

By Senator Latvala

16-00917-12

20121280__

1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.021, F.S.; revising definitions of the
4 terms "normal retirement date" and "vested" or
5 "vesting"; amending s. 121.091, F.S.; revising
6 provisions relating to the early retirement benefit
7 calculation to conform to changes made by the act;
8 amending s. 121.4501, F.S.; requiring new employees
9 to, by default, be enrolled in the investment plan;
10 extending the period during which employees may elect
11 to participate in the pension plan; prohibiting
12 certain employees from choosing to move to the pension
13 plan after a certain period; providing an effective
14 date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (b) of subsection (29) and paragraph
19 (b) of subsection (45) of section 121.021, Florida Statutes, are
20 amended, and paragraph (c) is added to subsection (45) of that
21 section, to read:

22 121.021 Definitions.—The following words and phrases as
23 used in this chapter have the respective meanings set forth
24 unless a different meaning is plainly required by the context:

25 (29) "Normal retirement date" means the date a member
26 attains normal retirement age and is vested, which is determined
27 as follows:

28 (b)1. If a Special Risk Class member initially enrolled
29 before July 1, 2011:

16-00917-12

20121280__

30 a. The first day of the month the member attains age 55 and
31 completes the years of creditable service in the Special Risk
32 Class equal to or greater than the years of service required for
33 vesting;

34 b. The first day of the month following the date the member
35 completes 25 years of creditable service in the Special Risk
36 Class, regardless of age; or

37 c. The first day of the month following the date the member
38 completes 25 years of creditable service and attains age 52,
39 which service may include a maximum of 4 years of military
40 service credit if such credit is not claimed under any other
41 system and the remaining years are in the Special Risk Class.

42 2. If a Special Risk Class member initially enrolled on or
43 after July 1, 2011, but before July 1, 2012:

44 a. The first day of the month the member attains age 60 and
45 completes the years of creditable service in the Special Risk
46 Class equal to or greater than the years of service required for
47 vesting;

48 b. The first day of the month following the date the member
49 completes 30 years of creditable service in the Special Risk
50 Class, regardless of age; or

51 c. The first day of the month following the date the member
52 completes 30 years of creditable service and attains age 57,
53 which service may include a maximum of 4 years of military
54 service credit if such credit is not claimed under any other
55 system and the remaining years are in the Special Risk Class.

56 3. If a Special Risk Class member initially enrolled on or
57 after July 1, 2012:

58 a. The first day of the month the member attains age 55 and

16-00917-12

20121280__

59 completes the years of creditable service in the Special Risk
60 Class equal to or greater than the years of service required for
61 vesting;

62 b. The first day of the month the member attains age 48 and
63 completes 25 years of creditable service in the Special Risk
64 Class; or

65 c. The first day of the month following the date the member
66 completes 25 years of creditable service and attains age 52,
67 which service may include a maximum of 4 years of military
68 service credit if such credit is not claimed under any other
69 system and the remaining years are in the Special Risk Class.

70
71 "Normal retirement age" is attained on the "normal retirement
72 date."

73 (45) "Vested" or "vesting" means the guarantee that a
74 member is eligible to receive a future retirement benefit upon
75 completion of the required years of creditable service for the
76 employee's class of membership, even though the member may have
77 terminated covered employment before reaching normal or early
78 retirement date. Being vested does not entitle a member to a
79 disability benefit. Provisions governing entitlement to
80 disability benefits are set forth under s. 121.091(4).

81 (b) Any member initially enrolled in the Florida Retirement
82 System on or after July 1, 2011, but before July 1, 2012, shall
83 be vested upon completion of 8 years of creditable service.

84 (c) Any member initially enrolled in the Florida Retirement
85 System on or after July 1, 2012, shall be vested upon completion
86 of 10 years of creditable service.

