant's~~ beneficiary or beneficiaries as

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4409 designated by the member ~~participant~~ as provided in s.
4410 121.4501(20).

4411 2. Benefits shall be paid by the third-party administrator
4412 or designated approved providers in accordance with the law, the
4413 contracts, and any applicable state board rule or policy.

4414 3. To receive benefits ~~under this subsection~~, the member
4415 ~~participant~~ must be deceased.

4416 (b) Except as provided in paragraph (d), if the employment
4417 of a member is terminated by reason of his or her ~~In the event~~
4418 ~~of a participant's~~ death:

4419 1. Before being vested, only the member's accumulated
4420 contributions are payable to his or her designated beneficiary.

4421 2. After being vested, all vested accumulations as
4422 described in s. 121.4501(6), less withholding taxes remitted to
4423 the Internal Revenue Service, shall be distributed, as provided
4424 in paragraph (c) or as described in s. 121.4501(20), as if the
4425 member ~~participant~~ retired on the date of death. No other death
4426 benefits are ~~shall be~~ available for survivors of members
4427 ~~participants~~ under the investment plan ~~Public Employee Optional~~
4428 ~~Retirement Program~~, except for ~~such~~ benefits, or coverage for
4429 ~~such~~ benefits, as are otherwise provided by law or ~~are~~
4430 separately provided ~~afforded~~ by the employer, at the employer's
4431 discretion.

4432 (c) Upon receipt by the third-party administrator of a
4433 properly executed application for distribution of benefits under
4434 paragraph (b), the total accumulated benefit is ~~shall be~~ payable
4435 by the third-party administrator to the member's ~~participant's~~
4436 surviving beneficiary or beneficiaries, as:

4437 1. A lump-sum distribution payable to the beneficiary or

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4438 beneficiaries, or to the deceased member's ~~participant's~~ estate;

4439 2. An eligible rollover distribution on behalf of the
4440 surviving spouse of a deceased member ~~participant~~, whereby all
4441 accrued benefits, plus interest and investment earnings, are
4442 paid from the deceased member's ~~participant's~~ account directly
4443 to the custodian of an eligible retirement plan, as described in
4444 s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
4445 surviving spouse; or

4446 3. A partial lump-sum payment whereby a portion of the
4447 accrued benefit is paid to the deceased member's ~~participant's~~
4448 surviving spouse or other designated beneficiaries, less
4449 withholding taxes remitted to the Internal Revenue Service, and
4450 the remaining amount is transferred directly to the custodian of
4451 an eligible retirement plan, as described in s. 402(c)(8)(B) of
4452 the Internal Revenue Code, on behalf of the surviving spouse.
4453 The proportions must be specified by the member ~~participant~~ or
4454 the surviving beneficiary.

4455
4456 This paragraph does not abrogate other applicable provisions of
4457 state or federal law providing for payment of death benefits.

4458 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
4459 any person under the Florida Public Employee Optional Retirement
4460 System Investment Plan Program, and any contributions
4461 accumulated under such plan program, are not subject to
4462 assignment, execution, attachment, or any legal process, except
4463 for qualified domestic relations orders by a court of competent
4464 jurisdiction, income deduction orders as provided in s. 61.1301,
4465 and federal income tax levies.

4466 Section 27. Section 121.5911, Florida Statutes, is amended

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4467 to read:

4468 121.5911 Disability retirement program; qualified status;
 4469 rulemaking authority.—It is the intent of the Legislature that
 4470 the disability retirement program for members ~~participants~~ of
 4471 the Florida Public Employee Optional Retirement System
 4472 Investment Plan Program ~~as created in this act~~ must meet all
 4473 applicable requirements of federal law for a qualified plan. The
 4474 department ~~of Management Services~~ shall seek a private letter
 4475 ruling from the Internal Revenue Service on the disability
 4476 retirement program ~~for participants of the Public Employee~~
 4477 ~~Optional Retirement Program~~. Consistent with the private letter
 4478 ruling, the department ~~of Management Services~~ shall adopt any
 4479 necessary rules necessary ~~required~~ to maintain the qualified
 4480 status of the disability retirement program and the Florida
 4481 Retirement System's pension System ~~defined benefit~~ plan.