87 Section 2. Paragraph (a) of subsection (3) of section

16-00917-12

20121280__

88 121.091, Florida Statutes, is amended to read:

89 121.091 Benefits payable under the system.—Benefits may not
90 be paid under this section unless the member has terminated
91 employment as provided in s. 121.021(39) (a) or begun
92 participation in the Deferred Retirement Option Program as
93 provided in subsection (13), and a proper application has been
94 filed in the manner prescribed by the department. The department
95 may cancel an application for retirement benefits when the
96 member or beneficiary fails to timely provide the information
97 and documents required by this chapter and the department's
98 rules. The department shall adopt rules establishing procedures
99 for application for retirement benefits and for the cancellation
100 of such application when the required information or documents
101 are not received.

102 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
103 early retirement date, the member shall receive an immediate
104 monthly benefit that shall begin to accrue on the first day of
105 the month of the retirement date and be payable on the last day
106 of that month and each month thereafter during his or her
107 lifetime. Such benefit shall be calculated as follows:

108 (a) For a member initially enrolled:

109 1. Before July 1, 2011, the amount of each monthly payment
110 shall be computed in the same manner as for a normal retirement
111 benefit, in accordance with subsection (1), but shall be based
112 on the member's average monthly compensation and creditable
113 service as of the member's early retirement date. The benefit so
114 computed shall be reduced by five-twelfths of 1 percent for each
115 complete month by which the early retirement date precedes the
116 normal retirement date of age 62 for a member of the Regular

16-00917-12

20121280

117 Class, Senior Management Service Class, or the Elected Officers'
118 Class, and age 55 for a member of the Special Risk Class, or age
119 52 if a Special Risk member has completed 25 years of creditable
120 service in accordance with s. 121.021(29)(b)1.c.

121 2. On or after July 1, 2011, but before July 1, 2012, the
122 amount of each monthly payment shall be computed in the same
123 manner as for a normal retirement benefit, in accordance with
124 subsection (1), but shall be based on the member's average
125 monthly compensation and creditable service as of the member's
126 early retirement date. The benefit so computed shall be reduced
127 by five-twelfths of 1 percent for each complete month by which
128 the early retirement date precedes the normal retirement date of
129 age 65 for a member of the Regular Class, Senior Management
130 Service Class, or the Elected Officers' Class, and age 60 for a
131 member of the Special Risk Class, or age 57 if a Special Risk
132 member has completed 30 years of creditable service in
133 accordance with s. 121.021(29)(b)2.c.

134 3. On or after July 1, 2012, the amount of each monthly
135 payment shall be computed in the same manner as for a normal
136 retirement benefit, in accordance with subsection (1), but shall
137 be based on the member's average monthly compensation and
138 creditable service as of the member's early retirement date. The
139 benefit so computed shall be reduced by five-twelfths of 1
140 percent for each complete month by which the early retirement
141 date precedes the normal retirement date of age 62 for a member
142 of the Regular Class, Senior Management Service Class, or the
143 Elected Officers' Class, and age 55 for a member of the Special
144 Risk Class, or age 48 if a Special Risk member has completed 25
145 years of creditable service in accordance with s.

16-00917-12

20121280__

146 121.021(29)(b)3.c.

147 Section 3. Subsection (4) of section 121.4501, Florida
148 Statutes, is amended to read:

149 121.4501 Florida Retirement System Investment Plan.—

150 (4) PARTICIPATION; ENROLLMENT.—

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

154 a. Any such employee may elect to participate in the
155 investment plan in lieu of retaining his or her membership in
156 the pension plan. The election must be made in writing or by
157 electronic means and must be filed with the third-party
158 administrator by August 31, 2002, or, in the case of an active
159 employee who is on a leave of absence on April 1, 2002, by the
160 last business day of the 5th month following the month the leave
161 of absence concludes. This election is irrevocable, except as
162 provided in paragraph (g). Upon making such election, the
163 employee shall be enrolled as a member of the investment plan,
164 the employee's membership in the Florida Retirement System is
165 governed by the provisions of this part, and the employee's
166 membership in the pension plan terminates. The employee's
167 enrollment in the investment plan is effective the first day of
168 the month for which a full month's employer contribution is made
169 to the investment plan.

170 b. Any such employee who fails to elect to participate in
171 the investment plan within the prescribed time period is deemed
172 to have elected to retain membership in the pension plan, and
173 the employee's option to elect to participate in the investment
174 plan is forfeited.

16-00917-12

20121280

175 2. With respect to employees who become eligible to
176 participate in the investment plan by reason of employment in a
177 regularly established position with a state employer commencing
178 after April 1, 2002, but before July 1, 2012:

179 a. Any such employee shall, by default, be enrolled in the
180 pension plan at the commencement of employment, and may, by the
181 last business day of the 5th month following the employee's
182 month of hire, elect to participate in the investment plan. The
183 employee's election must be made in writing or by electronic
184 means and must be filed with the third-party administrator. The
185 election to participate in the investment plan is irrevocable,
186 except as provided in paragraph (g).

187 b. If the employee files such election within the
188 prescribed time period, enrollment in the investment plan is
189 effective on the first day of employment. The retirement
190 contributions paid through the month of the employee plan change
191 shall be transferred to the investment program, and, effective
192 the first day of the next month, the employer and employee must
193 pay the applicable contributions based on the employee
194 membership class in the program.

195 c. An employee who fails to elect to participate in the
196 investment plan within the prescribed time period is deemed to
197 have elected to retain membership in the pension plan, and the
198 employee's option to elect to participate in the investment plan
199 is forfeited.

200 3. With respect to employees who become eligible to
201 participate in the investment plan pursuant to s.
202 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
203 participate in the investment plan in lieu of retaining his or

16-00917-12

20121280

204 her membership in the State Community College System Optional
205 Retirement Program or the State University System Optional
206 Retirement Program. The election must be made in writing or by
207 electronic means and must be filed with the third-party
208 administrator. This election is irrevocable, except as provided
209 in paragraph (g). Upon making such election, the employee shall
210 be enrolled as a member in the investment plan, the employee's
211 membership in the Florida Retirement System is governed by the
212 provisions of this part, and the employee's participation in the
213 State Community College System Optional Retirement Program or
214 the State University System Optional Retirement Program
215 terminates. The employee's enrollment in the investment plan is
216 effective on the first day of the month for which a full month's
217 employer and employee contribution is made to the investment
218 plan.

219 4. With respect to employees who become eligible to
220 participate in the investment plan by reason of employment in a
221 regularly established position with a state employer commencing
222 on or after July 1, 2012:

223 a. Any such employee shall, by default, be enrolled in the
224 investment plan at the commencement of employment, and may, by
225 the last business day of the 12th month following the employee's
226 month of hire, elect to participate in the pension plan. The
227 employee's election must be made in writing or by electronic
228 means and must be filed with the third-party administrator.

229 b. If the employee files such election within the
230 prescribed time period, enrollment in the pension plan is
231 effective on the first day of employment. The present value of
232 his or her retirement contributions under the investment plan

16-00917-12

20121280__

233 paid through the month of the employee plan change shall be
234 transferred to the pension plan, and, effective the first day of
235 the next month, the employer and employee must pay the
236 applicable contributions based on the employee membership class
237 in the pension plan.

238 c. An employee who fails to elect to participate in the
239 pension plan within the prescribed time period is deemed to have
240 elected to retain membership in the investment plan, and the
241 employee's option to elect to participate in the pension plan is
242 forfeited.

243 5.4. For purposes of this paragraph, "state employer" means
244 any agency, board, branch, commission, community college,
245 department, institution, institution of higher education, or
246 water management district of the state, which participates in
247 the Florida Retirement System for the benefit of certain
248 employees.