4482 Section 28. Subsection (1) of section 121.70, Florida
 4483 Statutes, is amended to read:

4484 121.70 Legislative purpose and intent.—

4485 (1) This part provides for a uniform system for funding
 4486 benefits provided under the Florida Retirement System defined
 4487 benefit program established under part I of this chapter,
 4488 ~~(referred to in this part as the pension plan, defined benefit~~
 4489 ~~program)~~ and under the Florida Public Employee Optional
 4490 Retirement System Investment Plan Program established under part
 4491 II of this chapter, ~~(referred to in this part as the investment~~
 4492 ~~plan optional retirement program)~~. The Legislature recognizes
 4493 and declares that the Florida Retirement System is a single
 4494 retirement system, consisting of two retirement plans and other
 4495 nonintegrated programs. Employers and employees participating in

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4496 the Florida Retirement System collectively shall be responsible
 4497 for making contributions to support the benefits provided
 4498 ~~afforded~~ under both programs ~~plans~~. ~~The As provided in this~~
 4499 ~~part,~~ employers and employees ~~participating in the Florida~~
 4500 ~~Retirement System~~ shall make contributions based upon uniform
 4501 contribution rates determined as a percentage of the total
 4502 payroll for each class or subclass of Florida Retirement System
 4503 membership, irrespective of which retirement program the plan
 4504 individual employee is enrolled in ~~employees may elect~~. This
 4505 shall be known as a uniform or blended contribution rate system.

4506 Section 29. Subsections (1) and (2) of section 121.71,
 4507 Florida Statutes, are amended, present subsections (3) and (4)
 4508 of that section are renumbered as subsections (4) and (7),
 4509 respectively, and new subsections (3), (5), and (6) are added to
 4510 that section, to read:

4511 121.71 Uniform rates; process; calculations; levy.—

4512 (1) In conducting the system actuarial study required under
 4513 s. 121.031, the actuary shall follow all requirements specified
 4514 ~~thereunder~~ to determine, by Florida Retirement System employee
 4515 membership class, the dollar contribution amounts necessary for
 4516 the next forthcoming fiscal year for the pension plan defined
 4517 ~~benefit program~~. In addition, the actuary shall determine, by
 4518 Florida Retirement System membership class, based on an estimate
 4519 for the forthcoming fiscal year of the gross compensation of
 4520 employees participating in the investment plan optional
 4521 ~~retirement program~~, the dollar contribution amounts necessary to
 4522 make the allocations required under ss. 121.72 and 121.73. For
 4523 each employee membership class and subclass, the actuarial study
 4524 must ~~shall~~ establish a uniform rate necessary to fund the

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4525 benefit obligations under both Florida Retirement System
4526 retirement plans by dividing the sum of total dollars required
4527 by the estimated gross compensation of members in both plans.

4528 (2) Based on the uniform rates set forth in subsections
4529 ~~subsection~~ (3), (4), and (5), employers and employees shall make
4530 monthly contributions to the division as required under s.
4531 121.061(1) of Retirement, which shall initially deposit the
4532 funds into the Florida Retirement System Contributions Clearing
4533 Trust Fund. A change in a contribution rate is effective on the
4534 first day of the month for which a full month's ~~employer~~
4535 contribution may be made on or after the beginning date of the
4536 change. Beginning July 1, 2011, each employee shall contribute
4537 the contributions required in subsection (3) to the plan. The
4538 employer shall deduct the contribution from the employee's
4539 monthly salary and submit it to the division. The contributions
4540 shall be reported as employer-paid employee contributions, and
4541 shall be credited to the account of the employee. The
4542 contributions shall be deducted from the employee's salary
4543 before the computation of applicable federal taxes and treated
4544 as employer contributions under 26 U.S.C. 414(h) (2). Although
4545 designated as employee contributions, the employer specifies
4546 that the contributions are being paid by the employer in lieu of
4547 contributions by the employee. The employee does not have the
4548 option of choosing to receive the contributed amounts directly
4549 instead of having them paid to the plan. Such contributions are
4550 mandatory and each employee is deemed to have consented to the
4551 payroll deductions. Payment of an employee's salary or wages,
4552 less the contribution, is a full and complete discharge and
4553 satisfaction of all claims and demands for the service rendered

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4554 by employees during the period covered by the payment, except
 4555 for claims to benefits to which they may be entitled under this
 4556 chapter.

4557 (3) Effective July 1, 2011, the required employee
 4558 retirement contribution rates for all members of the Florida
 4559 Retirement System for both the pension and investment plans is 3
 4560 percent of gross compensation.