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

252 a. Any such employee may elect to participate in the
253 investment plan in lieu of retaining his or her membership in
254 the pension plan. The election must be made in writing or by
255 electronic means and must be filed with the third-party
256 administrator by November 30, or, in the case of an active
257 employee who is on a leave of absence on July 1, 2002, by the
258 last business day of the 5th month following the month the leave
259 of absence concludes. This election is irrevocable, except as
260 provided in paragraph (g). Upon making such election, the
261 employee shall be enrolled as a member of the investment plan,

16-00917-12

20121280__

262 the employee's membership in the Florida Retirement System is
263 governed by the provisions of this part, and the employee's
264 membership in the pension plan terminates. The employee's
265 enrollment in the investment plan is effective the first day of
266 the month for which a full month's employer contribution is made
267 to the investment program.

268 b. Any such employee who fails to elect to participate in
269 the investment plan within the prescribed time period is deemed
270 to have elected to retain membership in the pension plan, and
271 the employee's option to elect to participate in the investment
272 plan is forfeited.

273 2. With respect to employees who become eligible to
274 participate in the investment plan by reason of employment in a
275 regularly established position with a district school board
276 employer commencing after July 1, 2002, but before July 1, 2012:

277 a. Any such employee shall, by default, be enrolled in the
278 pension plan at the commencement of employment, and may, by the
279 last business day of the 5th month following the employee's
280 month of hire, elect to participate in the investment plan. The
281 employee's election must be made in writing or by electronic
282 means and must be filed with the third-party administrator. The
283 election to participate in the investment plan is irrevocable,
284 except as provided in paragraph (g).

285 b. If the employee files such election within the
286 prescribed time period, enrollment in the investment plan is
287 effective on the first day of employment. The employer
288 retirement contributions paid through the month of the employee
289 plan change shall be transferred to the investment plan, and,
290 effective the first day of the next month, the employer shall

16-00917-12

20121280__

291 pay the applicable contributions based on the employee
292 membership class in the investment plan.

293 c. Any such employee who fails to elect to participate in
294 the investment plan within the prescribed time period is deemed
295 to have elected to retain membership in the pension plan, and
296 the employee's option to elect to participate in the investment
297 plan is forfeited.

298 3. With respect to employees who become eligible to
299 participate in the investment plan by reason of employment in a
300 regularly established position with a district school board
301 employer commencing on or after July 1, 2012:

302 a. Any such employee shall, by default, be enrolled in the
303 investment plan at the commencement of employment, and may, by
304 the last business day of the 12th month following the employee's
305 month of hire, elect to participate in the pension plan. The
306 employee's election must be made in writing or by electronic
307 means and must be filed with the third-party administrator.

308 b. If the employee files such election within the
309 prescribed time period, enrollment in the pension plan is
310 effective on the first day of employment. The present value of
311 his or her retirement contributions under the investment plan
312 paid through the month of the employee plan change shall be
313 transferred to the pension plan, and, effective the first day of
314 the next month, the employer shall pay the applicable
315 contributions based on the employee membership class in the
316 pension plan.

317 c. Any such employee who fails to elect to participate in
318 the pension plan within the prescribed time period is deemed to
319 have elected to retain membership in the investment plan, and

16-00917-12

20121280__

320 the employee's option to elect to participate in the pension
321 plan is forfeited.

322 ~~4.3.~~ For purposes of this paragraph, "district school board
323 employer" means any district school board that participates in
324 the Florida Retirement System for the benefit of certain
325 employees, or a charter school or charter technical career
326 center that participates in the Florida Retirement System as
327 provided in s. 121.051(2)(d).

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

331 a. Any such employee may elect to participate in the
332 investment plan in lieu of retaining his or her membership in
333 the pension plan. The election must be made in writing or by
334 electronic means and must be filed with the third-party
335 administrator by February 28, 2003, or, in the case of an active
336 employee who is on a leave of absence on October 1, 2002, by the
337 last business day of the 5th month following the month the leave
338 of absence concludes. This election is irrevocable, except as
339 provided in paragraph (g). Upon making such election, the
340 employee shall be enrolled as a participant of the investment
341 plan, the employee's membership in the Florida Retirement System
342 is governed by the provisions of this part, and the employee's
343 membership in the pension plan terminates. The employee's
344 enrollment in the investment plan is effective the first day of
345 the month for which a full month's employer contribution is made
346 to the investment plan.

347 b. Any such employee who fails to elect to participate in
348 the investment plan within the prescribed time period is deemed

16-00917-12

20121280

349 to have elected to retain membership in the pension plan, and
350 the employee's option to elect to participate in the investment
351 plan is forfeited.

352 2. With respect to employees who become eligible to
353 participate in the investment plan by reason of employment in a
354 regularly established position with a local employer commencing
355 after October 1, 2002, but before July 1, 2012:

356 a. Any such employee shall, by default, be enrolled in the
357 pension plan at the commencement of employment, and may, by the
358 last business day of the 5th month following the employee's
359 month of hire, elect to participate in the investment plan. The
360 employee's election must be made in writing or by electronic
361 means and must be filed with the third-party administrator. The
362 election to participate in the investment plan is irrevocable,
363 except as provided in paragraph (g).

364 b. If the employee files such election within the
365 prescribed time period, enrollment in the investment plan is
366 effective on the first day of employment. The employer
367 retirement contributions paid through the month of the employee
368 plan change shall be transferred to the investment plan, and,
369 effective the first day of the next month, the employer shall
370 pay the applicable contributions based on the employee
371 membership class in the investment plan.

372 c. Any such employee who fails to elect to participate in
373 the investment plan within the prescribed time period is deemed
374 to have elected to retain membership in the pension plan, and
375 the employee's option to elect to participate in the investment
376 plan is forfeited.

377 3. With respect to employees who become eligible to

16-00917-12

20121280

378 participate in the investment plan by reason of employment in a
379 regularly established position with a local employer commencing
380 on or after July 1, 2012:

381 a. Any such employee shall, by default, be enrolled in the
382 investment plan at the commencement of employment, and may, by
383 the last business day of the 12th month following the employee's
384 month of hire, elect to participate in the pension plan. The
385 employee's election must be made in writing or by electronic
386 means and must be filed with the third-party administrator.

387 b. If the employee files such election within the
388 prescribed time period, enrollment in the pension plan is
389 effective on the first day of employment. The present value of
390 his or her employer retirement contributions under the
391 investment plan paid through the month of the employee plan
392 change shall be transferred to the pension plan, and, effective
393 the first day of the next month, the employer shall pay the
394 applicable contributions based on the employee membership class
395 in the pension plan.

396 c. Any such employee who fails to elect to participate in
397 the pension plan within the prescribed time period is deemed to
398 have elected to retain membership in the investment plan, and
399 the employee's option to elect to participate in the pension
400 plan is forfeited.

401 4.3- For purposes of this paragraph, "local employer" means
402 any employer not included in paragraph (a) or paragraph (b).

403 (d) Contributions available for self-direction by a member
404 who has not selected one or more specific investment products
405 shall be allocated as prescribed by the state board. The third-
406 party administrator shall notify the member at least quarterly

16-00917-12

20121280

407 that the member should take an affirmative action to make an
408 asset allocation among the investment products.

409 (e) On or after July 1, 2011, a member of the pension plan
410 who obtains a refund of employee contributions retains his or
411 her prior plan choice upon return to employment in a regularly
412 established position with a participating employer.

413 (f) A member of the investment plan who takes a
414 distribution of any contributions from his or her investment
415 plan account is considered a retiree. A retiree who is initially
416 reemployed on or after July 1, 2010, is not eligible for renewed
417 membership.