4561 (4)~~(3)~~ Required employer retirement contribution rates for
 4562 each membership class and subclass of the Florida Retirement
 4563 System for both retirement plans are as follows:
 4564

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	Percentage of Gross Compensation, Effective July 1, 2010
Regular Class	<u>5.09%</u> 8.69%	9.63%
Special Risk Class	<u>13.80%</u> 19.76%	22.11%
Special Risk Administrative Support Class	<u>6.67%</u> 11.39%	12.10%
Elected Officers' Class-	<u>9.46%</u> 13.32%	15.20%

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

4570

Elected Officers' Class—
 Justices, Judges 12.02% ~~18.40%~~ ~~20.65%~~

4571

Elected Officers' Class—
 County Elected Officers 11.44% ~~15.37%~~ ~~17.50%~~

4572

Senior Management Class 6.88% ~~11.96%~~ ~~13.43%~~

4573

DROP 3.12% ~~9.80%~~ ~~11.14%~~

4574

4575

4576

4577

4578

4579

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

Percentage of
Gross
Compensation,
Effective
July 1, 2011

4580

Membership Class
Regular Class

0.00%

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4581

Special Risk Class 0.00%

4582

Special Risk
Administrative
Support Class 0.00%

4583

Elected Officers'
Class-
Legislators, Governor,
Lt. Governor,
Cabinet Officers,
State Attorneys,
Public Defenders 0.00%

4584

Elected Officers'
Class-
Justices, Judges 0.00%

4585

Elected Officers'
Class-
County Elected
Officers 0.00%

4586

Senior Management Class 0.00%

4587

DROP 0.00%

4588

4589

(6) If a member is reported under an incorrect membership

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4590 class and the amount of contributions reported and remitted are
4591 less than the amount required, the employer shall owe the
4592 difference plus the delinquent fee of 1 percent for each
4593 calendar month or part thereof that the contributions should
4594 have been paid. This delinquent assessment may not be waived. If
4595 the contributions reported and remitted are more than the amount
4596 required, the employer shall receive a credit to be applied
4597 against future contributions owed.

4598 (7) ~~(4)~~ The state actuary shall recognize and use an
4599 appropriate level of available excess assets of the Florida
4600 Retirement System Trust Fund to offset the difference between
4601 the normal costs of the Florida Retirement System and the
4602 statutorily prescribed contribution rates.

4603 Section 30. Section 121.72, Florida Statutes, is amended to
4604 read:

4605 121.72 Allocations to investment plan member ~~optional~~
4606 ~~retirement program participant~~ accounts; percentage amounts.—

4607 (1) The allocations established in subsection (4) shall
4608 fund retirement benefits under the investment plan under part II
4609 of this chapter ~~optional retirement program~~ and shall be
4610 transferred monthly by the division ~~of Retirement~~ from the
4611 Florida Retirement System Contributions Clearing Trust Fund to
4612 the third-party administrator for deposit in each participating
4613 employee's individual account based on the membership class of
4614 the employee ~~participant~~.

4615 (2) The allocations are stated as a percentage of each
4616 investment plan member's ~~optional retirement program~~
4617 ~~participant's~~ gross compensation for the calendar month. A
4618 change in a contribution percentage is effective the first day

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4619 of the month for which retirement contributions ~~a full month's~~
 4620 ~~employer contribution~~ may be made on or after the beginning date
 4621 of the change. Contribution percentages may be modified by
 4622 general law.

4623 (3) Employer and employee ~~participant~~ contributions to
 4624 member's ~~participant~~ accounts shall be accounted for separately.
 4625 ~~Participant contributions may be made only if expressly~~
 4626 ~~authorized by law.~~ Interest and investment earnings on
 4627 contributions shall accrue on a tax-deferred basis until
 4628 proceeds are distributed.