418 (g) After the period during which an eligible employee had
419 the choice to elect the pension plan or the investment plan, or
420 the month following the receipt of the eligible employee's plan
421 election, if sooner, the employee shall have one opportunity, at
422 the employee's discretion, to choose to move from the pension
423 plan to the investment plan or from the investment plan to the
424 pension plan. However, employees initially enrolled in the
425 investment plan on or after July 1, 2012, may not move from the
426 investment plan to the pension plan after the close of the
427 initial prescribed time period to do so. Eligible employees may
428 elect to move between plans only if they are earning service
429 credit in an employer-employee relationship consistent with s.
430 121.021(17)(b), excluding leaves of absence without pay.
431 Effective July 1, 2005, such elections are effective on the
432 first day of the month following the receipt of the election by
433 the third-party administrator and are not subject to the
434 requirements regarding an employer-employee relationship or
435 receipt of contributions for the eligible employee in the

16-00917-12

20121280

436 effective month, except when the election is received by the
437 third-party administrator. This paragraph is contingent upon
438 approval by the Internal Revenue Service.

439 1. If the employee chooses to move to the investment plan,
440 the provisions of subsection (3) govern the transfer.

441 2. If the employee chooses to move to the pension plan, the
442 employee must transfer from his or her investment plan account,
443 and from other employee moneys as necessary, a sum representing
444 the present value of that employee's accumulated benefit
445 obligation immediately following the time of such movement,
446 determined assuming that attained service equals the sum of
447 service in the pension plan and service in the investment plan.
448 Benefit commencement occurs on the first date the employee is
449 eligible for unreduced benefits, using the discount rate and
450 other relevant actuarial assumptions that were used to value the
451 pension plan liabilities in the most recent actuarial valuation.
452 For any employee who, at the time of the second election,
453 already maintains an accrued benefit amount in the pension plan,
454 the then-present value of the accrued benefit is deemed part of
455 the required transfer amount. The division must ensure that the
456 transfer sum is prepared using a formula and methodology
457 certified by an enrolled actuary. A refund of any employee
458 contributions or additional member payments made which exceed
459 the employee contributions that would have accrued had the
460 member remained in the pension plan and not transferred to the
461 investment plan is not permitted.

462 3. Notwithstanding subparagraph 2., an employee who chooses
463 to move to the pension plan and who became eligible to
464 participate in the investment plan by reason of employment in a

16-00917-12

20121280

465 regularly established position with a state employer after June
466 1, 2002; a district school board employer after September 1,
467 2002; or a local employer after December 1, 2002, must transfer
468 from his or her investment plan account, and from other employee
469 moneys as necessary, a sum representing the employee's actuarial
470 accrued liability. A refund of any employee contributions or
471 additional participant payments made which exceed the employee
472 contributions that would have accrued had the member remained in
473 the pension plan and not transferred to the investment plan is
474 not permitted.

475 4. An employee's ability to transfer from the pension plan
476 to the investment plan pursuant to paragraphs (a)-(d), and the
477 ability of a current employee to have an option to later
478 transfer back into the pension plan under subparagraph 2., shall
479 be deemed a significant system amendment. Pursuant to s.
480 121.031(4), any resulting unfunded liability arising from actual
481 original transfers from the pension plan to the investment plan
482 must be amortized within 30 plan years as a separate unfunded
483 actuarial base independent of the reserve stabilization
484 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
485 direct amortization payment may not be calculated for this base.
486 During this 25-year period, the separate base shall be used to
487 offset the impact of employees exercising their second program
488 election under this paragraph. The actuarial funded status of
489 the pension plan will not be affected by such second program
490 elections in any significant manner, after due recognition of
491 the separate unfunded actuarial base. Following the initial 25-
492 year period, any remaining balance of the original separate base
493 shall be amortized over the remaining 5 years of the required

16-00917-12

20121280__

494 30-year amortization period.

495 5. If the employee chooses to transfer from the investment
496 plan to the pension plan and retains an excess account balance
497 in the investment plan after satisfying the buy-in requirements
498 under this paragraph, the excess may not be distributed until
499 the member retires from the pension plan. The excess account
500 balance may be rolled over to the pension plan and used to
501 purchase service credit or upgrade creditable service in the
502 pension plan.

503 Section 4. This act shall take effect July 1, 2012.