4629 (4) Effective July 1, 2011 ~~July 1, 2002~~, allocations from
 4630 the Florida Retirement System Contributions Clearing Trust Fund
 4631 to investment plan member ~~optional retirement program~~
 4632 ~~participant~~ accounts, including employee contributions required
 4633 under s. 121.71(3), are ~~shall be~~ as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	9.00%
Special Risk Class	20.00%
Special Risk Administrative Support Class	11.35%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers,	13.40%

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State Attorneys, Public Defenders

4639

Elected Officers' Class-

Justices, Judges 18.90%

4640

Elected Officers' Class-

County Elected Officers 16.20%

4641

Senior Management Service Class 10.95%

4642

4643 Section 31. Section 121.73, Florida Statutes, is amended to
4644 read:

4645 121.73 Allocations for member ~~optional retirement program~~
4646 ~~participant~~ disability coverage; percentage amounts.-

4647 (1) The allocations established in subsection (3) shall be
4648 used to provide disability coverage for members of the
4649 investment plan ~~participants in the optional retirement program~~
4650 and shall be transferred monthly by the division ~~of Retirement~~
4651 from the Florida Retirement System Contributions Clearing Trust
4652 Fund to the disability account of the Florida Retirement System
4653 Trust Fund.

4654 (2) The allocations are stated as a percentage of each
4655 investment plan member's ~~optional retirement program~~
4656 ~~participant's~~ gross compensation for the calendar month. A
4657 change in a contribution percentage is effective the first day
4658 of the month for which retirement contributions ~~a full month's~~
4659 ~~employer contribution~~ may be made on or after the beginning date
4660 of the change. Contribution percentages may be modified by
4661 general law.

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4662 (3) Effective July 1, 2002, allocations from the Florida
 4663 Retirement System ~~FRS~~ Contribution Clearing Fund to provide
 4664 disability coverage for members of the investment plan
 4665 ~~participants in the optional retirement program~~, and to offset
 4666 the costs of administering said coverage, shall be as follows:
 4667

Membership Class	Percentage of Gross Compensation
4668 Regular Class	0.25%
4669 Special Risk Class	1.33%
4670 Special Risk Administrative Support Class	0.45%
4671 Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
4672 Elected Officers' Class— Justices, Judges	0.73%
4673 Elected Officers' Class— County Elected Officers	0.41%
4674 Senior Management Service Class	0.26%
4675	

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4676 (4) Effective July 1, 2011, allocations from the Florida
4677 Retirement System Contribution Clearing Fund to provide
4678 disability coverage for members of the investment plan and to
4679 offset the costs of administering such coverage shall be the
4680 actuarially indicated amount necessary to fund the statutorily
4681 authorized benefit for the plan year as determined by the
4682 department's actuary.

4683 Section 32. Section 121.74, Florida Statutes, is amended to
4684 read:

4685 121.74 Administrative and educational expenses.—In addition
4686 to contributions required under ss. ~~ss.~~ 121.71 and 121.73,
4687 effective July 1, 2010, through June 30, 2014, employers
4688 participating in the Florida Retirement System shall contribute
4689 an amount equal to 0.03 percent of the payroll reported for each
4690 class or subclass of Florida Retirement System membership;
4691 effective July 1, 2014, the contribution rate shall be 0.04
4692 percent of the payroll reported for each class or subclass of
4693 membership. The amount contributed shall be transferred by the
4694 division ~~of Retirement~~ from the Florida Retirement System
4695 Contributions Clearing Trust Fund to the state board's ~~Board of~~
4696 ~~Administration's~~ administrative trust fund to offset the costs
4697 of administering the investment plan ~~optional retirement program~~
4698 and the costs of providing educational services to members
4699 participating participants in the pension plan ~~defined benefit~~
4700 ~~program~~ and the investment plan ~~optional retirement program~~.
4701 Approval of the trustees is required before the expenditure of
4702 these funds. Payments for third-party administrative or
4703 educational expenses shall be made only pursuant to the terms of
4704 the approved contracts for such services.

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4705 Section 33. Section 121.75, Florida Statutes, is amended to
4706 read:

4707 121.75 Allocation for pension plan ~~defined benefit~~
4708 ~~program~~.—After making the transfers required pursuant to ss.
4709 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds
4710 in the Florida Retirement System Contributions Clearing Trust
4711 Fund shall be transferred to the Florida Retirement System Trust
4712 Fund to pay the costs of providing pension plan ~~defined benefit~~
4713 ~~program~~ benefits and plan administrative costs under the pension
4714 plan ~~defined benefit program~~.

4715 Section 34. Section 121.77, Florida Statutes, is amended to
4716 read:

4717 121.77 Deductions from member ~~participant~~ accounts.—The
4718 State Board of Administration may authorize the third-party
4719 administrator to deduct reasonable fees and apply appropriate
4720 charges to investment plan member ~~optional retirement program~~
4721 ~~participant~~ accounts. In no event may ~~shall~~ administrative and
4722 educational expenses exceed the portion of employer
4723 contributions earmarked for such expenses under this part,
4724 except for reasonable administrative charges assessed against
4725 member ~~participant~~ accounts of persons for whom no employer
4726 contributions are made during the calendar quarter. Investment
4727 management fees shall be deducted from member ~~participant~~
4728 accounts, pursuant to the terms of the contract between the
4729 provider and the board.

4730 Section 35. Subsections (1) and (3) of section 121.78,
4731 Florida Statutes, are amended to read:

4732 121.78 Payment and distribution of contributions.—

4733 (1) Contributions made pursuant to this part, including the

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4734 employee contributions, shall be paid by the employer to the
4735 division ~~of Retirement~~ by electronic funds transfer no later
4736 than the 5th working day of the month immediately following the
4737 month during which the payroll period ended. Accompanying
4738 payroll data must be transmitted to the division concurrent with
4739 the contributions.

4740 (3) (a) Employer and employee contributions and accompanying
4741 payroll data received after the 5th working day of the month are
4742 considered late. The employer shall be assessed by the division
4743 ~~of Retirement~~ a penalty of 1 percent of the contributions due
4744 for each calendar month or part thereof that the contributions
4745 or accompanying payroll data are late. Proceeds from the 1
4746 percent ~~1-percent~~ assessment against contributions made on
4747 behalf of members of the pension plan ~~participants of the~~
4748 ~~defined benefit program~~ shall be deposited in the Florida
4749 Retirement System Trust Fund, and proceeds from the 1 percent ~~1-~~
4750 ~~percent~~ assessment against contributions made on behalf of
4751 members of the investment plan ~~participants of the optional~~
4752 ~~retirement program~~ shall be transferred to the third-party
4753 administrator for deposit into member ~~participant~~ accounts, as
4754 provided in paragraph (c) ~~(b)~~.

4755 (b) Retirement contributions paid for a prior period shall
4756 be charged a delinquent fee of 1 percent for each calendar month
4757 or part thereof that the contributions should have been paid.
4758 This includes prior period contributions due to incorrect wages,
4759 contributions from an earlier report or wages, and contributions
4760 that should have been reported but were not. The delinquent
4761 assessments may not be waived.

4762 (c) ~~(b)~~ If employee contributions or contributions made by

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4763 an employer on behalf of members of the investment plan
4764 ~~participants of the optional retirement program~~ or accompanying
4765 payroll data are not received within the calendar month they are
4766 due, including, but not limited to, contribution adjustments as
4767 a result of employer errors or corrections, and if that
4768 delinquency results in market losses to members ~~participants~~,
4769 the employer shall reimburse each member's ~~participant's~~ account
4770 for market losses resulting from the late contributions. If a
4771 member ~~participant~~ has terminated employment and taken a
4772 distribution, the member ~~participant~~ is responsible for
4773 returning any excess contributions erroneously provided by
4774 employers, adjusted for any investment gain or loss incurred
4775 during the period such excess contributions were in the member's
4776 ~~participant's~~ account. The state board or its designated agent
4777 shall communicate to terminated members ~~participants~~ any
4778 obligation to repay such excess contribution amounts. However,
4779 the state board, its designated agents, the Florida Public
4780 ~~Employee Optional Retirement System Investment Plan Program~~
4781 Trust Fund, the department, or the Florida Retirement System
4782 Trust Fund may not incur any loss or gain as a result of an
4783 employer's correction of such excess contributions. The third-
4784 party administrator, hired by the state board pursuant to s.
4785 121.4501(8), shall calculate the market losses for each affected
4786 member ~~participant~~. If contributions made on behalf of members
4787 of the investment plan ~~participants of the optional retirement~~
4788 ~~program~~ or accompanying payroll data are not received within the
4789 calendar month due, the employer shall also pay the cost of the
4790 third-party administrator's calculation and reconciliation
4791 adjustments resulting from the late contributions. The third-

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4792 party administrator shall notify the employer of the results of
4793 the calculations and the total amount due from the employer for
4794 such losses and the costs of calculation and reconciliation. The
4795 employer shall remit to the division ~~of Retirement~~ the amount
4796 due within 30 working days after the date of the penalty notice
4797 sent by the division. The division shall transfer that amount to
4798 the third-party administrator, which shall deposit proceeds from
4799 the 1 percent ~~1-percent~~ assessment and from individual market
4800 losses into member ~~participant~~ accounts, as appropriate. The
4801 state board may adopt rules to administer the provisions
4802 regarding late contributions, late submission of payroll data,
4803 the process for reimbursing member ~~participant~~ accounts for
4804 resultant market losses, and the penalties charged to the
4805 employers.

4806 (d) If employee contributions reported by an employer on
4807 behalf of the employee are reduced as a result of employer
4808 errors or corrections and the employee has terminated employment
4809 and taken a refund or distribution, the employer shall be billed
4810 and is responsible for recovering from the employee any excess
4811 contributions erroneously provided by the employer.

4812 (e) ~~(e)~~ Delinquency fees specified in paragraph (a) may be
4813 waived by the division ~~of Retirement~~, with regard to pension
4814 plan ~~defined benefit program~~ contributions, and by the state
4815 board, with regard to investment plan ~~optional retirement~~
4816 ~~program~~ contributions, only if, in the opinion of the division
4817 or the board, as appropriate, exceptional circumstances beyond
4818 the employer's control prevented remittance by the prescribed
4819 due date notwithstanding the employer's good faith efforts to
4820 effect delivery. Such a waiver of delinquency may be granted an

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4821 employer only once each plan ~~state fiscal~~ year.

4822 (f) If the employer submits excess employer or employee
4823 contributions, the employer shall receive a credit to be applied
4824 against future contributions owed. The employer is responsible
4825 for reimbursing the employee for any excess contributions
4826 submitted if any return of such an erroneous excess pretax
4827 contribution by the program is made within 1 year after making
4828 erroneous contributions or such other period as allowed under
4829 applicable Internal Revenue Service guidance.

4830 (g) ~~(d)~~ If contributions made by an employer on behalf of
4831 members of the investment program ~~participants in the optional~~
4832 ~~retirement program~~ are delayed in posting to member ~~participant~~
4833 accounts due to acts of God beyond the control of the division
4834 ~~of Retirement~~, the state board, or the third-party
4835 administrator, as applicable, market losses resulting from the
4836 late contributions are not payable to the members ~~participants~~.

4837 Section 36. Subsection (1) of section 175.121, Florida
4838 Statutes, is amended to read:

4839 175.121 Department of Revenue and Division of Retirement to
4840 keep accounts of deposits; disbursements.—For any municipality
4841 or special fire control district having a chapter or local law
4842 plan established pursuant to this chapter:

4843 (1) The Department of Revenue shall keep a separate account
4844 of all moneys collected for each municipality and each special
4845 fire control district pursuant to ~~under the provisions of~~ this
4846 chapter. All moneys so collected must be transferred to the
4847 Police and Firefighters' Premium Tax Trust Fund and ~~shall be~~
4848 separately accounted for by the division. The moneys budgeted as
4849 necessary to pay the expenses of the division for the daily

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4850 oversight and monitoring of the firefighters' pension plans
4851 under this chapter and for the oversight and actuarial reviews
4852 conducted under part VII of chapter 112 are annually
4853 appropriated from the following sources in the order listed:

4854 (a) Interest and investment income earned on the moneys
4855 collected for each municipality or special fire control district
4856 and deposited in the Police and Firefighters' Premium Tax Trust
4857 Fund. Interest and investment income remaining ~~thereafter~~ in the
4858 trust fund which is unexpended and otherwise unallocated by law
4859 shall revert to the General Revenue Fund on June 30 of each
4860 year.

4861 (b) Moneys collected for each municipality or special fire
4862 control district and deposited in the Police and Firefighters'
4863 Premium Tax Trust Fund. Moneys used pursuant to this paragraph
4864 shall be reimbursed during years in which there is an excess of
4865 interest and investment income under paragraph (a).

4866 Section 37. Subsection (1) of section 175.341, Florida
4867 Statutes, is amended to read:

4868 175.341 Duties of Division of Retirement; rulemaking
4869 authority; investments by State Board of Administration.—

4870 (1) The division is ~~shall be~~ responsible for the daily
4871 oversight and monitoring of the ~~for~~ actuarial soundness of the
4872 firefighters' pension plans, whether chapter or local law plans,
4873 established under this chapter, for receiving and holding the
4874 premium tax moneys collected under this chapter, and, upon
4875 determining compliance with the provisions of this chapter, for
4876 disbursing those moneys to the firefighters' pension plans. The
4877 funds necessary to pay expenses for such administration shall be
4878 annually appropriated as provided in s. 175.121(1) ~~from the~~

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4879 ~~interest and investment income earned on moneys deposited in the~~
4880 ~~trust fund.~~

4881 Section 38. Subsection (1) of section 185.10, Florida
4882 Statutes, is amended to read:

4883 185.10 Department of Revenue and Division of Retirement to
4884 keep accounts of deposits; disbursements.—For any municipality
4885 having a chapter plan or local law plan under this chapter:

4886 (1) The Department of Revenue shall keep a separate account
4887 of all moneys collected for each municipality pursuant to ~~under~~
4888 ~~the provisions of~~ this chapter. All moneys so collected must be
4889 transferred to the Police and Firefighters' Premium Tax Trust
4890 Fund and ~~shall be~~ separately accounted for by the division. The
4891 moneys budgeted as necessary to pay the expenses of the division
4892 for the daily oversight and monitoring of the police officers'
4893 retirement plans under this chapter and for the oversight and
4894 actuarial reviews conducted under part VII of chapter 112 are
4895 annually appropriated from the following sources in the order
4896 listed:

4897 (a) Interest and investment income earned on the moneys
4898 collected for each municipality or special fire control district
4899 and deposited in the Police and Firefighters' Premium Tax Trust
4900 Fund. Interest and investment income remaining ~~thereafter~~ in the
4901 trust fund which is unexpended and otherwise unallocated by law
4902 shall revert to the General Revenue Fund on June 30 of each
4903 year.

4904 (b) Moneys collected for each municipality or special fire
4905 control district and deposited in the Police and Firefighters'
4906 Premium Tax Trust Fund. Moneys used pursuant to this paragraph
4907 shall be reimbursed during years in which there is an excess of

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4908 interest and investment income under paragraph (a).

4909 Section 39. Subsection (1) of section 185.23, Florida
4910 Statutes, is amended to read:

4911 185.23 Duties of Division of Retirement; rulemaking
4912 authority; investments by State Board of Administration.—

4913 (1) The division is ~~shall be~~ responsible for the daily
4914 oversight and monitoring of the ~~for~~ actuarial soundness of the
4915 municipal police officers' retirement plans, whether chapter or
4916 local law plans, established under this chapter, for receiving
4917 and holding the premium tax moneys collected under this chapter,
4918 and, upon determining compliance with the provisions of this
4919 chapter, for disbursing those moneys to the municipal police
4920 officers' retirement plans. The funds to pay the expenses for
4921 such administration shall be annually appropriated as provided
4922 in s. 185.10(1) ~~from the interest and investment income earned~~
4923 ~~on moneys deposited in the trust fund.~~

4924 Section 40. Subsection (1) of section 250.22, Florida
4925 Statutes, is amended to read:

4926 250.22 Retirement.—

4927 (1) Any person who is at least 62 years of age and ~~who~~ has
4928 completed at least ~~not less than~~ 30 years of service as an
4929 officer or enlisted person in the Florida National Guard,
4930 ~~(exclusive of time served on the inactive or retired lists,)~~ on,
4931 ~~before, or subsequent to the passage of this section~~ is eligible
4932 upon application, whether on the active or retired list of the
4933 Florida National Guard, to be retired under the provisions of
4934 this section at the highest rank attained while serving in the
4935 Florida National Guard or the federal military forces.

4936 (a) Such person, ~~and~~ shall initially receive pay in an

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4937 amount equal to one-half of the base pay as ~~is now or hereafter~~
4938 ~~may be~~ prescribed on the date of retirement in the applicable
4939 pay tables for similar grades and periods of service of
4940 personnel in the United States Army or Air Force ~~if, provided~~
4941 ~~that~~, in computing service in the Florida National Guard,
4942 service in federal military forces during a period of war or
4943 upon order of the President of the United States, in any
4944 military duty, where the applicant has been inducted from the
4945 Florida National Guard is ~~shall be~~ included; and ~~provided~~
4946 ~~further that~~, in computing such service performed after July 1,
4947 1955, only federally recognized service is ~~shall be~~ included.
4948 Eligibility for retirement under this section is in addition to
4949 any other retirement that such person is eligible to receive;
4950 ~~provided~~, however, such that retirement pay ~~under this section~~
4951 shall be reduced by any amount of retirement pay, pension, or
4952 compensation which such person is eligible to receive from the
4953 Federal Government for military service. Unless otherwise
4954 provided by law, effective July 1, 2011, the retirement pay of a
4955 member or former member of the Florida National Guard may not be
4956 recomputed to reflect an increase in the rates of base pay for
4957 active members of the armed forces.

4958 (b) Effective July 1, 2012, and annually thereafter on July
4959 1, the Division of Retirement shall adjust the retirement pay of
4960 persons eligible under this section based on s. 121.101(3).

4961 Section 41. Paragraph (a) of subsection (4) of section
4962 1012.875, Florida Statutes, is amended to read:

4963 1012.875 State Community College System Optional Retirement
4964 Program.—Each community college may implement an optional
4965 retirement program, if such program is established therefor

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4966 pursuant to s. 1001.64(20), under which annuity or other
4967 contracts providing retirement and death benefits may be
4968 purchased by, and on behalf of, eligible employees who
4969 participate in the program, in accordance with s. 403(b) of the
4970 Internal Revenue Code. Except as otherwise provided herein, this
4971 retirement program, which shall be known as the State Community
4972 College System Optional Retirement Program, may be implemented
4973 and administered only by an individual community college or by a
4974 consortium of community colleges.

4975 (4) (a) Through June 30, 2011, each college must contribute
4976 on behalf of each program member ~~participant~~ an amount equal to
4977 10.43 percent of the employee's ~~participant's~~ gross monthly
4978 compensation. Effective July 1, 2011, each member shall
4979 contribute an amount equal to the employee contribution required
4980 under s. 121.71(3). Effective July 1, 2011, each employer shall
4981 contribute on behalf of each program member an amount equal to
4982 the difference between 10.43 percent of the employee's gross
4983 monthly compensation and the employee's required contribution
4984 based on the employee's gross monthly compensation. The college
4985 shall deduct an amount approved by the district board of
4986 trustees of the college to provide for the administration of the
4987 optional retirement program. Payment of this contribution must
4988 be made ~~either~~ directly by the college or through the program
4989 administrator to the designated company contracting for payment
4990 of benefits to the program member ~~participant~~.

4991 Section 42. The Legislature finds that a proper and
4992 legitimate state purpose is served when employees and retirees
4993 of the state and its political subdivisions, and the dependents,
4994 survivors, and beneficiaries of such employees and retirees, are

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4995 extended the basic protections afforded by governmental
4996 retirement systems. These persons must be provided benefits that
4997 are fair and adequate and that are managed, administered, and
4998 funded in an actuarially sound manner, as required by s. 14,
4999 Article X of the State Constitution and part VII of chapter 112,
5000 Florida Statutes. Therefore, the Legislature determines and
5001 declares that this act fulfills an important state interest.

5002 Section 43. The Division of Statutory Revision is requested
5003 to rename the title of part II of chapter 121, Florida Statutes,
5004 as "Florida Retirement System Investment Plan."

5005 Section 44. (1) Effective upon this act becoming a law, the
5006 State Board of Administration and the Department of Management
5007 Services shall, as soon as practicable, request a determination
5008 letter and private letter ruling from the United States Internal
5009 Revenue Service. If the Internal Revenue Service refuses to act
5010 upon a request for a private letter ruling, the legal opinion
5011 from a qualified tax attorney or firm may be substituted for the
5012 private letter ruling.

5013 (2) If the board or the department receives notification
5014 from the United States Internal Revenue Service that this act or
5015 any portion of this act will cause the Florida Retirement
5016 System, or a portion thereof, to be disqualified for tax
5017 purposes under the Internal Revenue Code, then that portion does
5018 not apply. Upon such notice, the state board and the department
5019 shall notify the presiding officers of the Legislature.

5020 Section 45. During the 90-day period beginning on the
5021 effective date of this act, a Florida Retirement System employer
5022 may contribute to the retirement account of a current employee
5023 who is retired from the Florida Retirement System the amount

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5024 that would have been contributed had the employee been allowed
5025 to reenroll in the Florida Retirement System during the 2010-
5026 2011 fiscal year.

5027 Section 46. This act shall take effect June 30, 2011.